Section 213.3394 Department of Transportation

DTGS60292 Associate Director for Governmental Affairs to the Deputy Assistant Secretary for Governmental Affairs. Effective March 17, 2005.

DTGS60372 Deputy Assistant Secretary for Governmental Affairs to the Assistant Secretary for Governmental Affairs. Effective March 18, 2005.

DTGS60373 Special Assistant to the Administrator for Intergovernmental Affairs. Effective March 28, 2005.

DTGS60374 Special Assistant to the Administrator. Effective March 29, 2005.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218

Office of Personnel Management.

Dan G. Blair,

Acting Director.

[FR Doc. 05–8217 Filed 4–25–05; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26835; 812–1294]

UBS Supplementary Trust, et al.; Notice of Application

April 20, 2005.

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

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (''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. The order would supersede two prior orders.[1]

Applicants: UBS Supplementary Trust (''Supplementary Trust''), The UBS Funds (''UBS Trust''), UBS Relationship Funds (''Relationship Trust''), Fort Dearborn Income Securities, Inc. (''Fort Dearborn'') (UBS Trust, Relationship Trust and Fort Dearborn, the ''Investment Companies''), and UBS Global Asset Management (Americas) Inc. (''UBS Global AM'').

Summary of Application: Applicants request an order that would permit (a) certain registered management investment companies and certain entities that are excluded from the definition of investment company by section 3(c)(1), 3(c)(7) or 3(c)(11) of the Act to invest uninvested cash and cash collateral in (i) affiliated money market funds and/or short-term bond funds or (ii) one or more affiliated entities that operate as cash management investment vehicles and that are excluded from the definition of investment company by section 3(c)(1) or 3(c)(7) of the Act, and (b) the registered investment companies and the affiliated entities to continue to engage in purchase and sale transactions involving portfolio securities in reliance on rule 17a–7 under the Act.

Filing Dates: The application was filed on March 12, 2003, and amended on October 25, 2004, and April 15, 2005.

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 May 16, 2005, 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 Mark F. Kemper, Esq., UBS Global Asset Management (Americas) Inc., One North Wacker Drive, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Janis F. Kerns, Senior Counsel, at (202) 551–6872, or Nadya Roytblat, Assistant Director, at (202) 551–6821 (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) 551–5850).

Applicants' Representations

1. Each Investment Company is organized as a Delaware statutory trust, except Fort Dearborn, which is organized as an Illinois corporation. UBS Trust and Relationship Trust are registered under the Act as open-end management investment companies. Fort Dearborn is registered under the Act as a closed-end management investment company, and Supplementary Trust is exempt from registration pursuant to section 3(c)(7) of the Act. Some of the Investment Companies have multiple series, each with separate investment objectives and policies (the ''UBS Funds''). UBS Global AM is an investment adviser registered under the Investment Advisers Act of 1940 and serves as investment adviser to each UBS Fund. UBS Global AM and entities controlling, controlled by, or under common control with UBS Global AM are referred to as the ''Advisor.'' [2]

2. Certain Funds (''Registered Investing Funds'') and Private Funds (''Non-Registered Investing Funds'' and, together with the Registered Investing Funds, the ''Investing Funds'') have, or may be expected to have, cash that has not been invested in portfolio securities (''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, dividend payments, or money from investors. The Investing Funds also may participate in a securities lending program (''Securities

[1] Brinson Supplementary Trust, *et al.*, Investment Company Act Rel. No. 23162 (Apr. 29, 1998) (notice) and Investment Company Act Rel. No. 23208 (May 27, 1998) (order) (''Prior Order''); and The Brinson Funds, *et al.*, Investment Company Act Rel. No. 21741 (Feb. 12, 1996) (notice) and Investment Company Act Rel. No. 21814 (Mar. 11, 1996) (order) (''Prior Cash Sweep Order''). Certain affiliated persons of UBS Global AM have received separate cash sweep relief. *See* UBS PaineWebber Inc. *et al.*, Investment Company Act Rel. No. 25049 (June 26, 2001) (notice) and Investment Company Act Rel. No. 25075 (July 24, 2001) (order); PaineWebber America Fund *et al.*, Investment Company Act Rel. No. 23284 (June 24, 1998) (notice) and Investment Company Act Rel. No. 23322 (July 21, 1998) (order); and PaineWebber America Fund *et al.*, Investment Company Act Rel. No. 22541 (Mar. 4, 1997) (notice) and Investment Company Act Rel. No. 22594 (Apr. 1, 1997) (order) (''PaineWebber Orders''). Applicants will not rely on the PaineWebber Orders, and the named applicants of and any other entities relying on the PaineWebber Orders will not rely on the relief requested by this application.

[2] Applicants request that any relief granted also apply to (a) any entity excluded from the definition of ''investment company'' under section 3(c)(1), section 3(c)(7) or section 3(c)(11) of the Act for which the Advisor serves as investment adviser or trustee exercising investment discretion (together with the Supplementary Trust, the ''Private Funds''), (b) all future series of the Investment Companies (included in the term ''UBS Funds''), and (c) all other management investment companies and their series registered under the Act for which the Advisor now, or in the future, acts as investment adviser (each, a ''Fund,'' and together with the UBS Funds, the ''Funds''). All entities that currently intend to rely on the requested order are named as applicants. Any other existing or future entity that relies on the order in the future will do so only in accordance with the terms and conditions of the application.

Lending Program'') under which an Investing Fund may lend its portfolio securities to registered broker-dealers or other institutional investors. The loans are secured by collateral, including cash collateral (''Cash Collateral'' and together, with Uninvested Cash, ''Cash Balances''), equal at all times to at least the market value of the securities loaned.

3. Applicants request an order to permit: (i) The Investing Funds to use their Cash Balances to purchase shares of one or more of the Central Funds (as defined below); (ii) the Central Funds to sell their shares to and purchase (redeem) such shares from the Investing Funds; (iii) the Investing Funds and Central Funds to continue to engage in certain interfund purchase and sale transactions in securities (''Interfund Transactions''); and (iv) the Advisor to effect the above transactions.

4. ''Registered Central Funds'' are or will be open-end Funds that are advised by the Advisor, in the same group of investment companies (as defined in section 12(d)(1)(G) of the Act) as the Investing Fund and either money market funds that comply with rule 2a–7 under the Act (''Registered Money Market Funds'') or short-term bond Funds that invest in fixed income securities and maintain a dollar-weighted average portfolio maturity of three years or less. ''Non-Registered Central Funds'' are or will be Private Funds that are excluded from the definition of investment company under section 3(c)(1) or 3(c)(7) of the Act and either operate as a money market fund in compliance with rule 2a–7 under the Act (''Private Money Market Funds'') or as a short-term bond fund that invests in fixed income securities and maintains a dollar-weighted average portfolio maturity of three years or less. The Registered Central Funds and Non-Registered Central Funds are referred to collectively as the ''Central Funds.'' The investment by each Registered Investing Fund in shares of the Central Funds will be in accordance with that Registered Investing Fund's investment policies and restrictions as set forth in its registration statement. Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and further diversify holdings.[3]

[3] A Non-Registered Central Fund that does not comply with rule 2a–7 may accept investments of Cash Collateral from Investing Funds, but will not accept investments from Investing Funds of Uninvested Cash.

Applicants' Legal Analysis

I. Investment of Cash Balances by the Investing Funds in the Central Funds

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act provides that no registered investment company, or any company or companies controlled by such investment company, may acquire securities of any other investment company, and that no investment company, or any company or companies controlled by such investment company, may acquire securities of any registered investment company, if such securities represent in the aggregate 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 assets. Section 12(d)(1)(B) of the Act 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. Any entity that is excluded from the definition of investment company under section 3(c)(1) or 3(c)(7) of the Act is deemed to be an investment company for the purposes of the 3% limitation specified in sections 12(d)(1)(A) and (B) with respect to purchases by and sales to such company.

2. Section 12(d)(1)(J) of the Act provides that the Commission may 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) to permit the Investing Funds to use their Cash Balances to acquire shares of the Registered Central Funds in excess of the percentage limitations in section 12(d)(1)(A), provided however, that in all cases a Registered Investing Fund's aggregate investment of Uninvested Cash in shares of the Central Funds will not exceed 25% of the Registered Investing Fund's total assets at any time. Applicants also request relief to permit the Registered Central Funds to sell their securities to the Investing Funds in excess of the percentage limitations in section 12(d)(1)(B).

3. Applicants state that the proposed arrangement will not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that there is no threat of redemption to gain undue influence over the Registered Central Funds due to the highly liquid nature of each Registered Central Fund's portfolio. Applicants state that the proposed arrangement will not result in inappropriate layering of fees. Shares of the Central Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, asset-based sales charge or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers Inc. Conduct Rules (''NASD Conduct Rules''), or if the shares are subject to any such fee, the Advisor for the Investing Fund will waive its advisory fee for each Investing Fund in an amount that offsets the amount of those fees incurred by the Investing Fund. If a Central Fund offers more than one class of shares in which a Registered Investing Fund may invest, the Registered Investing Fund will invest its Cash Balances only in the class with the lowest expense ratio at the time of investment. In addition, before approving any advisory contract under section 15 of the Act, the board of trustees (''Board'') of the Registered Investing Fund, including a majority 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 Registered Investing Fund by the Advisor should be reduced to account for reduced services provided to the Registered Investing Fund as a result of the investment of Uninvested Cash in the Central Fund. Applicants represent that no Central Fund will acquire securities of any other investment company or company relying on sections 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act.

B. Section 17(a) of the Act

1. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company (or an affiliated person of the affiliated person), acting as principal, to sell any security to or purchase any security from the investment company. Section 2(a)(3) of the Act defines an affiliated person of another person to include 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, any person 5% or more of whose outstanding securities are directly or indirectly owned, controlled, or held with power to vote by the other person, any person directly or indirectly

controlling, controlled by, or under common control with the other person, and any investment adviser to the investment company. Because the Investing Funds and the Central Funds share a common investment adviser or trustee exercising investment discretion, they may be deemed to be under common control and thus affiliated persons of each other. In addition, if an Investing Fund purchases more than 5% of the voting securities of a Central Fund, the Central Fund and the Investing Fund may be affiliated persons of each other. As a result, section 17(a) would prohibit the sale of the shares of Central Funds to the Investing Funds, and the redemption of the shares by the Investing Funds.

2. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act 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, and the proposed transaction is consistent with the policy of each registered investment company concerned and 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.

3. Applicants submit that their request for relief to permit the purchase and redemption of shares of the Central Funds by the Investing Funds satisfies the standards in sections 6(c) and 17(b) of the Act. Applicants note that shares of the Central Funds will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. Applicants state that the Registered Investing Funds will retain their ability to invest Cash Balances directly in money market instruments and other short-term obligations as authorized by their respective investment objectives and policies. Applicants state that a Registered Central Fund has the right to discontinue selling shares to any of the Investing Funds if the Registered Central Fund's Board or the Advisor determines that such sales would adversely affect the Registered Central Fund's portfolio management and operations.

C. Section 17(d) of the Act and Rule 17d–1 Under the Act

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered 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, unless the Commission has approved the joint arrangement. Applicants state that the Investing Funds and the Central Funds, by participating in the proposed transactions, and the Advisor, by managing the proposed transactions, could be deemed to be participating in a joint arrangement within the meaning of section 17(d) and rule 17d–1.

2. In considering whether to approve a joint transaction under rule 17d–1, the Commission considers whether the investment company's participation in the joint 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 state that the investment by the Investing Funds in shares of the Central Funds would be on the same basis and no different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet the standards for an order under rule 17d–1.

II. Interfund Transactions

1. Applicants state that certain Funds currently rely on rule 17a–7 under the Act to conduct Interfund Transactions. Rule 17a–7 under the Act provides an exemption from section 17(a) for a purchase or sale of certain securities between a registered investment company and an affiliated person of such company (or an affiliated person of an affiliated person), provided that certain conditions are met, including that the affiliation between the registered investment company and the affiliated person (or an affiliated person of the affiliated person) must exist solely by reason of having a common investment adviser, common officers and/or common directors or trustees. Applicants state that the Investing Funds and Central Funds may not be able to rely on rule 17a–7 when engaging in portfolio securities transactions with each other, because some of the Investing Funds may own 5% or more of the outstanding voting securities of a Central Fund and, therefore, an affiliation would not exist solely by reason of the transacting Funds having a common investment adviser, common officers and/or common directors or trustees.

2. Applicants request relief under sections 6(c) and 17(b) of the Act to permit the Interfund Transactions. The Interfund Transactions for which relief is requested are transactions between Registered Investing Funds and Non-Registered Central Funds and between Non-Registered Investing Funds and Registered Central Funds. Applicants state that the Funds will comply with rule 17a–7 under the Act in all respects, other than the requirement that the participants be affiliated solely by reason of having a common investment adviser, common directors and/or common officers. Applicants state that the additional affiliations created under sections 2(a)(3)(A) and (B) do not affect the other protections provided by rule 17a–7, including the integrity of the pricing mechanism employed and oversight by each Fund's Board. Applicants submit that the requested relief satisfies the standards for relief in sections 6(c) and 17(b).

Applicants' Conditions

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

1. Shares of the Central Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), or if those shares are subject to any such fee, the Advisor will waive its advisory fee for each Investing Fund in an amount that offsets the amount of those fees incurred by the Investing Fund.

2. Before the next meeting of the Board of a Registered Investing Fund that invests in a Central Fund is held for the purpose of voting on an advisory contract under section 15 of the Act, the Advisor will provide the Board with such information as the Board may request to evaluate the effect of the investment of Uninvested Cash in the Central Funds upon the direct and indirect compensation to the Advisor. Such information will include specific information regarding the approximate cost to the Advisor of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Registered Investing Fund that can be expected to be invested in the Central Funds. In connection with approving any advisory contract for a Registered Investing Fund, the Registered Investing Fund's Board, including a majority of the Independent Trustees, shall consider to what extent, if any, the advisory fees charged to the

Registered Investing Fund by the Advisor should be reduced to account for reduced services provided to the Registered Investing Fund by the Advisor as a result of the Uninvested Cash being invested in the Central Funds. The minute books of the Registered Investing Fund will record fully the Board's consideration in approving the advisory contract, including the considerations relating to fees referred to above.

3. Each Registered Investing Fund will invest Uninvested Cash in, and hold shares of, the Central Funds only to the extent that the Registered Investing Fund's aggregate investment of Uninvested Cash in the Central Funds does not exceed 25% of the Registered Investing Fund's total assets.

4. Investment by a Registered Investing Fund in shares of the Central Funds will be in accordance with the Registered Investing Fund's investment restrictions and will be consistent with the Registered Investing Fund's investment policies as set forth in its prospectus and statement of additional information. A Registered Investing Fund that complies with rule 2a–7 under the Act will not invest its Cash Balances in a Central Fund that does not comply with rule 2a–7. A Registered Investing Fund's Cash Balances will be invested in a particular Central Fund only if that Central Fund has been approved for investment by the Registered Investing Fund and if that Central Fund invests in the types of instruments that the Registered Investing Fund has authorized for the investment of its Cash Balances.

5. Each Fund and Private Fund that may rely on the order will be advised by the Advisor. Each Registered Investing Fund and Registered Money Market Fund that may rely on the order will be part of the same group of investment companies (as defined in section 12(d)(1)(G) of the Act).

6. No Central Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. The Non-Registered Central Funds will comply with the requirements of sections 17(a), (d), and (e), and 18 of the Act as if the Non-Registered Central Funds were registered open-end investment companies. With respect to all redemption requests made by an Investing Fund, the Non-Registered Central Funds will comply with section 22(e) of the Act. The Advisor will adopt procedures designed to ensure that each Non-Registered Central Fund complies with sections 17(a), (d), and (e), 18 and 22(e) of the Act. The Advisor will also periodically review and update, as appropriate, the procedures and will maintain books and records describing such 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 Money Market Fund will comply with rule 2a–7 under the Act. With respect to each Private Money Market Fund, the Advisor 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 Registered Investing Fund may only purchase shares of a Private Money Market Fund if the Advisor determines on an ongoing basis that the Private Money Market Fund is in compliance with rule 2a–7. The Advisor will preserve for a period of 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 Investing Fund will purchase and redeem shares of any Non-Registered 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 the Non-Registered Central Fund. A separate account will be established in the shareholder records of each Non-Registered Central Fund for the account of each Investing Fund that invests in such Non-Registered Central Fund.

10. To engage in Interfund Transactions, the Investing Funds and Central 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 an Investing 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 Non-Registered Central Fund that is not a Private Money Market Fund will be determined separately for each such Non-Registered Central Fund by dividing the value of the assets belonging to that Non-Registered Central Fund, less the liabilities of that Non-Registered Central Fund, by the number of shares outstanding with respect to that Non-Registered Central Fund.

12. Before a Registered Investing Fund may participate in the Securities Lending Program, a majority of the Board (including a majority of the Independent Trustees) will approve the Registered Investing Fund's participation in the Securities Lending Program. No less frequently than annually, the Board also will evaluate, with respect to each Registered Investing Fund, any securities lending arrangement and its results and determine that any investment of Cash Collateral in the Central Funds is in the best interests of the Registered Investing Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1973 Filed 4–25–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27961]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 20, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 16, 2005, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by