

(5) the staff's consideration of public comments.

The final Supplement 5 to the GEIS is available electronically for public inspection in the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's document management system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/> (the Public Electronic Reading Room).

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael T. Masnik, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Dr. Masnik may be contacted at (301) 415-1191 or by writing to: Michael T. Masnik, U. S. Nuclear Regulatory Commission, MS O-12D2, Washington, DC 20555.

Dated at Rockville, Maryland, this 11th day of January 2002.

For the Nuclear Regulatory Commission.

**David B. Matthews,**

*Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 02-2497 Filed 1-31-02; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on February 19-20, 2002. The meeting will take place at the address provided below. The topics of discussion will relate to the status of the revised 10 CFR part 35, Medical Use of Byproduct Material.

**DATES:** ACMUI will hold a public meeting on Tuesday, February 19, 2002, from 11 a.m. to 12:30 p.m. From 2 p.m. to 4 p.m. on February 19, the ACMUI will meet with the Commission in the Commissioners' conference room. On Wednesday, February 20, 2002, the ACMUI will continue its public meeting from 8 a.m. to 5 p.m.

*Address for Commission Briefing:* U.S. Nuclear Regulatory Commission, One White Flint North Building, Commissioners' Conference Room 1G16,

11555 Rockville Pike, Rockville, MD, 20852-2738.

*Address for Public Meeting:* U.S. Nuclear Regulatory Commission, Two White Flint North Building, Conference Room T2B3, 11545 Rockville Pike, Rockville, MD 20852-2738.

#### FOR FURTHER INFORMATION CONTACT:

Angela R. Williamson, telephone (301) 415-5030; e-mail [arw@nrc.gov](mailto:arw@nrc.gov) of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

#### Conduct of the Meeting

Manuel D. Cerqueira, M.D., will chair the meeting. Dr. Cerqueira will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Angela Williamson, U.S. Nuclear Regulatory Commission, Two White Flint North, Mail Stop T8F5, 11545 Rockville Pike, Rockville, MD 20852-2738. Submittals must be postmarked by February 11, 2002, and must pertain to the topics on the agenda for the meeting.

2. Questions from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection on NRC's Web site, [www.nrc.gov](http://www.nrc.gov), and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852-2738, telephone (800) 397-4209, on or about April 22, 2002. Minutes of the meeting will be available on or about April 15, 2002.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations*, Part 7.

Dated: January 28, 2002.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 02-2501 Filed 1-31-02; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25402; 812-12200]

### Memorial Funds and Memorial Investment Advisors, Inc.; Notice of Application

January 25, 2002.

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

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

**SUMMARY OF APPLICATION:** Memorial Funds (the "Trust") and Memorial Investment Advisors, Inc. (the "Adviser") (together, "Applicants") request an order that would permit applicants to enter into and materially amend subadvisory agreements without shareholder approval and grant relief from certain disclosure requirements.

**FILING DATES:** The application was filed on July 24, 2000, and amended on January 22, 2002.

#### 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 February 19, 2002, and should be accompanied by proof of service on the 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 Anthony C.J. Nuland, Esq., Seward & Kissel, LLP, 1200 G Street NW., Washington, DC 20005.

#### FOR FURTHER INFORMATION CONTACT:

Lidian Pereira, Senior Counsel, at (202) 942-0524, or Mary 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 at the

Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102, telephone 202-942-8090.

### Applicants' Representations

1. The Trust, a Delaware business trust, is registered under the Act as an open-end management investment company. The Trust currently is composed of four series (each a "Fund," collectively, the "Funds").<sup>1</sup> Each Fund has its own investment objectives, policies and restrictions.

2. The Adviser, registered under the Investment Advisers Act of 1940 ("Advisers Act"), serves as investment adviser to the Funds pursuant to an investment advisory agreement with the Trust ("Advisory Agreement"), which was approved by the board of trustees of the Trust ("Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees"), and by each Fund's shareholders. Under the terms of the Advisory Agreement, the Adviser provides investment advisory services for each Fund and may hire one or more subadvisers ("Subadvisers") to exercise day-to-day investment discretion over the assets of the Fund pursuant to separate investment advisory agreements ("Subadvisory Agreements"). All current and future Subadvisers will be registered under the Advisers Act. Subadvisers are recommended to the Board by the Adviser and selected and approved by the Board, including a majority of the Independent Trustees. The Adviser compensates each Subadviser out of the fees paid to the Adviser by the applicable Fund.

3. The Adviser monitors the Funds and the Subadvisers and makes recommendations to the Board regarding allocation, and reallocation, of assets between Subadvisers and is responsible for recommending the hiring, termination and replacement of Subadvisers. The Adviser recommends Subadvisers based on a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives.

4. Applicants request relief to permit the Adviser, subject to the oversight of the Board, to enter into and materially amend Subadvisory Agreements without shareholder approval. The requested relief will not extend to a Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or the Adviser, other than by reason of serving as a Subadviser to one or more of the Funds (an "Affiliated Subadviser").

5. Applicants also request an exemption from the various disclosure provisions described below that may require each Fund to disclose fees paid by the Adviser to the Subadvisers. The Trust will disclose for each Fund (both as a dollar amount and as a percentage of a Fund's net assets) (a) aggregate fees paid to the Adviser and Affiliated Subadvisers; and (b) aggregate fees paid to Subadvisers other than Affiliated Subadvisers ("Aggregate Fee Disclosure"). For any Fund that employs an Affiliated Subadviser, the Fund will provide separate disclosure of any subadvisory fees paid to the Affiliated Subadviser.

### Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by a majority of the investment company's outstanding voting securities. 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 shareholder approval.

2. Form N-1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N-1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a-1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 ("Exchange Act"). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the "rate of compensation of the investment adviser," the "aggregate amount of the investment adviser's fees," a description of "the terms of the contract to be acted upon," and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N-SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N-SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Subadvisers.

5. Regulation S-X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6-07(2) (a), (b), and (c) of Regulation S-X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if 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. Applicants believe that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that by investing in a Fund, shareholders, in effect, will hire the Adviser to manage the Fund's assets by selecting and monitoring Subadvisers rather than by hiring its own employees to manage assets directly. Applicants state that investors will purchase Fund shares to gain access to the Adviser's expertise in overseeing Subadvisers. Applicants further assert that the requested relief will reduce Fund expenses and permit the Funds to operate more efficiently. Applicants note that the Advisory Agreement will remain subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f-2 under the Act.

8. Applicants assert that some Subadvisers charge their customers for advisory services according to a "posted" rate schedule. Applicants state that while Subadvisers are willing to negotiate fees lower than those posted in the schedule, particularly with large institutional clients, they are reluctant to do so where the fees are disclosed to other prospective and existing customers. Applicants submit that the relief will encourage Subadvisers to negotiate lower advisory fees with the Adviser, the benefits of which are likely to be passed on to shareholders.

<sup>1</sup> Applicants request that any relief granted pursuant to the application also apply to future series of the Trust, and any other registered open-end management investment company and its series that: (a) Are advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser; (b) use the multi-manager structure described in the application; and (c) comply with the terms and conditions in the application ("Future Funds," included in the term "Funds"). All entities that currently intend to rely on the requested relief are named as applicants. If the name of any Fund contains the name of a Subadviser, it will be preceded by the name of the Adviser.

## Applicants' Conditions

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

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in the application will be approved by a majority of the outstanding voting securities of the Fund, as defined in the Act, or in the case of a Fund whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholders prior to offering shares of the Fund to the public.

2. Any Fund relying on the requested relief will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund relying on the requested order will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has the ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of any new Subadviser, shareholders of the relevant Fund will be furnished all information about the Subadviser that would be contained in a proxy statement, except as modified by the order to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Subadviser. The Adviser will meet this condition by providing shareholders, within 90 days of the hiring of a Subadviser, an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, a majority of the Trust's Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then existing Independent Trustees.

6. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Trust's Board, including a majority of the Independent Trustees,

will make a separate finding, reflected in the Trust's Board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. Independent counsel knowledgeable about the Act and the duties of Independent Trustees will be engaged to represent the Trust's Independent Trustees. The selection of such counsel will be within the discretion of the Independent Trustees.

8. The Adviser will provide the Trust's Board, no less frequently than quarterly, with information about the Adviser's profitability for each Fund relying on the relief requested in the application. The information will reflect the impact on profitability of the hiring or termination of Subadvisers during the applicable quarter.

9. Whenever a Subadviser to a particular Fund is hired or terminated, the Adviser will provide the Trust's Board with information showing the expected impact on the Adviser's profitability.

10. The Adviser will provide general management services to the Trust and the Funds, including overall supervisory responsibility for the general management and investment of each Fund's securities portfolio, and, subject to review and approval by the Board, will (a) set each Fund's overall investment strategies, (b) evaluate, select and recommend Subadvisers to manage all or a part of a Fund's assets, (c) allocate and, when appropriate, reallocate a Fund's assets among multiple Subadvisers, (d) monitor and evaluate the performance of Subadvisers, and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with the relevant Fund's investment objective, policies and restrictions.

11. No trustee or officer of the Trust or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such person) any interest in a Subadviser, except for: (a) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Subadviser or an entity that controls, is controlled by or is under common control with a Subadviser.

12. Each Fund will disclose in its registration statement the respective Aggregate Fee Disclosure.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 02-2458 Filed 1-31-02; 8:45 am]

BILLING CODE 8010-01-U

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45333; File No. SR-AMEX-2001-56]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to the Recording of Images, Sound or Data on the Trading Floor

January 25, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 1, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Amex filed an amendment to its proposal on January 15, 2002.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Article II, Section 3 of the Amex Constitution, to control the recording of images, sound or data on the Trading Floor. The text of the proposed rule change is available at the principal offices of the Amex and at the Commission.

#### 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

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission (January 14, 2002) ("Amendment No. 1"). In Amendment No. 1, the Amex limited its proposed rule language to recording of images, sound or data "on the Trading Floor" (rather than "on the premises of the Exchange.")