

or by any state or any political subdivision thereof or by any agency thereof or by any entity organized under the laws of the United States or any state thereof which have been issued and sold primarily outside the United States.

7. The Foreign Subsidiaries will accept deposits of Assets pursuant to a written, three-party agreement between (a) a Foreign Subsidiary, (b) Creditanstalt, and (c) a U.S. Investment Company or its custodian. The agreement will provide that Creditanstalt will assume liability for any loss arising out of or in connection with the performance by the Foreign Subsidiary of its responsibilities under the agreement to the same extent as if Creditanstalt had itself been required to provide custody services under the agreement. There will be no difference in the nature or extent of Creditanstalt's liability based on whether such services are provided by the Foreign Subsidiaries directly or as Creditanstalt's delegates.

Applicant's Legal Analysis

1. Section 17(f) of the Act requires a registered investment company to maintain its securities and similar investments in the custody of a bank meeting the requirements of section 26(a) of the Act, a member firm of a national securities exchange, the investment company itself, or a system for the central handling of securities established by a national securities exchange. Section 2(a)(5) of the Act defines "bank" to include banking institutions organized under the laws of the United States, member banks of the Federal Reserve System, and certain banking institutions or trust companies doing business under the laws of any state or of the United States. The Foreign Subsidiaries do not fall within the definition of "bank" as defined in the Act and, under section 17(f), may not act as custodians for registered investment companies.

2. Rule 17f-5 under the Act permits certain entities located outside the United States to serve as custodians for investment company assets. One such entity is a banking institution or trust company that is incorporated or organized under the laws of a country other than the United States, that is regulated as such by that country's government or an agency thereof, and that has shareholders' equity in excess of U.S. \$200 million. Creditanstalt qualifies as an eligible foreign custodian under rule 17f-5. The Foreign Subsidiaries, however, do not qualify as eligible foreign custodians because they do not meet the minimum shareholders' equity requirement.

3. The purpose of section 17(f) of the Act is to insure that U.S. Investment Companies hold securities in a safe manner that protects the interests of their shareholders. The purpose of rule 17f-5 is to relieve U.S. Investment Companies of the expense and inconvenience of moving assets to a United States bank away from their primary trading market, while at the same time reducing to the extent practicable the risks inherent in maintaining assets outside the United States. The requested exemption is consistent with these purposes and with the protection of investors because, under the proposed custody arrangements, Creditanstalt will be liable for the performance of custody services by each Foreign Subsidiary.

Applicant's Conditions

Creditanstalt agrees that any order granting the requested relief shall be subject to the following conditions:

1. The foreign custody arrangements proposed regarding each Foreign Subsidiary will satisfy the requirements of rule 17f-5 in all respects other than the Foreign Subsidiary's level of shareholders' equity.
2. Creditanstalt, any U.S. Investment Company, and any custodian for a U.S. Investment Company, will deposit Assets with a Foreign Subsidiary only in accordance with an agreement (the "Agreement") required to remain in effect at all times during which the Foreign Subsidiary fails to satisfy the requirements of rule 17f-5 (and during which such Assets remain deposited with the Foreign Subsidiary). Each Agreement will be a three-party agreement among Creditanstalt, the Foreign Subsidiary, and the U.S. Investment Company or the custodian for a U.S. Investment Company pursuant to which Creditanstalt or the Foreign Subsidiary, as the case may be, will undertake to provide specified custody services. If Creditanstalt is to provide such services, the Agreement will authorize Creditanstalt to delegate to the Foreign Subsidiary such of the duties and obligations of Creditanstalt as will be necessary to permit the Foreign Subsidiary to hold in custody the U.S. Investment Company's Assets. If the Foreign Subsidiary is to provide services directly, no such delegation will be necessary. However, in either case, the Agreement will provide that Creditanstalt will be liable for any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by the Foreign Subsidiary of its responsibilities under the Agreement to the same extent as if Creditanstalt had itself been required to

provide custody services under the Agreement. Further, the Agreement will provide that, in the event of loss, a U.S. Investment Company may pursue a claim for recovery against Creditanstalt, regardless of whether the Foreign Subsidiary acted as Creditanstalt's delegate or as direct custodian or subcustodian.

3. Creditanstalt currently satisfies and will continue to satisfy the minimum shareholders' equity requirement set forth in rule 17f-5(c)(2)(i).

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

Margaret H. McFarland,

Deputy Secretary.

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Dean Witter Select Equity Trust

June 6, 1995.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Dean Witter Select Equity Trust.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicant from section 12(d)(3) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order on behalf of its series (the "Series") to permit each Series to invest up to twenty percent of its total assets in securities of issuers that derived more than fifteen percent of their gross revenues in their most recent fiscal year from securities related activities.

FILING DATE: The application was filed on May 2, 1995.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 3, 1995 and should be accompanied by proof of service on the applicant, 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 may request notification of a hearing by writing to the SEC's Secretary.