contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of January 2005.

For the Nuclear Regulatory Commission.

Karen R. Cotton,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 05–400 Filed 1–7–05; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26717; 812–13044]

Neuberger Berman Equity Funds, et al.; Notice of Application

January 4, 2005.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

Summary of Application: The applicants request an order that would permit certain registered management investment companies to invest uninvested cash and cash collateral in (a) affiliated money market funds or (b) one or more affiliated entities that operate as cash management investment vehicles and that rely on section 3(c)(1) or 3(c)(7) of the Act. The order would supersede a prior order.[1]

Applicants: Neuberger Berman Equity Funds (''NBEF''), Neuberger Berman Income Funds (''NBIF), Neuberger Berman Advisers Management Trust (''NBAMT''), Neuberger Berman Intermediate Municipal Fund Inc. (''NBIMF''), Neuberger Berman California Intermediate Municipal Fund Inc. (''NBCIMF''), Neuberger Berman New York Intermediate Municipal Fund Inc. (''NBNYIMF''), Neuberger Berman Real Estate Income Fund Inc. (''NBREIF''), Neuberger Berman Realty Income Fund Inc. (''NBRIF''), Neuberger Berman Income Opportunity Fund Inc. (''NBIOF''), Neuberger Berman Real Estate Securities Income Fund Inc. (''NBRESIF''), Neuberger Berman Dividend Advantage Fund Inc. (''NBDAF'') on behalf of themselves and their respective series (the ''Funds''), Neuberger Berman, LLC (''Neuberger Berman''), Neuberger Berman Management Inc. (''NBMI''), Lincoln Capital Fixed Income Management Company, Inc. (''Lincoln Capital'') (Neuberger Berman, NBMI and Lincoln Capital, together with any entity controlling, controlled by or under common control with Neuberger Berman, NBMI or Lincoln Capital, are each an ''Adviser'' and collectively the ''Advisers'').

Filing Dates: The application was filed on November 21, 2003, and amended on December 27, 2004.

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 January 31, 2005, and should be accompanied by proof of service on the 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, c/o Robert A. Wittie, Esq., Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, NW., Washington, DC 20036–1800.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 942–0634 or Annette Capretta, Branch Chief, 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. NBEF, NBIF and NBAMT, each a Delaware statutory trust, are registered under the Act as open-end management investment companies. NBIMF, NBCIMF, NBNYIMF, NBREIF, NBRIF, NBIOF, NBRESIF and NBDAF, each a Maryland corporation, are registered under the Act as closed-end management investment companies. Neuberger Berman, NBMI and Lincoln Capital are each an investment adviser registered under the Investment Advisers Act of 1940. Neuberger Berman and NBMI each serves as an investment adviser to one or more of the Funds. Lincoln Capital will serve as investment adviser to the Private Funds (defined below) and may serve in the future as investment adviser to one or more of the Money Market Funds (defined below).[2] Neuberger Berman, NBMI and Lincoln Capital are each a wholly-owned subsidiary of Lehman Brothers Holdings, Inc.

2. Certain Funds, including money market Funds that comply with rule 2a–7 under the Act, (each, an ''Investing Fund'') have or may be expected to have cash that has not been invested in portfolio securities (''Uninvested Cash''). Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, dividend payments or money from investors. Certain Investing Funds also may participate in a securities lending program (''Securities Lending Program'') under which a Fund may lend its portfolio securities to registered broker-dealers or other institutional investors. The loans are secured by collateral, including cash collateral (''Cash Collateral'' and together with Uninvested Cash, ''Cash Balances''), equal at all times to at least the market value of the securities loaned.

3. Applicants request an order to permit: (a) The Investing Funds to use their Uninvested Cash to purchase shares of one or more of the Funds that are in the same group of investment companies (as defined in section 12(d)(1)(G) of the Act) as the Investing Fund and comply with rule 2a–7 under the Act (''Money Market Funds''); (b) the Investing Funds to use their Cash Collateral to purchase shares of one or more of the Money Market Funds or Private Funds (the Money Market Funds

[1] Equity Managers Trust *et al.,* Investment Company Act Release Nos. 24672 (Oct. 2, 2000) (notice) and 24718 (Oct. 30, 2000) (order).

[2] Applicants request that any relief granted also apply to (a) all existing or future registered management investment companies and series thereof for which an Adviser serves as investment adviser (included in the term ''Funds'') and (b) unregistered investment vehicles, that are advised by an Adviser and rely on sections 3(c)(1) or 3(c)(7) of the Act (''Private Funds'') and that may be used as investment vehicles for cash collateral. All existing registered invesment companies and Private Funds that currently intend to rely on the requested order are named as applicants. Any entities that rely on the requested order in the future will do so only in accordance with the terms and conditions of the application.

and the Private Funds are collectively referred to as the ''Central Funds''); (c) the Central Funds to sell their shares to and redeem such shares from the Investing Funds; and (d) the Advisers to effect the above transactions.

4. The investment by each Investing Fund in shares of the Central Funds will be in accordance with that Investing Fund's investment policies and restrictions as set forth in its prospectus and statement of additional information. Certain Private Funds will comply with rule 2a–7 under the Act (''Private Money Market Funds''). Other Private Funds will invest in securities that satisfy the quality requirements of rule 2a–7 and have short maturities. Applicants believe that the proposed transaction may reduce transaction costs, create more liquidity, increase returns and diversify holdings.[3]

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act provides that no investment company may acquire securities of a registered investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) to permit the Investing Funds to use their Cash Balances to acquire shares of the Money Market Funds in excess of the percentage limitations in section 12(d)(1)(A), provided however, that in all cases an Investing Fund's aggregate investment of Uninvested Cash in shares of the Money Market Funds will not exceed 25% of the Investing Fund's total assets. Applicants also request relief to permit the Money Market Funds to sell their securities to the Investing Funds in excess of the percentage limitations in section 12(d)(1)(B).

3. Applicants state that the proposed arrangement will not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because each Money Market Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over a Money Market Fund. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, asset-based distribution fee adopted in accordance with rule 12b–1 under the Act or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules) or, if such shares are subject to any such fees in the future, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund. Applicants state that if a Money Market Fund offers more than one class of shares, an Investing Fund will invest its Cash Balances only in the class with the lowest expense ratio (taking into account the expected impact of the Investing Fund's investment) at the time of the investment. In connection with approving any advisory contract, the boards of trustees or directors of the Investing Funds (each a ''Board,'' collectively the ''Boards''), including a majority of the trustees or directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees'') will consider to what extent, if any, the advisory fees charged to each Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in the Money Market Funds. Applicants represent that no Money Market Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act.

B. Section 17(a) of the Act

1. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the investment company. Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person, any person 5% or more of whose outstanding securities are directly or indirectly owned, controlled, or held with power to vote by the other person, any person directly or indirectly controlling, controlled by, or under common control with the other person, and any investment adviser to the investment company. Applicants state that the Advisers are under common control and serve as investment advisers to the Investing Funds and Central Funds and that to the extent that the Investing Funds and Central Funds may be deemed to be controlled by the Advisers, they may be under common control and affiliated persons of each other. In addition, if an Investing Fund owns more than 5% of the voting securities of a Central Fund, the Central Fund and the Investing Fund may be affiliated persons of each other. As a result, section 17(a) would prohibit the sale of the shares of Central Funds to the Investing Funds, and the redemption of the shares by the Investing Funds.

2. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if the 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.

3. Applicants submit that their request for relief satisfies the standards in sections 6(c) and 17(b) of the Act. Applicants state that the Investing Funds will purchase and sell shares on the same terms and on the same basis as shares are purchased and sold by all other shareholders of the Central Funds. In addition, under the proposed transactions, the Investing Funds will retain their ability to invest their Cash Balances directly in money market instruments as permitted by each Investing Fund's investment objectives and policies. Applicants state that each

[3] An Investing Fund that complies with rule 2a–7 under the Act will not invest its Cash Collateral in a Private Fund that does not comply with rule 2a–7.

Money Market Fund reserves the right to discontinue selling shares to any of the Investing Funds if the Money Market Fund's Board determines that such sales would adversely affect its portfolio management and operations.

C. Section 17(d) of the Act and Rule 17d–1 Under the Act

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates, unless the Commission has issued an order authorizing the arrangement. Applicants state that the Investing Funds (by purchasing shares of the Central Funds), the Advisers (by managing the assets of the Investing Funds invested in the Central Funds), and the Central Funds (by selling shares to and redeeming them from the Investing Funds) could be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act and rule 17d–1 thereunder.

2. In considering whether to approve a joint transaction under rule 17d–1, the Commission considers whether the registered investment company's participation in the joint transaction is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards because the investments by the Investing Funds in shares of the Central Funds would be indistinguishable from any other shareholder account maintained by the Central Funds and the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. The investment of Cash Balances in shares of the Money Market Funds and Cash Collateral in shares of the Private Funds will be in accordance with the Investing Fund's investment restrictions and will be consistent with the Investing Fund's investment objectives and policies as set forth in its prospectus and statement of additional information. An Investing Fund that complies with rule 2a–7 under the Act will not invest its Cash Collateral in a Private Fund that does not comply with rule 2a–7. An Investing Fund's Cash Collateral will be invested in a particular Private Fund only if that Private Fund has been approved for investment by the Investing Fund and if that Private Fund invests in the types of instruments that the Investing Fund has authorized for the investment of its Cash Collateral.

2. Shares of the Central Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, asset-based distribution fee, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), or if such shares are subject to any such fee, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

3. Before the next meeting of the Board of an Investing Fund is held for the purpose of voting on an advisory contract under section 15 of the Act, the Adviser to the Investing Fund will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Funds. Before approving any advisory contract for an Investing Fund, the Board, including a majority of the Independent Trustees, taking into account all relevant factors, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in one or more of the Money Market Funds. The minute books of the Investing Fund will record fully the Board's consideration in approving the advisory contact, including the considerations relating to fees referred to above.

4. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment of Uninvested Cash in all Money Market Funds does not exceed the greater of 25 percent of the Investing Fund's total assets.

5. Each Investing Fund and Central Fund that may rely on the order shall be advised by an Adviser. Each Investing Fund and Money Market Fund will be in the same group of investment companies as defined in section 12(d)(1)(G) of the Act.

6. So long as its shares are held by an Investing Fund, a Central Fund will not acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Each Investing Fund will purchase and redeem shares of a Private Fund as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Private Fund. A separate account will be established in the shareholder records of each Private Fund for the account of each Investing Fund that invests in such Private Fund.

8. Each Private Fund will comply with sections 17(a), (d), and (e) and 18 of the Act as if the Private Fund were a registered open-end investment company. With respect to all redemption requests made by an Investing Fund, a Private Fund will comply with section 22(e) of the Act. The Adviser of a Private Fund will adopt procedures designed to ensure that the Private Fund will comply with sections 17(a), (d), and (e), 18, and 22(e) of the Act. The Adviser also will periodically review and update (as appropriate) the procedures, will maintain books and records describing the procedures, and will maintain the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), and 31a–1(b)(9) under the Act. All books and records required to be maintained under this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the Commission and its staff.

9. The net asset value per share with respect to shares of the Private Funds that are not Private Money Market Funds will be determined separately for each such Private Fund by dividing the value of the assets belonging to that Private Fund, less the liabilities of that Private Fund, by the number of shares outstanding with respect to that Private Fund.

10. Each Private Money Market Fund will use the amortized cost method of valuation and will comply with rule 2a–7 as though it were a registered open-end investment company. Each Private Money Market Fund will adopt the procedures described in rule 2a–7(c)(7) and the Adviser to the Private Money Market Fund will comply with these procedures and take any other actions that are required to be taken pursuant to these procedures. An Investing Fund may only purchase shares of a Private Money Market Fund if the Adviser determines on an ongoing basis that the Private Money Market Fund is in compliance with rule 2a–7. The Adviser will preserve for a period not less than

six years from the date of determination, the first two years in an easily accessible place, a record of such determination and the basis upon which the determination was made. This record will be subject to examination by the Commission and its staff.

11. Before an Investing Fund may participate in a Securities Lending Program, a majority of the Board, including a majority of the Independent Trustees, will approve the Investing Fund's participation in the Securities Lending Program. The Board will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Central Funds is in the best interest of the Investing Fund.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–38 Filed 1–7–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 10, 2005:

A closed meeting will be held on Thursday, January 13, 2005 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Thursday, January 13, 2005, will be:

Formal orders of investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Adjudicatory matters.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: the Office of the Secretary at (202) 942–7070.

Dated: January 5, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–464 Filed 1–5–05; 4:38 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50956; File No. SR–NASD–2004–190]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish the Minimum Quotation Increment for the BRUT ECN System

January 3, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on December 30, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq has filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Nasdaq proposes to establish a new NASD Rule 4912 to set the minimum quotation increment for the BRUT ECN System (''BRUT''). Nasdaq has designated this proposal as non-controversial and has requested that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.[5] If the Commission grants such a waiver, then this rule proposal, which is effective upon filing with the Commission, shall become operative on January 3, 2005 pursuant to Rule 19b-4(f)(6) under the Act.[6]

The text of the proposed rule change is below. Proposed new language is italicized.[7]

* * * * *

4912. Minimum Quotation Increment

The minimum quotation increment in the BRUT ECN System for quotations of $1.00 or above in Nasdaq-listed securities and in securities listed on a national securities exchange shall be $0.01. The minimum quotation increment in the BRUT ECN System for quotations below $1.00 in Nasdaq-listed securities and in securities listed on a national securities exchange shall be $0.0001.

* * * * *

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

In its filing with the Commission, Nasdaq 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 IV below. Nasdaq 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the minimum quotation increment in the Nasdaq Market Center (''NMC'') is $0.01 for all quotations. However, in BRUT, which was recently purchased by Nasdaq, the minimum quotation increment can be below $0.01 for orders priced under $5.00. Nasdaq states that the purpose of the proposed rule change is to bring BRUT closer to the existing NMC practice by lowering the $5.00 threshold to $1.00 and setting the minimum quotation increment at $0.01 for all Nasdaq-listed and exchange-listed security quotations of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b-4(f)(6)(iii).

[6] 17 CFR 240.19b-4(f)(6).

[7] The proposed rule change will add a new NASD Rule 4912 to a pending new NASD Rule series 4900 (proposed NASD Rules 4901 through 4911), which has been filed with the Commission. *See* SR–NASD–2004–173. When the proposed rule change contained herein becomes operational, Nasdaq will make a conforming amendment to the pending filing.