

the impact of a commercial aircraft, the design of the storage systems must have the capability to provide for the protection of public health and safety against naturally occurring events. This includes flying debris from tornadoes or hurricanes, and seismic events. To provide this level of protection, the design must be robust. This robustness prevents the dispersion of radioactive materials under analyzed accident conditions. The inherent robustness of the design will limit the release of radioactive materials under a terrorist attack, and continue to protect public health and safety.

4. Develop criteria and regulations to empirically verify dry storage system capability and to apply those requirements to the Oyster Creek storage design prior to approval.

The NRC technical review includes evaluating storage design characteristics such as structural, thermal, radiation shielding, radioactive material confinement, nuclear criticality, material interactions, and overall performance. As discussed in the Director's Decision, the NUHOMS design has been analyzed using industry standards for material characteristics based on empirical data for design life performance. Dry storage systems are evaluated using conservative analysis and assumptions to store the spent fuel safely for a design life of 20 years, at a minimum.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 17th day of April, 2003.

For the Nuclear Regulatory Commission.

**Martin J. Virgilio,**

*Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 03-10394 Filed 4-25-03; 8:45 am]

**BILLING CODE 7590-01-P**

## POSTAL RATE COMMISSION

### Sunshine Act Meeting Notice

**AGENCY:** Postal Rate Commission.

**TIME AND DATE:** Daily, or as needed, from Wednesday, April 30, 2003, at 2:30 p.m., through May 22, 2003.

**PLACE:** Commission conference room, 1333 H Street, NW., Suite 300, Washington, DC 20268-0001.

**STATUS:** Closed.

#### **MATTERS TO BE CONSIDERED:**

Recommendations in Docket No. MC2002-2, Experimental Rate and Service Changes to Implement Negotiated Service Agreement with Capital One Services, Inc.

#### **CONTACT PERSON FOR MORE INFORMATION:**

Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268-0001, 202-789-6820.

Dated: April 24, 2003.

**Steven W. Williams,**

*Secretary.*

[FR Doc. 03-10480 Filed 4-24-03; 10:22 am]

**BILLING CODE 7710-FW-M**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26008; 812-12782]

### SEI Index Funds, et al.; Notice of Application

April 22, 2003.

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

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

**SUMMARY OF THE APPLICATION:** The requested order would permit certain registered open-end management investment companies to invest uninvested cash and cash collateral in affiliated money market funds in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

**APPLICANTS:** SEI Index Funds, SEI Tax Exempt Trust, SEI Liquid Asset Trust, SEI Daily Income Trust, SEI Institutional Managed Trust, SEI Institutional International Trust, SEI Institutional Investments Trust, SEI Insurance Products Trust and SEI Asset Allocation Trust (collectively, the "Trusts"), on behalf of their portfolios (collectively, the "Funds"), and SEI Investments Management Corporation ("SIMC").

**FILING DATES:** The application was filed on February 15, 2002, and amended on April 15, 2003.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief 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 May 16, 2003, 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 Leslie Cruz, Esq., Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

#### **FOR FURTHER INFORMATION CONTACT:**

Emerson S. Davis, Sr., Senior Counsel, at (202) 942-0714, or Nadya B. Roytblat, Assistant Director, at (202) 942-0564, (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel. 202-942-8090).

### Applicants' Representations

1. Each Trust is a Massachusetts business trust registered under the Act as an open-end management investment company and currently consists of multiple Funds. Certain Funds hold themselves out to the public as money market funds and comply with the requirements of rule 2a-7 under the Act (together with any future money market Funds, the "Money Market Funds").<sup>1</sup>

<sup>1</sup> Applicants request that the relief also apply to any future Fund and any other registered open-end management investment company or series thereof (i) advised by SIMC or any successor or any person controlling, controlled by or under common control with SIMC (together, the "Advisers") or for which SEI Investment Distribution Co. ("SIDCo.") or any successor or any person controlling, controlled by or under common control with SIDCo, serves as principal underwriter or for which SEI Investments Fund Management ("SEI Management") or any successor or any person controlling, controlled by or under common control with SEI Management serves as the administrator, and (ii) which is part of the "same group of investment companies," as the term is defined in section 12(d)(1)(G)(ii) of the Act, as the Trusts (collectively, the "Future

The remaining Funds are non-money market funds ("Investing Funds").

2. SIMC, a wholly-owned subsidiary of SEI Investment Company ("SEI"), is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and serves as investment adviser to each Investing Fund except for the Bond Index Fund, a series of the SEI Index Funds; and the Corporate Daily Income Fund, Treasury Securities Daily Income Fund, Short Duration Government Fund, Intermediate Duration Government Fund and GNMA Fund, each a series of the SEI Daily Income Trust (collectively the "Bond Funds"). Mellon Bond Associates, LLP ("Mellon") serves as investment adviser to the Bond Index Fund, Wellington Management Company, LLP ("Wellington") serves as investment adviser to the Bond Funds and Weiss, Peck & Greer, L.L.C. ("Weiss") serves as the investment adviser to the California Tax Exempt Fund, Tax Free Fund, Institutional Tax Free Fund, Pennsylvania Tax Free Fund and Ohio Tax-Free Money Market Fund. Mellon, Wellington and Weiss are each registered as investment advisers under the Advisers Act. SIMC serves as investment adviser to the remaining Money Market Funds. The Funds of the Trusts are all in the same group of investment companies as defined in section 12(d)(1)(G)(ii) of the Act.

3. Applicants state that each of the Investing Funds has, or may be expected to have, uninvested cash ("Uninvested Cash"). Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, or new monies received from investors. Certain Investing Funds also may participate in a securities lending program under which a Fund may lend its portfolio securities to registered broker-dealers or other institutional investors ("Securities Lending Program"). The loans will be continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash ("Cash Collateral," and together with Uninvested Cash, "Cash Balances").

Funds"). The term Fund includes all Future Funds. Successor means any entity that results from a reorganization into another jurisdiction or change in type of business organization. All existing Funds that currently intend to rely on the requested relief are named as applicants. Any other existing and Future Funds that may rely on the relief in the future will do so only in accordance with the terms and conditions of the application.

4. Applicants request an order to permit each Investing Fund to invest its Cash Balances in shares of one or more Money Market Funds, and the Money Market Funds to sell their shares to, and redeem their shares from, the Investing Funds and the Advisers to effect the proposed transactions. Investment of Cash Balances in shares of the Money Market Funds will be made consistent with each Investing Fund's investment objectives, restrictions and policies as set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and further diversify holdings.

#### Applicants' Legal Analysis

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

2. Section 12(d)(1)(J) of the Act authorizes the Commission to exempt any person, security, or transaction from any provision of section 12(d)(1) if, and to the extent that, such exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) from the percentage limitations of sections 12(d)(1)(A) and (B) to permit the Investing Funds to invest Cash Balances in the Money Market Funds.

3. Applicants state that the proposed arrangement would not raise the concerns that sections 12(d)(1)(A) and (B) were intended to address. Applicants state that because each Money Market Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over a Money Market Fund through threat of redemption. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because

shares of the Money Market Funds sold to, and redeemed from, the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act, or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers' ("NASD") Conduct Rules) or if such shares are subject to such fees, the Investing Fund's adviser will waive its advisory fee for the Investing Fund to offset the amount of the fees incurred by the Investing Fund. Applicants state that if a Money Market Fund offers more than one class of securities, each Investing Fund will invest Cash Balances only in the class with the lowest expense ratio at the time of investment. Before approving any advisory contract for an Investing Fund, its board of trustees (the "Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees"), will consider to what extent, if any, the advisory fees charged to the Investing Fund should be reduced to account for reduced services provided to the Investing Fund by its investment adviser as a result of the investment of Uninvested Cash in a Money Market Fund. Applicants represent that no Money Market Fund will acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an "affiliated person" of an investment company to include, among others, any person directly or indirectly controlling, controlled by, or under common control with the other person and any person owning, controlling, or holding with power to vote, 5% or more of the other person. Applicants state that, because the Investing Funds and the Money Market Funds have a common investment adviser and Board, they may be deemed to be under common control with each other, and thus affiliated persons of each other. In addition, applicants state that if an Investing Fund acquires 5% or more of a Money Market Fund's securities, the Investing Fund and the Money Market Fund would be deemed to be affiliated persons of each other. As a result, the sale of the shares of a Money Market Fund to the Investing Funds, and the redemption of such shares by the

Investing Fund could be deemed to be prohibited under section 17(a).

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that the proposed transactions satisfy the standards in sections 6(c) and 17(b) of the Act. Applicants note that shares of the Money Market Funds will be purchased and redeemed by the Investing Funds at their net asset value, the same consideration paid and received for these shares by any other shareholder. Applicants state that the Investing Funds will retain their ability to invest Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies if they believe they can obtain a higher rate of return, or for any other reason. Applicants also state that each Money Market Fund may discontinue selling shares to any of the Investing Funds if the Money Market Fund determines that such sale would adversely affect the Money Market Fund's portfolio management and operations.

7. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants state that each Investing Fund, by purchasing shares of the Money Market Funds, the Advisers, by effecting the proposed transactions, and each Money Market Fund, by selling shares to and redeeming shares from, the Investing Funds, could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d-1 under the Act.

8. Rule 17d-1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining

whether to approve a transaction, the Commission will consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from, or less advantageous than, that of other participants. Applicants submit that the investment by the Investing Funds in shares of a Money Market Fund would be on the same basis and would be indistinguishable from any other shareholder account maintained by the same share class of the Money Market Fund and that the transactions will be consistent with the Act.

#### Applicants' Conditions

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

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act or service fee (as defined in rule 2830(b)(9) of the NASD's Conduct Rules). If such shares are subject to any such load or fees, the Investing Fund's investment adviser will waive its advisory fee for the Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

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

3. Each of the Investing Funds will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that such Investing Fund's

aggregate investment of Uninvested Cash in the Money Market Funds does not exceed 25 percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

4. Investment of Cash Balances by the Investing Fund in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information.

5. No Money Market Fund whose shares are held by an Investing Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

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

7. Each Investing Fund and Money Market Fund that relies on the order will be part of the same group of investment companies, as that term is defined in section 12(d)(1)(C)(ii) of the Act, as the Trusts.

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

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 03-10379 Filed 4-25-03; 8:45 am]

BILLING CODE 8010-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47703; File No. SR-Amex-2002-104]

**Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the American Stock Exchange LLC Relating to Amex Rules 26, 29, 171, and 950 To Revise Specialist Capital Requirements and the Method for Computing Specialist Capital Requirements and To Create an Early Warning Level With Respect to Specialist Capital**

April 18, 2003.

On December 10, 2002, the American Stock Exchange LLC ("Amex") filed