

to whether the Participant will be included in the CTF Conversion. In the remaining instances, PNC Bank, acting alone in its fiduciary capacity, is authorized by such instruments and by applicable federal banking law and state fiduciary investment statutes to approve and cause the Participant to be included in the CTF Conversion. In those instances where an account party of the Participant does not exercise investment discretion but can terminate or transfer the fiduciary relationship with PNC Bank, such account party can direct PNC Bank to withdraw the Participant's investments from the Common Trust Fund before the CTF Conversion takes place. In all instances, detailed information concerning the terms of the proposed CTF Conversion, the Mutual Funds, applicable fee schedules, and other related information will be provided to Participants before the CTF Conversion takes place.

Applicants' Legal Analysis

1. Section 17(a) of the Act provides that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, knowingly (a) to sell any security or other property to such registered investment company, or (b) to purchase from such registered investment company any security or other property. Section 2(a)(3) of the Act defines the term "affiliated person" of another person to include (a) any person owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person; (b) any person controlling, controlled by, or under common control with, such other person; and, (c) if such other person is an investment company, any investment adviser thereof.

2. Because the Common Trust Funds might be viewed as acting as principal in the CTF Conversion, and because the Common Trust Funds and the Mutual Funds might be viewed as being under common control of PNCBC within the meaning of section 2(a)(3) of the Act, the CTF Conversion may be subject to the prohibitions of section 17(a).

3. Rule 17a-7 exempts certain purchase and sale transactions otherwise prohibited by section 17(a) if an affiliation exists solely by reason of having a common investment adviser, common directors, and/or common officers, provided, among other requirements, that the transaction involves a cash payment against prompt delivery of the security. The relief provided by rule 17a-7 may not be available for the CTF Conversion because the ownership of 5% or more of

the outstanding voting shares of the Mutual Funds by the Parent Company Plan may create an affiliation "not solely by reason of" having a common investment adviser, common directors, and/or common officers. In addition, because the CTF Conversion is to be effected as an in-kind transfer, the transactions will be effected on a basis other than cash.

4. Rule 17a-8 exempts certain mergers, consolidations, and assets sales of registered investment companies from the provisions of section 17(a) of the Act if an affiliation exists solely by reason of having a common investment adviser, common directors, and/or common officers, provided, among other requirements, that the board of directors of each affiliated investment company make certain determinations that the transactions are fair. The relief provided by rule 17a-8 may not be available for the CTF Conversion because the ownership of 5% or more of the outstanding voting shares of the Mutual Funds by the Parent Company Plan may create an affiliation "not solely by reason of" having a common investment adviser, common directors, and/or common officers.

5. Section 17(b) provides that the Commission shall exempt a transaction from section 17(a) if evidence establishes that (1) the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching; (2) the proposed transaction is consistent with the policy of each registered investment company concerned; and, (3) the proposed transaction is consistent with the general purposes of the Act.

6. Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such 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.

7. Applicants seek an order under sections 6 (c) and 17(b) to allow the CTF Conversion and Future Transactions. Applicants submit that the CTF Conversion satisfies the standards for relief under sections 6 (c) and 17(b). Applicants state that the CTF Conversion will comply with rule 17a-7(b) through (f). Applicants assert that if the CTF Conversion was effected in cash, as required under rule 17a-7(a),

instead of through in-kind transfers of assets for shares, the Common Trust Funds and their respective Participants would bear unnecessary expenses and inconvenience in transferring assets to the Mutual Funds, and that the purchase of similar securities by the Mutual Funds would result in the payment of additional commissions or incur the effects of markups. Applicants also state that the Board will have approved the CTF Conversion in the manner required by rule 17a-8.

Applicants' Conditions

1. The CTF Conversion will comply with rule 17a-7(b) through (f).

2. The CTF Conversion will not occur unless and until the Board, including a majority of the Board's disinterested members, finds that participation by the Mutual Funds in the CTF Conversion is in the best interest of existing shareholders of each Mutual Fund and that the interests of these shareholders will not be diluted as a result of the transaction. These findings, and the basis upon which they are made, will be recorded in the minute books of the Mutual Funds.

3. The CTF Conversion will not occur unless and until PNC Bank has determined in accordance with its fiduciary duties as trustee for the Common Trust Funds and as fiduciary for the Participants that the CTF Conversion is in the best interests of Participants in the Common Trust Funds.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-8719 Filed 4-2-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23093; 812-10490]

EQ Advisors Trust and EQ Financial Consultants, Inc.; Notice of Application

March 30, 1998.

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

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act.

Summary of Application: The order would permit the investment adviser to certain portfolios of a registered open-

end management investment company to enter into subadvisory agreements without obtaining shareholder approval.

Applicants: EQ Advisors Trust (the "Trust"), on behalf of its existing and future portfolios, EQ Financial Consultants, Inc. (the "Manager"), and any future registered open-end management investment companies or portfolios advised by the Manager, or any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Manager.¹

Filing Dates: The application was filed on January 13, 1997, and amended on December 12, 1997, and March 27, 1998.

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 April 23, 1998, 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; the Trust, 1290 Avenue of the Americas, New York, New York 10104; and the Manager, 1755 Broadway, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942-0526, or May Kay Frech, 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 from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942-8090).

Applicants' Representations

1. The Trust is an open-end management investment company

registered under the Act. The Trust currently consists of eighteen separately managed portfolios (each a "Portfolio"), each of which has its own investment objective, policies, and restrictions. The Trust is the underlying investment medium for variable annuity and variable life insurance contracts ("Variable Contracts") issued by The Equitable Life Assurance Society of the United States ("Equitable").²

2. The Manager is registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"). The Trust and the Manager have entered into an investment management agreement ("Management Agreement") pursuant to which the Manager advises the Trust and each Portfolio. The Manager has entered into separate advisory agreements ("Advisory Agreements") with ten investment advisers ("Advisers"), each registered under the Advisers Act. Each Portfolio is advised by a single Adviser and may, as determined by the Manager, be advised in the future by two or more Advisers.

3. Under the Management Agreement, one of the primary responsibilities of the Manager, subject to the supervision and direction of the board of trustees of the Trust (the "Board") is to provide the Trust with investment management evaluation services, principally by reviewing and recommending to the Board prospective Advisers for each Portfolio, and qualitative analysis, as well as periodic consultations with the Advisers. Each Adviser is approved by the Board, including a majority of the trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act (the "Independent Trustees") of the Trust, the Manager or the Advisers. In evaluating prospective Advisers, the Manager considers, among other factors, each Adviser's level of expertise, relative performance, consistency of results relative to overall market performance, and investment discipline or philosophy, as well as its personnel, facilities, financial strength, reputation, and quality of service. The Manager monitors the compliance of each Adviser with the investment objectives and policies of each Portfolio and monitors the performance of each Adviser to assess overall competence. The Manager is responsible for communicating performance expectations and evaluations to each Adviser, and, determines whether the Advisory Agreement with each Adviser

will be renewed, modified, or terminated.

4. Subject to the general supervision and direction of the Manager and, ultimately, the Board, each Adviser to a Portfolio (i) furnishes an investment program that is in accordance with the Portfolio's stated investment objective and policies, (ii) makes investment decisions for the Portfolio, and (iii) places all orders to purchase and sell securities on the Portfolio's behalf. Each Adviser also performs certain limited administrative functions related to its services for the relevant Portfolio.

5. The Trust's investment advisory arrangements differ from those of traditional investment companies in that the Manager does not make the day-to-day investment decisions for the Portfolios. Rather, the Manager is responsible for employing and then continuously evaluating and monitoring the performance of Advisers for the Portfolios, and making determinations concerning their replacement or the reallocation of a portion of the assets of a Portfolio to an additional Adviser. In addition to selecting and monitoring Advisers, the Manager provides the Portfolios with overall management services (except to the extent that these services are performed by other service providers selected by the Trust). The Trust pays the Manager a fee for its services with respect to each Portfolio that is computed daily and paid monthly based on the value of the average daily net assets of each Portfolio. The Manager pays each Adviser a fee that is computed daily and paid monthly based on the value of the average daily net assets of the Portfolio or the portion of the Portfolio managed by that Adviser. The Trust is not responsible for compensating any Adviser in any manner.

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of the registered investment company. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires a shareholder vote.

2. Section 6(c) authorizes the SEC to exempt persons or transactions from the provisions of the Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly

¹ All existing registered open-end management investment companies that currently intend to rely on the order have been named as applicants, and any other existing or future open-end management investment companies that rely on the order in the future will comply with the terms and conditions in the application.

² The Trust may in the future offer its shares to separate accounts funding Variable Contracts of insurance companies unaffiliated with Equitable, and to tax-qualified pension and retirement plans that are not separate accounts.

intended by the policies and provisions of the Act. Applicants request an order exempting them from section 15(a) and rule 18f-2 to the extent necessary to permit the Manager to enter into and materially amend the Advisory Agreements.

3. Applicants believe that shareholders in the Portfolios rely on the Manager's experience and expertise in selecting, evaluating, and, if necessary, firing the Advisers. Applicants state that the expenses of convening a special meeting of shareholders and conducting a proxy solicitation to obtain shareholder approval of a new Adviser and/or an amendment of an Advisory Agreement would be a substantial burden on the affected Portfolio. Applicants submit that permitting the Manager to perform the activities that it is paid by the Portfolios to perform—the selection, supervision, and evaluation of Advisers—without incurring unnecessary expense or delay is in the best interests of the shareholders and will allow each Portfolio to operate more efficiently. Applicants note that the Management Agreement between the Trust and the Manager will remain subject to shareholder approval.

Applicants' Conditions

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

1. Before a Portfolio may rely on the order, the operation of the Portfolio as described in the application will be approved by a majority of the Portfolio's outstanding voting securities (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, then pursuant to voting instructions provided by the unitholders of the sub-account), as defined in the Act, or, in the case of a new Portfolio whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering shares of such Portfolio to the public.

2. Each Portfolio will disclose in its prospectus the existence, substance, and effect of the order. In addition, each Portfolio will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Manager has ultimate responsibility to oversee Advisers and recommend their hiring, termination, and replacement.

3. At all times, a majority of the Trustees of the Trust will be Independent Trustees, and the nomination of new or additional

Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

4. The Manager will not enter into an Advisory Agreement with an Adviser that is an "affiliated person" (as defined in section 2(a)(3) of the Act) of the Portfolio or the Manager, other than by reason of serving as an Adviser to a Portfolio (an "Affiliated Adviser"), without the agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, then pursuant to voting instructions by the unitholders of the sub-account).

5. When an Adviser change is proposed for a Portfolio with an Affiliated Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board's minutes, that the change is in the best interests of the Portfolio and its shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Portfolio and the unitholders of any sub-account) and that the change does not involve a conflict of interest from which the Manager or the Affiliated Adviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Adviser, shareholders (or, if the Portfolio serves as a funding medium for any sub-account of registered separate account, the unitholders of the sub-account) will be furnished all information about the new Adviser or Advisory Agreement that would be included in a proxy statement. The information will include any change in the disclosure caused by the addition of a new Adviser. The Manager will meet this condition by providing shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, then by providing the unitholders of the sub-account), within 90 days of the hiring of an Adviser, with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 (the "Exchange Act"). The information statement will also meet the requirements of Schedule 14A of the Exchange Act.

7. The Manager will provide general management services to each Portfolio, including overall supervisory responsibility for the general management and investment of each Portfolio's securities portfolios, and, subject to review and approval by the Board will (i) set each Portfolio's overall

investment strategies, (ii) select Advisers, (iii) when appropriate, recommend to the Board, the allocation and reallocation of a Portfolio's assets among multiple Advisers, (iv) monitor and evaluate the investment performance of Advisers, and (v) implement procedures reasonably designed to ensure that the Advisers comply with the relevant Portfolio's investment objective, policies, and restrictions.

8. No Trustee or officer of the Trust, or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that Trustee, director, or officer) any interest in an Adviser except for (i) ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either an Adviser or an entity that controls, is controlled by, or is under common control with an Adviser.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23088; 812-10712]

Lord Abnett Investment Trust, et al.; Notice of Application

March 27, 1998.

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

ACTION: Notice of application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(1)(G)(i)(II) of the Act and pursuant to section 17(d) of the Act and rule 17d-1 under the Act.

Summary of Application

The order would permit a fund of funds relying on section 12(d)(1)(G) to make investments in equity and debt securities and would permit applicants to enter into certain expense sharing arrangements.

Applicants

Lord Abnett Investment Trust ("Investment Trust"), Lord Abnett Affiliated Fund, Inc. ("Affiliated Fund"), Lord Abnett Bond-Debtenture