''interested persons,'' as defined in section 2(a)(19) of the Act, shall consider to what extent, if any, the advisory fees charged to the Registered Participating Fund by SKI should be reduced to account for the reduced services provided to the Registered Participating Fund by SKI as result of Uninvested Cash being invested in the Central Fund. The minute books of the Registered Participating Fund will fully record the Board's consideration in approving the advisory contract, including the fees referred to above.

3. Each of the Participating Funds will invest Uninvested Cash in, and hold shares of, the Central Funds only to the extent that the Participating Fund's aggregate investment in the Central Funds does not exceed 25% of the Participating Fund's total assets. For purposes of this limitation, each Participating Fund or series thereof will be treated as a separate investment company.

4. Investment in shares of the Central Funds will be in accordance with each Registered Participating Fund's policies as set forth in its prospectus and statement of additional information.

5. Each Fund that may rely on the order shall be advised by SKI or will have SKI as its trustee.

6. No Central Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act.

7. The Private Central Funds will comply with the requirements of sections 17(a), (d), and (e), and 18 of the Act as if the Private Central Funds were registered open-end investment companies. With respect to all redemption requests made by a Participating Fund, the Private Central Funds will comply with section 22(e) of the Act. SKI as sole trustee of each Private Central Fund has or will adopt procedures designed to ensure that each Private Central Fund complies with sections 17(a), (d), and (e), 18, and 22(e) of the Act. SKI will also periodically review and update as appropriate such procedures and maintain books and records describing the procedures, and 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 made pursuant to 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.

8. Each Private Central Fund will comply with rule 2a–7 under the Act. With respect to such Private Central Fund, SKI will adopt and monitor the procedures described in rule 2a–7(c)(7) and will take such other actions as are required to be taken under those procedures. A Participating Fund may only purchase shares of a Private Central Fund if SKI determines on an ongoing basis that the Fund is in compliance with rule 2a–7. SKI 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.

9. Each Participating Fund will purchase and redeem shares of any Private Central 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 such Private Central Fund. A separate account will be established in the shareholder records of each Private Central Fund for the account of each Participating Fund that invests in such Private Central Fund.

10. To engage in Interfund Transactions, the Funds will comply with rule 17a–7 under the Act in all respects other than the requirement that the parties to the transaction be affiliated persons (or affiliated persons of affiliated persons) of each other solely by reason of having a common investment adviser or investment advisers which are affiliated persons of each other, common officers, and/or common directors solely because a Participating Fund and a Central Fund might become affiliated persons within the meaning of section 2(a)(3)(A) and (B) of the Act.

11. The net asset value per share with respect to shares of a Private Central Fund will be determined separately for each Private Central Fund by dividing the value of the assets belonging to that Private Central Fund, less the liabilities of that Private Central Fund, by the number of shares outstanding with respect to that Private Central Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–2965 Filed 2–8–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24275; 812–11680]

Ark Funds, et al.; Notice of Application

February 2, 2000.

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

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit a pension plan to transfer its assets to certain registered open-end management investment companies in exchange for shares of the companies.

APPLICANTS: ARK Funds, Allfirst Financial Inc. Pension Plan (''Allfirst Plan''), Allied Investment Advisers, Inc. (''AIA''), Allfirst Trust Company, N.A. (''Allfirst Trust'') and Allfirst Financial Inc.

FILING DATES: The application was filed on July 1, 1999. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

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 February 24, 2000, 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 Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Alan C. Porter, Esq., Piper Marbury Rudnick & Wolfe LLP, 1200 Nineteenth Street, NW, Washington, DC 20036–2412.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada, 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 Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. ARK Funds, a Massachusetts business trust, is registered under the Act as an open-end management investment company and offers twenty series (the ''ARK Portfolios''). AIA is an investment adviser registered under the Investment Advisers Act of 1940 and serves as investment adviser to each ARK Portfolio. Allfirst Trust acts as custodian and sub-administrator for the ARK Portfolios. AIA and Allfirst Trust are wholly-owned subsidiaries of Allfirst Bank, which is a wholly-owned subsidiary of Allfirst Financial Inc., a bank holding company (Allfirst Financial Inc. and its direct and indirect subsidiaries, collectively ''Allfirst'').

2. The Allfirst Plan is a defined benefit pension plan qualified under section 401 of the Internal Revenue Code of 1986, as amended. The Allfirst Plan is maintained for the benefit of employees of Allfirst and is exempt from the definition of ''investment company'' under section 3(c)(11) of the Act. Allfirst Trust is trustee of and AIA is investment adviser to the Allfirst Plan.

3. Currently, the Allfirst Plan has approximately 36.8% of its assets invested in the ARK Portfolios, with the remainder invested directly in individual securities. The Allfirst Plan holds more than 5% of the outstanding voting securities of four of the ARK Portfolios. Applicants propose to transfer in-kind of the assets of the Allfirst Plan, other than shares of the ARK Portfolios, to various ARK Portfolios for which the securities are appropriate investments, in exchange for Institutional Class shares of the respective ARK Portfolios having an aggregate net asset value equal to that of the securities transferred (the ''Proposed Exchange''). Pursuant to procedures adopted by each ARK Portfolio's board of directors (''Board''), AIA has determined that the individual securities held by the Allfirst Plan are appropriate investments for the participating ARK Portfolios. The securities of the Allfirst Plan to be transferred will be valued in accordance with the provisions of rule 17a–7(b) under the Act. Institutional Class shares of the ARK Portfolios do not have a front-end or deferred sales charge, redemption fee, or distribution fee. Allfirst will pay any expenses incurred in connection with the Proposed Exchange. Applicants request relief to effect the Proposed Exchange.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated persons of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the investment company. Section 2(a)(3) of the Act, in relevant part, defines an ''affiliated person'' of another person to include (a) 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; (b) any person directly or indirectly controlling, controlled by, or under common control with, the other person; and (c) if the other person is an investment company, any investment adviser of that company. Applicants state that, because the Allfirst Plan may be viewed as acting as principal in the Proposed Exchange and because the Allfirst Plan and the ARK Portfolios may be viewed as being under the common control of Allfirst, within the meaning of section 2(a)(3)(C) of the Act, the Proposed Exchange may be subject to the prohibitions of section 17(a) of the Act.

2. Rule 17a–7 under the Act exempts from the prohibitions of section 17(a) certain purchase and sale transactions 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 securities. Applicants state that rule 17a–7 may not be available for the Proposed Exchange because the Allfirst Plan owns 5% or more of the outstanding voting shares of certain ARK Portfolios and Allfirst has an indirect pecuniary interest in the performance of the assets held by the Allfirst Plan. As a result, the affiliation between the Allfirst Plan and the ARK Portfolios is not solely by reason of having a common investment adviser, common directors, and/or common officers. In addition, applicants state that the Proposed Exchange is to be effected as an in-kind transfer, rather than in cash.

3. Rule 17a–8 under the Act exempts certain mergers, consolidations, and sales of assets 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 investment company makes certain determinations. Applicants state that rule 17a–8 is not available for the Proposed Exchange because Allfirst is not transferring ''substantially all'' of its assets to the ARK Portfolios, because the Allfirst Plan is not a registered investment company and because the Allfirst Plan and the ARK Portfolios are affiliated other than solely by reason of having a common investment adviser, common director and/or common officers.

4. Section 17(b) of the Act provides that the Commission may exempt a proposed transaction from the provisions of section 17(a) if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid, 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 each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act to permit the Proposed Exchange. Applicants submit that the Proposed Exchange satisfies the standards for relief under section 17(b) of the Act. Applicants state that the securities to be acquired from the Allfirst Plan are consistent with the investment objectives, policies and restrictions of the participating ARK Portfolios. Applicants also state that the Proposed Exchange will meet all of the conditions of rules 17a–8 (with respect to the ARK Funds) and that the Proposed Exchange will occur in accordance with procedures respectively adopted by the Board, pursuant to rule 17a–7(e), and that the provisions of rule 17a–7(b), (c), (d) and (f) will be satisfied. Applicants state that the Proposed Exchange will take place as an in-kind transfer from the Allfirst Plan to the ARK Portfolios, rather than on the basis of cash as required by rule 17a–7(a). The Proposed Exchange will not occur unless and until the Board (including a majority of the Independent Trustees) finds that participation by the ARK Portfolios in the Proposed Exchange is in the best interests of each ARK Portfolio and that the interests of existing shareholders of the ARK Portfolio will not be diluted as a result of the transaction.

Applicants' Conditions

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

1. The Proposed Exchange will comply with the terms of rule 17a–7(b) through (f).

2. The Proposed Exchange will not occur unless and until the Board (including a majority of the Independent Trustees) finds that participation by the ARK Portfolios in the Proposed Exchange is in the best interests of each ARK Portfolio and that the interests of existing shareholders of the ARK Portfolio will not be diluted as a result of the transaction. These findings, and the basis upon which they are made, will be recorded fully in the minute books of ARK Funds.

3. The Proposed Exchange will not occur unless and until AIA, as investment manager and fiduciary of the Allfirst Plan, has determined in accordance with its fiduciary duties that the Proposed Exchange is in the best interests of the Allfirst Plan.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–2879 Filed 2–8–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42372; File No. SR–CHX–99–27]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Trading of Nasdaq/NM Securities on the CHX

January 31, 2000.

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 27, 1999, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') 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 the Exchange. On January 31, 2000, the CHX submitted to the Commission Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

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

The Exchange has requested a three-month extension of the pilot program relating to the trading of Nasdaq/NM securities on the Exchange. Specifically, the pilot program proposes to amend Article XX, Rule 37 and Article XX, Rule 43 of the Exchange's rules. The current pilot expires on January 31, 2000. The Exchange proposes to extend the rules governing trading of Nasdaq/NM securities on the Exchange through May 1, 2000.[4]

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange 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

On May 4, 1987, the Commission approved certain Exchange rules and procedures relating to the trading of Nasdaq/NM securities on the Exchange.[5] Among other things, these rules rendered the Exchange's BEST Rule guarantee (Article XX, Rule 37(a)) applicable to Nasdaq/NM securities and made Nasdaq/NM securities eligible for the automatic execution feature of the Exchange's Midwest Automated Execution System (the ''MAX'' system).[6]

On January 3, 1997, the Commission approved,[7] on a one year pilot basis, a program that eliminated the requirement that CHX specialists automatically execute orders for Nasdaq/NM securities when the specialist is not quoting at the national best bid or best offer disseminated pursuant to Exchange Act Rule 11Ac1–1 (the ''NBBO''). When the Commission approved the program on a pilot basis, it requested that the Exchange submit a report to the Commission describing the Exchange's experience with the pilot program. The Commission stated that the report should include at least six months of trading data. Due to programming issues, the pilot program was not implemented until April 1997. Six months of trading data did not become available until November 1997. As a result, the Exchange requested an additional three-month extension to collect the data and prepare the report for the Commission.

On December 31, 1997, the Commission extended the pilot program for an additional three months, until March 31, 1998, to give the Exchange additional time to prepare and submit the report and to give the Commission adequate time to review the report prior to approving the pilot on a permanent basis.[8] The Exchange submitted the report to the Commission on January 30, 1998. Subsequently, the Exchange requested another three-month extension, to give the Commission adequate time to approve the pilot program on a permanent basis.

On March 31, 1998, the Commission approved the pilot for an additional three-month period, until June 30, 1998.[9] On July 1, 1998, the Commission approved the pilot for an additional six-month period, until December 31, 1998.[10] On December 31, 1998, the Commission approved the pilot for an additional six-month period, until June

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

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the CHX requested that the Commission approve extension of the pilot program through May 1, 2000 instead of December 31, 2000 as initially proposed. Amendment No. 1 also removed proposed rule language that is currently being considered in another Exchange filing (SR–CHX–99–27). *See* letter from Kathleen M. Boege, Associate General Counsel, CHX, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated January 28, 2000.

[4] *See* Amendment No. 1, *supra* note 3.

[5] See Securities Exchange Act Release No. 24424 (May 4, 1987), 52 FR 17868 (May 12, 1987) (order approving File No. SR–MSE–87–2); *see also,* Securities Exchange Act Release Nos. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990) (order expending the number of eligible securities to 100); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995) (order expanding the number of eligible securities to 500); 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999) (order expanding the number of eligible securities to 1,000).

[6] The MAX system may be used to provide an automated delivery and execution facility for orders that are eligible for execution under the Exchange's BEST Rule and certain other orders. See CHX Rules, Art. XX, Rule 37(b). A MAX order that fits within the BEST parameters is executed pursuant to the BEST Rule via the MAX system. If an order is outside the BEST parameters, the BEST rule does not apply, by MAX system handling rules remain applicable.

[7] *See* Securities Exchange Act Release No. 38119 (January 3, 1997), 62 FR 1788 (January 13, 1997).

[8] *See* Securities Exchange Act Release No. 39512 (December 31, 1997), 63 FR 1517 (January 9, 1998).

[9] *See* Securities Exchange Act Release No. 39823 (March 31, 1998), 63 FR 17246 (April 8, 1998).

[10] *See* Securities Exchange Act Release No. 40150 (July 1, 1998), 63 FR 36983 (July 8, 1998).