above condition only so long as the amount of Triangle's total consolidated assets invested in assets other than (a) securities issued by Triangle SBIC or (b) securities similar to those in which Triangle SBIC invests, does not exceed 10%.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E8–22508 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28382; 812–13514]

Trust for Professional Managers, et al.; Notice of Application

September 19, 2008.

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

ACTION: Notice of an application 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: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: Trust for Professional Managers (the ''Trust'') and Ascentia Capital Partners, LLC (the ''Adviser'').

FILING DATES: The application was filed on March 31, 2008, and amended on August 14, 2008. Applicants have agreed to file an amendment 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 October 14, 2008, 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, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090. Applicants, 615 East Michigan Street, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Steven I. Amchan, Attorney Adviser, at (202) 551–6826, or Mary Kay Frech, Branch Chief, 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 Room, 100 F Street, NE, Washington, DC 20549–1520 (telephone (202) 551–5850).

Applicants' Representations

1. The Trust, a Delaware statutory trust organized as a series investment company, is registered under the Act as an open-end management investment company and currently offers 22 series, one of which, Ascentia Alternative Strategies Fund, is advised by the Adviser (the ''Fund'').[1] The Adviser, a limited liability company organized under Nevada law, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), and serves as investment adviser to the Fund under an investment advisory agreement with the Trust (''Advisory Agreement'') that has been approved by the shareholders of the Fund and the Trust's board of trustees (''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of either the Trust or the Adviser (''Independent Trustees'').

2. Under the terms of the Advisory Agreement, the Adviser provides the Fund with overall management services and continuously reviews, supervises and administers the Fund's investment program, subject to the supervision of, and policies established by, the Board. For the investment management services it provides to the Fund, the Adviser receives the fee specified in the Advisory Agreement from the Fund. The Advisory Agreement also permits the Adviser, subject to the approval of the Board and Fund shareholders, to enter into investment subadvisory agreements (''Subadvisory Agreements'') with one or more subadvisers (''Subadvisers''). The Adviser has entered into Subadvisory Agreements with various Subadvisers to provide investment advisory services to the Fund. Each Subadviser is, and every future Subadviser will be, registered as an investment adviser under the Advisers Act. The Adviser monitors and evaluates the Subadvisers and recommends to the Board their hiring, retention or termination. Subadvisers recommended to the Board by the Adviser are selected and approved by the Board, including a majority of the Independent Trustees. Each Subadviser has discretionary authority to invest the assets or a portion of the assets of a particular Fund. The Adviser compensates each Subadviser out of the fees paid to the Adviser under the Advisory Agreement.

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

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

[1] Applicants request relief with respect to existing and future series of the Trust and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Adviser or a person controlling, controlled by, or under common control with the Adviser or its successors; (b) uses the management structure described in the application; and (c) complies with the terms and conditions of the application (collectively, the ''Funds''). For purposes of the requested order, ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. The only existing registered open-end management investment company that currently intends to rely on the requested order is named as an applicant. If the name of any Fund contains the name of a Subadviser (as defined below), the name of the Adviser or the name of the entity controlling, controlled by, or under common control with the Adviser that serves as the primary adviser to the Fund will precede the name of the Subadviser.

any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 14(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 (''1934 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 provisions 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 state that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that the shareholders rely on the Adviser's experience to select one or more Subadvisers best suited to achieve the Fund's investment objectives. Applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of the individual portfolio managers employed by traditional investment company advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose costs and unnecessary delays on the Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreement and any Subadvisory Agreement with an Affiliated Subadviser will remain subject to section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that many Subadvisers use a ''posted'' rate schedule to set their fees. Applicants state that while Subadvisers are willing to negotiate fees that are lower than those posted on the schedule, they are reluctant to do so where the fees are disclosed to other prospective and existing customers. Applicants submit that the requested relief will encourage potential Subadvisers to negotiate lower subadvisory fees with 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 order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Fund's shares to the public.

2. The prospectus for each Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Fund 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 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, the affected Fund's shareholders will be furnished all information about the new Subadviser that would be included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of the new Subadviser. To meet this obligation, a Fund will provide shareholders within 90 days of the hiring of a new Subadviser with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the 1934 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 that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that such 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 legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then existing Independent Trustees.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets and, subject to review and approval of the Board, will: (a) Set each Fund's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or part of a

Fund's assets; (c) when appropriate, allocate and 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 each 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 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 Aggregate Fee Disclosure.

13. The requested order will expire on the effective date of rule 15a–5 under the Act, if adopted.

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

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E8–22507 Filed 9–24–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58585; File No. SR–CTA/CQ–2008–02]

Consolidated Tape Association; Order Approving the Twelfth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Eighth Substantive Amendment to the Restated Consolidated Quotation Plan

September 18, 2008.

I. Introduction

On June 19, 2008, the Consolidated Tape Association (''CTA'') Plan and Consolidated Quotation (''CQ'') Plan participants (''Participants'') [1] filed with the Securities and Exchange Commission (''Commission'') pursuant to Rule 608 [2] under the Securities Exchange Act of 1934 (''Act'') [3] a proposal to amend the CTA and CQ Plans (collectively, the ''Plans'') [4] to: (1) Permit ministerial amendments to the Plans to be submitted to the Commission under the signature of the Chairman of CTA/CQ Operating Committee, rather than by means of each Participant's execution of a Plan amendment; (2) accommodate recent changes to the names and addresses of certain Participants; and (3) change the Plans' references to Commission rules to reflect the re-designation of rules by Regulation NMS [5] (''Amendments''). The proposed Amendments were published for comment in the **Federal Register** on August 20, 2008.[6] No comment letters were received in response to the Notice. This order approves the Amendments.

II. Description of the Proposal

Currently, both Plans require each Participant to execute most amendments [7] to the Plans before the amendments can be filed with the Commission. The Participants propose to amend the Plans to permit the submission to the Commission of ministerial amendments to the Plans under the signature of the Chairman of the CTA/CQ Operating Committee, in lieu of requiring each Participant's signature indicating that it has executed the amendment as required by Section IV(b) of the CTA Plan and Section IV(c) of the CQ Plan.

The categories of ministerial Plan amendments that the Participants may submit under the signature of the Chairman include amendments to the Plans that pertain solely to one or more of the following:

(1) Admitting a new Participant into the Plans;

(2) Changing the name or address of a Participant;

(3) Incorporating a change that the Commission has implemented by rule and that requires no conforming language to the text of the Plans (*e.g.*, the Commission rule establishing the Advisory Committee);

(4) Incorporating a change (i) that the Commission has implemented by rule, (ii) that requires conforming language to the text of the Plans (*e.g.*, the Commission rule amending the revenue allocation formula), and (iii) that a majority of all Participants has voted to approve; [8]

(5) Incorporating a purely technical change, such as correcting an error or an inaccurate reference to a statutory provision, or removing language that has become obsolete (*e.g.*, language regarding the Intermarket Trading System Plan).

In addition, the Participants propose to amend the Plans to reflect changes in the corporate names of the Chicago Board Options Exchange, Incorporated (formerly, Chicago Board Options Exchange, Inc.) (''CBOE''), the Financial Industry Regulatory Authority, Inc. (formerly, the National Association of Securities Dealers, Inc.), and National Securities Exchange, Inc. (formerly, National Securities Exchange), as well as changes in the street address of CBOE.

The Participants further propose to change references in the Plans to Commission rules to reflect the re-designation of certain Commission rules as a result of Regulation NMS.[9]

III. Discussion

After careful review, the Commission finds that the Amendments to the Plans are consistent with the requirements of the Act and the rules and regulations thereunder,[10] and, in particular, Section 11A(a)(1) of the Act [11] and Rule 608 thereunder [12] in that they are necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market

[1] Each Participant executed the proposed amendment. The Participants are the American Stock Exchange LLC; Boston Stock Exchange, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC; The NASDAQ Stock Market LLC (''NASDAQ''); National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Arca, Inc.; and Philadelphia Stock Exchange, Inc.

[2] 17 CFR 240.608.

[3] 15 U.S.C. 78k–1.

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (order approving CTA Plan); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (order temporarily approving CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (order permanently approving CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[6] *See* Securities Exchange Act Release No. 58358 (August 13, 2008), 73 FR 49225 (''Notice'').

[7] Some Plan amendments do not require a unanimous vote; therefore not every Participant would have to execute the amendment.

[8] The Commission notes that the vote of the Participants would concern the exact wording of conforming language, but not the change implemented by the Commission.

[9] *See supra* note 5.

[10] The Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78k–1(a)(1).

[12] 17 CFR 240.608.