derivatives dealers. Rule 17a–12 also requires that OTC derivatives dealers annually file audited financial statements. The reports required under Rule 17a–12 provide the Commission with information used to monitor the operations of OTC derivatives dealers and to enforce their compliance with the Commission's rules. These reports also enable the Commission to review the business activities of OTC derivatives dealers and to anticipate, where possible, how these dealers may be affected by significant economic events.

The staff estimates that that the average amount of time necessary to prepare and file the information required by Rule 17a–12 is 180 hours per OTC derivatives dealer annually, where the OTC derivatives dealer spends an average of twenty hours preparing each of four quarterly reports, and an additional 100 hours on the annual audit. One entity is presently registered as an OTC derivatives dealer, however the staff estimates that between five and nine additional OTC derivatives dealers may become registered within the next three years. Thus the total burden is estimated to be 1,080 hours annually for six OTC derivatives dealers.[2]

The staff believes that financial reporting specialists will prepare the FOCUS IIB Reports and supporting Schedules, compliance personnel may review the reports to assure compliance with applicable rules, and accountants will prepare the audited annual reports. The staff estimates that the hourly salary of a financial reporting specialist is $72.40 per hour,[3] the hourly salary of a compliance manager is $82.50 per hour,[4] and the hourly salary of a compliance manager is $51.60 per hour.[5] Based upon these numbers, the total cost of compliance for six respondents is $65,950.00 per year.[6]

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

[2] Or 1,800 hours annually for ten OTC derivatives dealers.

[3] Per Securities Industry Association (SIA) Management and Professional Earnings, Table 011 (Financial Reporting Manager) + 35% overhead (based on end-of-year 1998 figures).

[4] SIA Management and Professional Earnings, Table 051 (Compliance Manager) + 35% overhead (based on end-of-year 1998 figures.)

[5] SIA Management and Professional Earnings, Table 003 (Senior Accountant) + 35% overhead (based on end-of-year 1998 figures).

[6] ((19 hours × $72.40 × 4 filings per year) + (1 hour × $82.50 per hour × 4 filings per year) + (100 hours × $51.60 × 1 filing per year) × six OTC derivatives dealers. The total cost for ten respondents would be $109,924.00 per year.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within thirty days of this notice.

Dated: January 9, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–1748 Filed 1–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24826; 813–212]

BankBoston Co-Investment Partners (1999) L.P. and FleetBoston Financial Corporation; Notice of Application

January 11, 2001.

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

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (''Act'') granting an exemption from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations under the Act.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain partnerships and other entities formed for the benefit of key employees of FleetBoston Financial Corporation and its affiliates from certain provisions of the Act. Each partnership or other entity will be an employees' securities company within the meaning of section 2(a)(13) of the Act.

APPLICANTS: BankBoston Co-Investment Partners (1999) L.P. (''Initial Partnership'') and FleetBoston Financial Corporation, on behalf of other partnerships or other investment vehicles which have been or may in the future be formed or through which a Partnership (as defined below) may invest (''Other Partnerships,'' and together with the Initial Partnership, ''Partnerships'').

FILING DATES: The application was filed on August 18, 1999, and amended on January 11, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 5, 2001, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: BankBoston Co-Investment Partners (1999) L.P., 175 Federal Street, Boston, MA 02110; FleetBoston Financial Corporation, 100 Federal Street, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, 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 SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. FleetBoston Financial Corporation is a diversified financial services company organized under the laws of the State of Rhode Island. FleetBoston Financial Corporation and its affiliates (as defined in rule 12b–2 under the Securities Exchange Act of 1934 (the ''Exchange Act''), other than Third Party Funds (as defined below), are referred to in this notice collectively as ''FleetBoston.''

2. The Initial Partnership is a limited partnership organized under the laws of the State of Delaware. FleetBoston formed the Initial Partnership to provide investment opportunities to certain of its key employees.

3. FleetBoston may organize Other Partnerships in the future. Each Partnership will be a limited partnership or limited liability company formed as an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act, and will operate as a closed-end, non-diversified,

management investment company.[1] The Partnerships will be established primarily for the benefit of highly compensated employees of FleetBoston as part of a program designed to create capital building opportunities that are competitive with those at other investment banking firms and to facilitate the recruitment of high caliber professionals. Participation in a Partnership will be voluntary.

4. Each Partnership will have a general partner (''General Partner'') that is an affiliate that controls, is controlled by or is under common control with FleetBoston Financial Corporation. The General Partner or another FleetBoston entity will act as the investment adviser to a Partnership and will be: (a) Registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''), (b) exempt from the registration requirements of the Advisers Act by virtue of section 203(b)(3) of the Advisers Act, or (c) excluded from the definition of investment adviser under the Advisers Act because it is a bank or a bank holding company. BBI Management Co. LLC, a Delaware limited liability company, the members of which will be affiliates that control, are controlled by or are under common control with FleetBoston Financial Corporation, will act as the General Partner of the Initial Partnership. BBI Management Co. LLC is exempt from registration under the Advisers Act.

5. The General Partner will manage, operate, and control each of the Partnerships. However, the General Partner may exercise its authority through its board of managers or directors, including a committee of FleetBoston employees.[2] The General Partner will delegate management responsibility only to entities that control, are controlled by, or are under common control with FleetBoston.

6. Interests in the Partnerships (''Interests'') will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the ''Securities Act''), or Regulation D under the Securities Act, and will be sold only to ''Eligible Employees,'' as defined below. Prior to offering Interests to an Eligible Employee, the General Partner must reasonably believe that the Eligible Employee will be a sophisticated investor capable of understanding and evaluating the risks of participating in the Partnership without the benefit of regulatory safeguards. An Eligible Employee is an individual who is a current or former employee, officer, director, or ''Consultant'' [3] of FleetBoston and: (a) Meets the standards of an ''accredited investor,'' as defined in rule 501(a)(5) or (6) of Regulation D under the Securities Act (an ''Accredited Investor''), or (b) is one of a maximum of 35 individuals who is not an Accredited Investor but who meets certain salary and other requirements (''Other Investors'').

7. Each Other Investor will be an Eligible Employee who: (a) Is a ''knowledgeable employee,'' as defined in rule 3c–5 under the Act, of such Partnership (with the Partnership treated as though it were a ''Covered Company'' for purposes of the rule), or (b) has a graduate degree in business, law, or accounting, has a minimum of five years of consulting, investment banking, or similar business experience, and has had reportable income from all sources of at least $125,000 in each of the two most recent years, and has a reasonable expectation of income from all sources of at least $150,000 in each year in which the Other Investor will be committed to make investments in a Partnership. In addition, an Other Investor qualifying under (b) above will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately preceding year in the aggregate in the Partnership and in all other Partnerships in which he or she has previously invested.

8. In the discretion of FleetBoston and at the request of an Eligible Employee, an Eligible Employee may assign Interests to an Eligible Family Member or a Qualified Entity, both as defined below (each a ''Qualified Participant''). a Qualified Participant that purchases an Interest from a Partner [4] must be an accredited investor under rule 501(a) of Regulation D. An ''Eligible Family Member'' is a parent, sibling, spouse, child, or grandchild of an Eligible Employee. A ''Qualified Entity'' is: (a) A trust of which the trustee, grantor, and/or beneficiary is an Eligible Employee, (b) a partnership, corporation, or other entity controlled by an Eligible Employee,[5] or (c) a trust or other entity established solely for the benefit of Eligible Family Members of an Eligible Employee.

9. The terms of a Partnership will be fully disclosed to each Eligible Employee in a partnership agreement (the ''Limited Partnership Agreement''), which will be furnished at the time the Eligible Employee is invited to participate in the Partnership. Each Partnership will send audited financial statements to each Partner as soon as practicable after the end of its fiscal year. In addition, each person who was a Limited Partner [6] of such Partnership at any time during the fiscal year then ended will receive a report setting forth such tax information as will be necessary for the preparation by the Limited Partner of his, her or its federal and state income tax returns.

10. Interests in a Partnership will be non-transferable except with the prior written consent of the General Partner. No person or entity will be admitted into a Partnership as a Partner unless the person or entity is an Eligible Employee, a Qualified Participant, or a FleetBoston entity. Interests in the Partnerships will be sold without a sales load.

11. An Eligible Employee's Interest in a Partnership may be subject to repurchase or cancellation if: (a) The Eligible Employee's relationship with FleetBoston is terminated for cause, or (b) the Eligible Employee's employment with FleetBoston ends for any reason. Upon repurchase or cancellation, the General Partner will pay to the Eligible Employee at least the lesser of: (a) The amount paid by the Eligible Employee to acquire the Interest (less prior distributions, plus a specified rate of return, as determined by the General Partner), or (b) the fair market value of the Interest as determined in good faith at the time of repurchase or cancellation by the General Partner. The terms of any repurchase or cancellation will apply equally to any Qualified Participant of an Eligible Employee.

---

[1] A Partnership may implement its investment program by investing through another Partnership.

[2] References in this notice to the ''directors of the General Partner'' shall include such board of managers or directors, including a committee of FleetBoston employees.

[3] A ''Consultant'' is a person or entity who FleetBoston has engaged on retainer to provide services and professional expertise on an ongoing basis as a regular consultant or as a business or legal adviser to FleetBoston and who shares a community of interest with FleetBoston and FleetBoston's employees.

[4] ''Partner'' means any partner of a Partnership, including the General Partner unless otherwise specified.

[5] The inclusion of partnerships, corporations, or other entities controlled by an Eligible Employee in the definition of ''Qualified Entities'' is intended to enable Eligible Employees to make investments in the Partnerships through personal investment vehicles for the purpose of personal and family investment and estate planning objectives. Eligible Employees will exercise investment discretion or control over these investment vehicles, thereby creating a close nexus between FleetBoston and these investment vehicles. In the case of a partnership, corporation, or other entity controlled by a Consultant entity, individual participants will be limited to senior level employees, members, or partners of the Consultant who will be required to qualify as an ''accredited investor'' under 501(a)(6) of Regulation D and who will have access to the General Partner and/or FleetBoston.

[6] ''Limited Partner'' means any limited partner of a Partnership within the meaning of the Delaware Limited Partnership Act.

12. Subject to the terms of the applicable Partnership Agreement, a Partnership will be permitted to enter into transactions involving: (a) A FleetBoston entity, (b) a portfolio company, (c) any Partner or person or entity affiliated with a Partner, (d) an investment fund or separate account that is organized for the benefit of investors who are not affiliated with FleetBoston and over which a FleetBoston entity will exercise investment discretion (''Third Party Fund''), or (e) any partner or other investor of a Third Party Fund that is not affiliated with FleetBoston (a ''Third Party Investor''). These transactions may include a Partnership's purchase or sale of an investment or an interest from or to any FleetBoston entity or Third Party Fund, acting as principal. Prior to entering into these transactions, the General Partner must determine that the terms are fair to the Partners.

13. A Partnership will not invest more than 15% of its assets in securities issued by registered investment companies (with the exception of temporary investments in money market funds). A partnership will not acquire any security issued by a registered investment company if, immediately after the acquisition, the Partnership will own more than 3% of the outstanding voting stock of the registered investment company.

14. A FleetBoston entity (including the General Partner) acting as agency or broker may receive placement fees, advisory fees, or other compensation from a Partnership in connection with a Partnership's purchase or sale of securities, provided the placement fees, advisory fees, or other compensation are ''usual and customary.'' Fees or other compensation will be deemed ''usual and customary'' only if: (a) The Partnership is purchasing or selling securities with other unaffiliated third parties, including Third Party Funds, (b) the fees or compensation being charged to the Partnership are also being charged to the unaffiliated third parties, including Third Party Funds, and (c) the amount of securities being purchased or sold by the Partnership does not exceed 50% of the total amount of securities being purchased or sold by the Partnership and the unaffiliated third parties, including Third Party Funds. A FleetBoston entity (including the General Partner) also may be compensated for services to entities in which the Partnerships invest and to entities that are competitors of these entities, and may otherwise engage in normal business activities that conflict with the interests of the Partnerships.

15. A Partnership may pay the General Partner an annual management fee, a flat administrative fee or a ''carried interest.'' [7] The administrative fee will serve to reimburse the General Partner for its costs of managing the Partnership, and will include expenses incurred by a FleetBoston entity for services actually rendered to the Partnership without any additional markup.

16. The General Partner or another FleetBoston entity may make loans to a Partnership. Any such loans will bear interest at a rate no less favorable to a Partnership than the rate that could be obtained on an arm's length basis. Any such indebtedness of a Partnership will be non-recourse to the Partners other than the General Partner.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the SEC will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the SEC will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the SEC, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under sections 6(b) and 6(e) of the Act exempting the Partnerships from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 though 53, and the rules and regulations under the Act.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to permit: (a) A FleetBoston entity or a Third Party Fund (or any affiliated person, as defined in the Act, of any FleetBoston entity or Third Party Fund), acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by the Partnership; (b) any Partnership to invest in or engage in any transaction with any FleetBoston entity (or any affiliated person, as defined in the Act, of the FleetBoston entity), acting as principal, (i) in which the Partnership, any company controlled by the Partnership, or any FleetBoston entity or Third Party Fund has invested or will invest, or (ii) with which the Partnership, any company controlled by the Partnership, or any FleetBoston entity or Third Party Fund is or will become otherwise affiliated; and (c) any Third Party Investor, acting as principal, to engage in any transaction directly or indirectly with a Partnership or any company controlled by the Partnership.

4. Applicants state that an exemption from section 17(a) is consistent with the protection of investors and is necessary to promote the purpose of the Partnerships. Applicants state that the Participants [8] in each Partnership will be fully informed of the extent of the Partnership's dealings with FleetBoston. Applicants also state that, as professionals employed in the banking and financial services businesses, Participants will be able to understand and evaluate the attendant risks. Applicants assert that the community of interest among the Participants and FleetBoston will provide the best protection against any risk of abuse.

[7] A ''carried interest'' is an allocation to the General Partner based on the net gains of an investment program. A General Partner that is registered as an investment adviser under the Advisers Act may charge a carried interest only if permitted by rule 205–3 under the Advisers Act. Any carried interest paid to a General Partner that is not registered under the Advisers Act will be structured to comply with section 205(b)(3) of the Advisers Act as if a Partnership were a business development company as defined in the Advisers Act.

[8] ''Participant'' means any Partner other than the General Partner.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of an affiliated person or principal underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the SEC. Applicants request exemptive relief to permit affiliated persons of each Partnership, or affiliated persons of any of these persons, to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the Partnership or a company controlled by the Partnership is a participant.

6. Applicants submit that it is likely that suitable investments will be brought to the attention of a Partnership because of its affiliation with FleetBoston or FleetBoston's large capital resources, and its experience in structuring complex transactions. Applicants also submit that the types of investment opportunities considered by a Partnership often require each investor to make funds available in an amount that may be substantially greater than what a Partnership may make available on its own. Applicants contend that, as a result, the only way in which a Partnership may be able to participate in these opportunities may be to co-invest with other persons, including its affiliates. Applicants note that each Partnership will be primarily organized for the benefit of employee Participants as an incentive for them to remain with FleetBoston and for the generation and maintenance of goodwill. Applicnts believe that, if co-investments with FleetBoston are prohibited, the appeal of the Partnerships would be significantly diminished. Applicants assert that Eligible Employees wish to participate in co-investment opportunities because they believe that (a) the resources of FleetBoston enable it to analyze investment opportunities to an extent that individual employees would not be able to duplicate, (b) investments made by FleetBoston will not be generally available to investors even of the financial status of the Eligible Employees, and (c) Eligible Employees will be able to pool their investment resources, thus achieving greater diversification of their individual investment portfolios.

7. Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. Applicants state that the concern that permitting co-investments by FleetBoston and a Partnership might lead to less advantageous treatment of the Partnership should be mitigated by the fact that FleetBoston will be acutely concerned with its relationship with the investors in the Partnership, and the fact that senior officers and directors of FleetBoston entities will be investing in the Partnership. In addition, applicants assert that strict compliance with section 17(d) would cause the Partnership to forego investment opportunities simply because a Participant or other affiliated person of the Partnership (or any affiliate of the affiliated person) made a similar investment.

8. Co-investments with Third Party Funds, or by a FleetBoston entity pursuant to a contractual obligation to a Third Party Fund, will not be subject to condition 3 below. Applicants note that it is common for a Third Party Fund to require that FleetBoston invest its own capital in Third Party Fund investments, and that FleetBoston investments be subject to substantially the same terms as those applicable to the Third Party Fund. Applicants believe it is important that the interests of the Third Party Fund take priority over the interests of the Partnerships, and that the Third Party Fund not be burdened or otherwise affected by activities of the Partnerships. In addition, applicants assert that the relationship of a Partnership to a Third Party Fund is fundamentally different from a Partnership's relationship to FleetBoston. Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Partnerships from any overreaching by FleetBoston in the employer/employee context, whereas the same concerns are not present with respect to the Partnerships vis-á-vis a Third Party Fund.

9. Section 17(e) of the Act and rule 17e–1 under the Act limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. Applicants request an exemption from section 17(e) to permit a FleetBoston entity (including the General Partner) that acts as an agent or broker to receive placement fees, advisory fees, or other compensation from a Partnership in connection with the purchase or sale by the Partnership of securities, provided that the fees or other compensation are deemed ''usual and customary.'' Applicants state that for the purposes of the application, fees or other compensation that are charged or received by a FleetBoston entity will be deemed ''usual and customary'' only if: (a) The Partnership is purchasing or selling securities with other unaffiliated third parties, including Third Party Funds, (b) the fees or compensation being charged to the Partnership are also being charged to the unaffiliated third parties, including Third Party Funds, and (c) the amount of securities being purchased or sold by the Partnership does not exceed 50% of the total amount of securities being purchased or sold by the Partnership and the unaffiliated third parties, including Third Party Funds. Applicants assert that, because FleetBoston does not wish it to appear as if it is favoring the Partnerships, compliance with section 17(e) would prevent a Partnership from participating in transaction where the Partnership is being charged lower fees than unaffiliated third parties. Applicants assert that the fees or other compensation paid by a Partnership to a FleetBoston entity will be the same as those negotiated at arm's length with unaffiliated third parties.

10. Rule 17e–1(b) requires that a majority of directors who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) take actions and make approvals regarding commissions, fees, or other remuneration. Applicants request an exemption from rule 17e–1(b) to the extent necessary to permit each partnership to comply with the rule without having a majority of the directors of the General Partner who are not interested persons take actions and make determinations as set forth in the rule. Applicants state that because all the directors of the General Partner will be affiliated persons, without the relief requested, a Partnership could not comply with rule 17e–1(b). Applicants state that each Partnership will comply with rule 17e–1(b) by having a majority of the board of directors of the General Partner take actions and make approvals as are set forth in rule 17e–1. Applicants state that each Partnership will comply with all other requirements of rule 17e–1 for the transactions described above in the discussion of section 17(e).

11. Section 17(f) provides that the securities and similar investments of a registered management investment company must be placed in the custody of a bank, a member of a national securities exchange, or the company itself in accordance with SEC rules. Rule 17f–2 under the Act specifies the requirements that must be satisfied for a registered management investment company to act as a custodian of its own investments. Applicants request an exemption from section 17(f) of the Act and rule 17f–2 under the Act to permit the following exceptions from the requirements of rule 17f–2: (a) A

Partnership's investments may be kept in the locked files of a FleetBoston entity; (b) for purposes of paragraph (d) of the rule, (i) employees of FleetBoston will be deemed to be employees of the Partnerships, (ii) officers or managers of the General Partner of a Partnership will be deemed to be officers of the Partnership, and (iii) the General Partner of a Partnership or its board of directors will be deemed to be the board of directors of the Partnership; and (c) in place of the verification procedure under paragraph (f) of the rule, verification will be effected quarterly by two employees of FleetBoston. Applicants expect that many of the Partnerships' investments will be evidenced only by partnership agreements, participation agreements, or similar documents, rather than by negotiable certificates that could be misappropriated. Applicants assert that these instruments are most suitably kept in the files of a FleetBoston entity, where they can be referred to as necessary.

12. Section 17(g) of the Act and rule 17g–1 under the Act generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. Applicants request exemptive relief to permit the General Partner's board of directors, who may be deemed interested persons, to take actions and make determinations as set forth in the rule. Applicants state that, because all directors of the General Partner will be affiliated persons, a Partnership could not comply with rule 17g–1 without the requested relief. Specifically, each Partnership will comply with rule 17g–1 by having a majority of the Partnership's directors take actions and make determinations as are set forth in rule 17g–1. Applicants also state that each Partnership will comply with all other requirements of rule 17g–1.

13. Section 17(j) of the Act and paragraph (b) of rule 17j–1 under the Act make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicants request an exemption from the provisions of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to the Partnerships.

14. Applicants request an exemption from the requirements in sections 30(a), 30(b), and 30(e), and the rules under those sections, that registered investment companies prepare and file with the SEC and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the SEC for periodic reports have little relevance to the Partnerships and would entail administrative and legal costs that outweigh any benefit to the Partners. Applicants request exemptive relief to the extent necessary to permit each Partnership to report annually to its Participants. Applicants also request an exemption from section 30(h) to the extent necessary to exempt the General Partner of each Partnership, members of the General Partner, or any board of managers or directors or committee of FleetBoston employees to whom the General Partner may delegate its functions, and any other persons who may be deemed to be members of an advisory board of a Partnership, from filing Forms 3, 4, and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in the Partnership. Applicants assert that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicants' Conditions

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

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) of the Act and rule 17d–1 under the Act to which a Partnership is a party (the ''Section 17 Transactions'') will be effected only if the General Partner determines that: (a) The terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Partners of such Partnership and do not involve overreaching of such Partnership or its Partners on the part of any person concerned; and (b) the transaction is consistent with the interests of the Partners of such Partnership, such Partnership's organizational documents, and such Partnership's reports to its Partners. In addition, the General Partner of each Partnership will record and preserve a description of the Section 17 Transactions, the General Partner's findings, the information or materials upon which the findings are based, and the basis therefor. All records relating to an investment program will be maintained until the termination of the investment program and for at least two years thereafter, and will be subject to examination by the Commission and its staff.[9]

2. In connection with the Section 17 Transactions, the General Partner of each Partnership will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for such Partnership, or any affiliated person of such a person, promoter, or principle underwriter.

3. The General Partner of each Partnership will not invest the funds of such Partnership in any investment in which a ''Co-Investor'' (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, and where the investment transaction involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which such Partnership and the Co-Investor are participants, unless any such Co-Investor, prior to disposing of all or part of its investment: (a) Gives such General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment, and (b) refrains from disposing of its investment unless such Partnership has the opportunity to dispose of such Partnership's investment prior to or concurrently with, on the same terms as, and pro rata with, the Co-Investor. The term ''Co-Investor'' with respect to any Partnership means any person who is: (a) An ''affiliated person'' (as such term is defined in the act) of such Partnership (other than a Third Party Fund); (b) FleetBoston; (c) an officer or director of FleetBoston; or (d) an entity (other than a Third Party Fund) in which the General Partner acts as a general partner or has a similar capacity to control the sale or disposition of the entity's securities. The restrictions contained in this condition shall not be deemed to limit or prevent the disposition of an investment by a Co-Investor: (a) To its direct or indirect wholly-owned subsidiary, to any company (a ''parent'') of which such Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned

[9] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

subsidiary of its parent; (b) to immediate family members of such Co-Investor or a trust or other investment vehicle established for any such family member; (c) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the Exchange Act; (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 thereunder; or (e) when the investment is comprised of securities that are listed on or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Partnership and the General Partner will maintain and preserve, for the life of such Partnership and for at least two years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the Participants in such Partnership, and each annual report of such Partnership required to be sent to such Partnerships, and agree that all such records will be subject to examination by the Commission and its staff.[10]

5. The General Partner of each Partnership will send to each Participant in such Partnership who had an interest in any capital account of such Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by such Partnership's independent accountants. At the end of each fiscal year, the General Partner will make a valuation or have a valuation made of all of the assets of the Partnership as of such fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, as soon as practicable after the end of each fiscal year of each Partnership, the General Partner of such Partnership will send a report to each person who was a Participant in such Partnership at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Participant of his, her, or its federal and state income tax returns, and a report of the investment activities of the Partnership during that fiscal year.

6. In any case where purchases or sales are made by a Partnership from or to an entity affiliated with such Partnership by reason of a 5% or more investment in the entity by a FleetBoston employee, officer, or director, such individual will not participate in such Partnership's determination of whether or not to effect such purchase or sale.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 01–1651 Filed 1–19–01; 8:45am]

BILLING CODE 8010–01–M

[10] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27337]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

January 12, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 6, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After February 6, 2001, the application(s) and/or declaration, as filed or as amended, may be granted and/or permitted to become effective.

Ameren Corporation Fuels and Services Company (70–9775)

Ameren Energy Fuels and Services Company (''Ameren Fuels''), 1901 Chouteau Avenue, St. Louis, Missouri 63103, an indirect wholly owned nonutility subsidiary of Ameren Corporation, a registered holding company, has filed a declaration under sections 12(b) and 13(b) of the Act and rules 54, 90, and 91 under the Act.

Ameren owns all of the issued and outstanding common stock of Union Electric Company (''Union Electric'') and Central Illinois Public Service Company (''DIPS''), each of which is an electric and gas utility company. Together, Union Electric and CIPS provide retail and wholesale electric and retail natural gas services to customers in Missouri and Illinois. Ameren Services Company (''Ameren Services''), a subsidiary service company of Ameren, currently provides various administrative and management services to Union Electric and CIPS and other companies in the Ameren system.

Ameren's direct nonutility subsidiaries include Ameren Energy Resources Company (Ameren Resources), and intermediate subsidiary that holds the securities of other exempt and authorized nonutility companies. Ameren Resources indirectly owns all of the issued and outstanding common stock of Ameren Energy Generating Company (''Ameren GenCo''), an ''exempt wholesale generator'' (''EWG''). Ameren GenCo was formed to acquire all of the generating assets of CIPS, which occurred in May 2000. Ameren Resources also holds all of the common stock of Ameren Fuels, which was formed to engage in fuels-related businesses that are permitted by rule 58.

Ameren Fuels is requesting authorization to provide fuel procurement and natural gas supply services to (including acting as agent for) Union Electric and CIPS. The services, which are similar to those that Ameren Services currently provides to Union Electric and CIPS, would be performed ''at cots'' in accordance with Section 13(b) and Rules 90 and 91 of the Act. Ameren Fuels proposes to provide these services pursuant to the terms of a Fuel and Natural Gas Services Agreement (''Agreement''), which was filed as an exhibit to this application-declaration. The Agreement will be filed with the Missouri and Illinois public utilities commissions.

Entergy Corporation (70–9749)

Entergy Corporation (''Entergy''), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company,