

mailing of termination notices to unitholders.

7. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

8. Each Trust Series has been terminated under New York law.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

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

Margaret H. McFarland,
Deputy Secretary.

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[Rel. No. IC-21833; 812-10018]

TCW Mid-Cap Growth Stocks Limited Partnership, et al.; Notice of Application

March 20, 1996

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: TCW Mid-Cap Growth Stocks Limited Partnership (the "Partnership"), TCW Galileo Funds, Inc. (the "Company"), TCW Asset Management Company ("TAMCO"), and TCW Funds Management, Inc. (the "Adviser").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Partnership to transfer substantially all of its assets and liabilities to a series of the Company in exchange for the series' shares, which then would be distributed *pro rata* to partners of the Partnership.

FILING DATE: The application was filed on February 28, 1996.

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 15, 1996, 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. Applicants, 865 South Figueroa Street, Suite 1800, Los Angeles, California 90017.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942-0572, or Alison E. Baur, 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.

Applicants' Representations

1. The Partnership is a California limited partnership with an investment objective of seeking long-term growth of capital through investment in publicly-traded equity securities of medium capitalization companies. Investors may purchase and redeem Partnership interests (the "Units") at net asset value on a monthly basis. The Partnership is not registered under the Act in reliance on section 3(c)(1) of the Act. The Units are offered as private placements under section 4(2) of the Securities Act of 1933 and Regulation D promulgated thereunder, and are sold to institutional investors and high net worth individuals.

2. TAMCO and the Adviser are wholly-owned subsidiaries of the TCW Group, Inc. TAMCO serves as the sole general partner and administrator of the Partnership. TAMCO also manages the Partnership's investments.

3. The Company, a Maryland corporation, is a registered open-end investment company formed as a series company. Currently, the Company offers eleven portfolios. The Company proposes to offer a new investment portfolio (the "Fund"), whose investment objectives and policies will be substantially similar to those of the partnership. The Company has entered into an advisory agreement with the Adviser, which will provide investment management services to the Fund that are substantially the same as the services that TAMCO currently provides to the Partnership.

4. Applicants propose that, pursuant to an agreement and plan of exchange, the fund will acquire substantially all of the assets and assume substantially all of the liabilities of the Partnership in exchange for Fund shares (the

"Exchange"). Prior to the Exchange, information concerning the Exchange will be delivered to the Partnership's limited partners.

5. Fund shares received by the Partnership will have an aggregate net asset value equivalent to the net asset value of the assets transferred by the Partnership (except for the effect of organizational expenses paid by the Fund). Upon consummation of the Exchange, the partnership will distribute the Fund shares to its partners, with each partner receiving shares having an aggregate net asset value equivalent to the net asset value of the Units held by such partner prior to the Exchange (except for the effect of organizational expenses paid by the Fund). The Partnership may retain assets needed to pay any accrued expenses. The Partnership also may retain assets that the Fund is not permitted to purchase, or that would be unsuitable for the Fund. Assets retained by the Partnership that are not needed to pay accrued expenses will be distributed *pro rata* to the partners of the Partnership. The Partnership will be liquidated and dissolved following the distribution.

6. The agreement governing the Partnership provides that the Partnership may be converted into a registered investment company if the general partner determines that a conversion is in the best interest of the partnership. The agreement expressly provides that no further approval or consent of the limited partners is required for such conversion, so long as at least 60 days' advance written notice is provided to the limited partners. Limited partners who do not wish to participate in the conversion of the Partnership will have adequate opportunity to redeem their Partnership interests before the conversion occurs.

7. The expenses of the Exchange will be borne by TAMCO. No brokerage commission, fee, or other remuneration will be paid in connection with the Exchange. Fund organizational expenses, up to a maximum of \$50,000, will be paid by the Fund and amortized over five years. Fund organizational expenses in excess of \$50,000 will be paid by the Adviser. Any unamortized organizational expenses associated with the organization of a Fund at the time the Adviser withdraws its initial investment in the Company will be borne by the Adviser and not the Fund.

8. The management fees for the Fund will not exceed the maximum fees currently paid by the Partnership. As of December 31, 1995, there were three limited partners in the Partnership who had an investment of a sufficient

magnitude to qualify for lower advisory fees than those to be charged by the Fund. These limited partners will be given the opportunity to withdraw from the Partnership prior to the Exchange. Applicants expect that other Fund expenses will be relatively higher than Partnership expenses. This is primarily because of the increased operating costs of a registered investment company and compliance with additional regulatory requirements. Through the end of calendar 1996, however, the Adviser will limit annual Fund expenses with the intention of capping Fund expense ratios at levels which would have been incurred during 1996 by the Partnership.

9. Prior to the Exchange, certain limited partners may withdraw from the Partnership and participate in a new limited partnership with similar investment objectives. The new limited partnership will not be registered under the Act in reliance on section 3(c)(1) thereof, and the new partnership interests will not be registered under the Securities Act of 1933 in reliance on section 4(2) thereof.

10. The Fund's board of directors and TAMCO have considered whether the Exchange will be in the best interests of the Company and the Partnership, respectively. All of the members of the Fund's board and TAMCO have approved the Exchange and have concluded that: (a) The Exchange is desirable as a business matter for both the Company and the Partnership; (b) the Exchange is in the best interests of the Company and the Partnership; (c) the Exchange is reasonable and fair, does not involve overreaching, and is consistent with the policies of the Act; (d) the Exchange is consistent with the policies of the Company and the Partnership; and (e) the interests of existing shareholders in the company and existing partners will not be diluted as a result of the Exchange. The Exchange will not be effected until the Company has received a favorable opinion of counsel with respect to the tax consequences of the Exchange and the SEC has issued the requested order.

Applicants' Legal Analysis

1. Section 17(a) prohibits affiliated persons of a registered investment company, or affiliated persons of such persons, from selling to or purchasing from such company any security or other property. Section 2(a)(3) of the Act defines an "affiliated person" as, among other things, any person directly or indirectly controlling, controlled by, or under common control with another. The Partnership may be an affiliated person of an affiliated person of the

Company because TAMCO is the general partner of the Partnership and because TAMCO and the Adviser are under common control. Thus, the proposed Exchange may be prohibited by section 17(a).

2. Section 17(b) of the Act permits the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that (a) the terms of the 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; (b) the proposed transaction is consistent with the policy of the registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. The Exchange will permit partners to pursue the same investment objectives and policies as shareholders of the Fund without sacrificing the pass-through tax features of the Partnership. In addition, shareholders of the Partnership. In addition, shareholders of the Fund will be able to purchase and redeem shares on each business day, as opposed to only once per month as is currently provided under the Partnership agreement. Shareholders of the Fund also will be able to shift investments among the eleven existing series of the Company at no charge. The Fund expects that operating as a registered investment company will help encourage net asset growth. For these reasons, among others, applicants believe that the proposed Exchange meets the section 17(b) standards.

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

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-36985; File No. S7-24-89]

Joint Industry Plan; Solicitation of Comments on Amendment No. 9 to, and Order Granting Request To Extend Effectiveness of, Reporting Plan for Nasdaq/National Market Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., and the Boston, Chicago, and Philadelphia Stock Exchanges

March 18, 1996.

On March 15, 1996, the National Association of Securities Dealers, Inc., and the Boston, Chicago, and Philadelphia Stock Exchanges

(collectively, "Participants")¹ submitted to the Commission proposed Amendment No. 9 to a joint transaction reporting plan ("Plan") for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis.² Amendment No. 9 would provide for cost allocation and revenue sharing under the Plan among the Participants. By letter attached to the filing, the National Association of Securities Dealers, on behalf of all the Participants, also requests that the Commission extend the effectiveness of the pilot approval of the Plan for an additional six months.³ This notice and order solicits comment on proposed Amendment No. 9 to the Plan and on certain substantive matters identified below, and extends the effectiveness of the Plan through September 15, 1996.

I. Background

The Commission originally approved the Plan on June 26, 1990.⁴ The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/National Market securities listed on an exchange or traded on an exchange pursuant to UTP. The Commission has extended the effectiveness of the Plan eight times since then to allow the Participants to trade pursuant to the Plan while they finalize their

¹ The signatories to the Plan, i.e., the National Association of Securities Dealers, Inc. ("NASD"), the Chicago Stock Exchange, Inc. ("Chx") (previously, the Midwest Stock Exchange, Inc.), Philadelphia Stock Exchange, Inc. ("Phlx"), and the Boston Stock Exchange, Inc. ("BSE"), are the "Participants." The BSE, however, joined the Plan as a "Limited Participant," and reports quotation information and transaction reports only in Nasdaq/National Market (previously referred to as "Nasdaq/NMS") securities listed on the BSE. Originally, the American Stock Exchange, Inc., was a Participant to the Plan, but did not trade securities pursuant to the Plan, and withdrew from participation in the Plan in August 1994.

² Section 12 of the Act generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits unlisted trading privileges ("UTP") under certain circumstances. For example, Section 12(f), among other things, permits exchanges to trade certain securities that are traded over-the-counter ("OTC/UTP"), but only pursuant to a Commission order or rule. The present order fulfills this Section 12(f) requirement. For a more complete discussion of this Section 12(f) requirement, see November 1995 Extension Order, *infra* note 5, at n. 2.

³ See letter from Robert E. Aber, Vice President, General Counsel and Secretary, Nasdaq, to Mr. Jonathan G. Katz, Secretary, Commission, dated March 15, 1996.

⁴ See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 ("1990 Approval Order"). For a detailed discussion of the history of UTP in OTC securities, and the events that led to the present plan and pilot program, see 1994 Extension Order, *infra* note 5.