which neither ING Bank nor ING Bank Eurasia would be liable under rule 17f–5 (*e.g.*, despite the exercise of reasonable care, loss due to Acts of God, nuclear incident and the like).

b. *The Custody Agreement/ Subcustody Agreement Arrangement.* Under this arrangement, Assets will be deposited with ING Bank Eurasia in accordance with the custody agreement and the subcustody agreement described below.

(i) The custody agreement will be between ING Bank and the U.S. Investment Company or any custodian for a U.S. Investment Company. In that agreement, ING Bank will undertake to provide specified custody or subcustody services, and the U.S. Investment Company (or its custodian) will authorize ING Bank to delegate to ING Bank Eurasia such of ING Bank's duties and obligations as will be necessary to permit ING Bank Eurasia to hold in custody the U.S. Investment Company's Assets. The custody agreement will further provide that ING Bank will be liable for any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by ING Bank Eurasia of its responsibilities to the same extent as if ING Bank had itself been required to provide custody services under the custody agreement, except for such losses as may result from political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities) and other risk of loss (excluding bankruptcy or insolvency of ING Bank Eurasia), for which neither ING Bank nor ING Bank Eurasia would be liable under rule 17f–5 (*e.g.*, despite the exercise of reasonable care, loss due to Acts of God, nuclear incident and the like).

(ii) A subcustody agreement will be executed by ING Bank and ING Bank Eurasia. Pursuant to this agreement, ING Bank will delegate to ING Bank Eurasia such of ING Bank's duties and obligations as will be necessary to permit ING Bank Eurasia to hold Assets in custody in Russia. The subcustody agreement will explicitly provide that: (x) ING Bank Eurasia is acting as a foreign custodian for Assets that belong to a U.S. Investment Company pursuant to the terms of an exemptive order issued by the SEC; and (y) the U.S. Investment Company or its custodian (as the case may be) that has entered into a custody agreement will be entitled to enforce the terms of the subcustody agreement and can seek relief directly against ING Bank Eurasia. Further, the subcustody agreement will be governed either by the law of the State of New York or by the law of The Netherlands. If the subcustody agreement is governed by the laws of The Netherlands, ING Bank will obtain an opinion of counsel opining that the rights of a third party beneficiary under the laws of that country are enforceable.

4. ING Bank currently satisfies and will continue to satisfy the minimum shareholders' equity requirement set forth in rule 17f–5(c)(2)(i).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29552 Filed 11–18–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22327; 812–10330]

TCW Convertible Limited Partnership, et al.; Notice of Application

November 12, 1996.

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

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: TCW Convertible Limited Partnership (''Partnership''), TCW Galileo Funds, Inc. (''Company''), TCW Asset Management Company (''TAMCO''), and TCW Funds Management, Inc. (''Adviser'').

RELEVANT ACT SECTION: Order requested under section 17(b) of the Act for an exemption from the provisions of section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit the exchange of shares of the Company's common stock for portfolio securities and other assets of the Partnership.

FILING DATES: The application was filed on September 5, 1996. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 2, 1996, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549. Applicants, 865 South Figueroa Street, Suite 1800, Los Angeles, California 90017.

FOR FURTHER INFORMATION CONTACT: Harry Eisenstein, Staff Attorney, at (202) 942–0552, or Mercer E. Bullard, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Partnership was organized as a California limited partnership on November 17, 1988. Its investment objective is to generate returns competitive with those of the S&P 500 with lower volatility and greater capital protection by investing in a diversified portfolio of convertible securities. The Partnership allows investors to purchase and redeem Partnership interests (''Units'') at net asset value on a monthly basis. The offering of the Units was structured as a private placement under section 4(2) of the Securities Act of 1933, and Regulation D promulgated thereunder. The Partnership is not registered under the Act in reliance on section 3(c)(1) of the Act. Units are sold to institutional investors and high net worth individuals. The Partnership has a minimum initial purchase requirement of $250,000, subject to reduction by TAMCO (but not below $50,000). On June 30, 1996, the net asset value of the Partnership was $29,614,782 and there were 31 limited partners.

2. TAMCO serves as the sole general partner of the Partnership and has exclusive responsibility for its overall management, control and administration. TAMCO, a registered investment adviser under the Investment Advisers Act of 1940, also serves as investment manager with respect to the Partnership assets. TAMCO and the Adviser are wholly owned subsidiaries of The TCW Group, Inc. As compensation for its services, TAMCO is paid a monthly management fee with respect to each limited partner's pro rata share of the Partnership's net asset value (''Attributable Value'').[1]

[1] The annual management fees payable to TAMCO by the Partnership are 1.00% on the first $2 million or less of Attributable Value, .75% on

Continued

3. The Company, a Maryland corporation, is a no-load, open-end investment company registered under the Act. The Company currently offers twelve series (''Existing Funds''), ten of which were formed in connection with the transfer of interests in certain limited partnerships in exchange for shares of those series. TAMCO served as general partner for each of such limited partnerships. One of the Existing Funds was formed in connection with an exchange of shares between the Company and TCW Investment Funds, Inc., another registered investment company. The Company is managed by a board of directors (''Board''), currently consisting of five members. Three members of the Board are persons who are not ''interested persons'' (as defined in the Act) of the Company (''Independent Directors'').

4. The Company proposes to offer an additional series (''Fund''), which will correspond to the Partnership in terms of its investment objective and policies. The Fund will acquire assets from the Partnership in exchange for Fund shares (''Exchange''), pursuant to an Agreement and Plan of Exchange (''Plan''). The Plan permits the Partnership to retain sufficient assets to pay any Partnership-accrued expenses and retain any assets that the Company is not permitted to purchase or that are reasonably determined to be unsuitable for it. No liabilities of the Partnership will be transferred to the Fund; all known liabilities, other than accrued expenses discussed immediately above, will be paid by the Partnership prior to the transfer of its assets to the Fund. The general partner, TAMCO, will be responsible for any unknown liabilities of the Partnership. Prior to effecting the Exchange, a private placement memorandum will be distributed to each limited partner in the Partnership. The memorandum will describe the nature and reasons for the Exchange, the tax and other consequences to the limited partners, and other relevant matters, including a comparison of the Fund and the Partnership in terms of their investment objectives and policies, fee structures, management structures, and other aspects of their operations.

5. Fund shares delivered to the Partnership in the Exchange will have an aggregate net asset value equivalent to the net asset value of the assets transferred by the Partnership to the Company (except for the effect of certain organizational expenses paid by the Company, as discussed below). Upon consummation of the Exchange, Fund shares received by the Partnership will be distributed by the Partnership to its partners, with each partner receiving shares having an aggregate net asset value equivalent to the net asset value of the Units held by such partner prior to the Exchange (except for the effect of certain organizational expenses paid by the Company and the effect of any assets retained by the Partnership to pay accrued expenses). After payment of any accrued expenses from retained assets, the Partnership will be liquidated and dissolved. Assets retained by the Partnership that are not needed to pay expenses will be distributed pro rata to the partners of the Partnership.

6. The expenses of the Exchange will be borne by TAMCO. Organizational expenses of up to a maximum of $50,000 will be paid by the Fund and amortized over five years. Organizational expenses in excess of $50,000 will be paid by the Adviser. To the extent there are unamortized organizational expenses associated with the organization of the Fund or the Existing Funds at the time the Adviser withdraws its initial investment in the Company, those expenses will be borne by the Adviser and not the Fund or the Existing Funds.

7. The partnership agreement governing the operations of the Partnership (''Partnership Agreement'') provides that the Partnership may be converted into a registered investment company, if TAMCO, as sole general partner of the Partnership, determines such conversion to be in the best interest of the Partnership. Limited partners who do not wish to participate in the conversion of the Partnership will have adequate opportunity to redeem their Partnership interests before the conversion occurs and, at their request, receive either cash or a pro rata in-kind distribution.

8. The Company has entered into an advisory agreement with the Adviser (''Advisory Agreement''), pursuant to which the Adviser renders advisory services to the Existing Funds. Under the Advisory Agreement, the Adviser will render to the Fund services substantially the same as those TAMCO currently renders to the Partnership. The Adviser is a registered investment adviser under the Investment Advisers Act of 1940.

9. In return for the Adviser's services, the Fund will pay a management fee to the Adviser on a monthly basis. Applicants expect that other Fund expenses will generally be higher as a percentage of net asset value than the expenses of the Partnership, primarily because of the increased costs of operating a registered investment company and complying with various additional regulatory requirements and industry practices. The Adviser will, however, place a limit on the annual expenses of the Fund through the end of 1997. This limit is generally intended to cap Fund expense ratios at levels projected to be incurred during 1996 by the Partnership.

10. The Board and TAMCO have considered the desirability of the Exchange from the respective points of view of the Company and the Partnership, and all members of the Board (including all of the Independent Directors) and TAMCO have approved the Exchange and concluded that: (i) the terms of the Exchange are designed to meet the criteria contained in section 17(b) of the Act; (ii) the Exchange is desirable as a business matter from the respective points of view of the Company and the Partnership; (iii) the Exchange is in the best interests of the Company and the Partnership; (iv) the Exchange is reasonable and fair, does not involve overreaching, and is consistent with the policies of the Act; (v) the Exchange is consistent with the policies of the Company and the Partnership; and (vi) the interests of existing shareholders in the Company and existing partners in the Partnership will not be diluted as a result of the Exchange. The Exchange will not be effected until (a) the Company's amended registration statement has been filed; (b) the Company and the Partnership have received an opinion of counsel with respect to the tax consequences of the Exchange; and (c) the SEC has issued the requested order.

Applicants' Legal Analysis

1. Section 17(a) prohibits affiliated persons of a registered investment company, or affiliated persons of such persons, from selling to or purchasing from such company any security or other property. Section 2(a)(3) of the Act defines an ''affiliated person'' as, among other things, (1) any person directly or indirectly controlling, controlled by, or under common control with, such other person, (2) any officer, director, partner, copartner or employee of such other person, or, (3) if such other person is an investment company, any investment company or adviser of such investment company. The Partnership is an affiliated person of an affiliated person of the Company because TAMCO, general partner of the Partnership, and the Adviser are under common control. Thus, the proposed Exchange may be deemed to be prohibited under section 17(a) of the Act, unless relief is granted.

Attributable Value exceeding $2 million and less than $5 million, and .50% on Attributable Value exceeding $5 million.

2. Section 17(b) of the Act authorizes the Commission to exempt any person from one or more of the provisions of Section 17(a) if evidence establishes that (1) the terms of the 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; (2) the proposed transaction is consistent with the policy of each registered investment company concerned; and (3) the proposed transaction is consistent with the general purposes of the Act.

3. Applicants contend that the Exchange will permit partners to pursue, as shareholders of the Fund, substantially the same investment objective and policies they were expecting from the partnership without sacrificing the pass-through tax features of the Partnership. In addition, shareholders of the Fund will be able to purchase and redeem shares on each business day, as opposed to only once per month as is currently provided under the Partnership Agreement.

4. Applicants assert that the terms of the Exchange should be considered reasonable and fair to the Partnership, to the Company, and to the limited partners who, with TAMCO, will be the initial shareholders of the Fund, and should not be considered to involve overreaching on the part of any applicant, for the following reasons:

(a) The investment objectives and policies of the Fund are substantially similar to that of the partnership.

(b) No brokerage commission, fee or other remuneration will be paid in connection with the Exchange.

(c) If effected in the manner described in the application, the Exchange will result in no gain or loss being recognized by partners of the Partnership. The partners of the Partnership will become investors in an entity that offers greater liquidity and other advantages, without immediate tax consequences and without having incurred transaction and brokerage charges in order to do so.

(d) A majority of the members of the Board, including a majority of the Independent Directors, and the general partner of the Partnership have approved the Exchange.

(e) Fund shares will be issued at their net asset value.

5. Applicants believe that the terms of the proposed Exchange are consistent with the provisions, policies and purposes of the Act in that they are reasonable and fair to all parties, do not involve overreaching, and are consistent with the investment policies of each of the applicants.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29516 Filed 11–18–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37941; File No. SR–NYSE–96–26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the New York Stock Exchange, Inc., Relating to NYSE Rules 342, ''Offices—Approval, Supervision and Control,'' 440, ''Books and Records,'' and 472, ''Communications With the Public''

November 13, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 12, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Currently, Supplementary Material .16, ''Supervision of registered representatives,'' to NYSE Rule 342, ''Offices—Approval, Supervision, and Control,'' requires supervisors to review the correspondence of registered representatives. The NYSE proposes to amend Exchange Rule 342.16 to provide that the supervision of registered representatives will ordinarily include, among other things, reasonable procedures for review of registered representatives' communications with the public relating to their business. Under NYSE Rule 342.16, as amended, such policies and procedures should be in writing and be designed to reasonably supervise each registered representative. The NYSE also proposes to adopt NYSE Rule 342.17, ''Review of communications with the public,'' which will require members to develop written policies and procedures for review of public communications relating to their business that are appropriate for the member's business, size, structure and customers. The Exchange proposes to amend NYSE Rule 472, ''Communications with the Public,'' to require prior approval of each advertisement, market letter, sales literature, or other similar communication which is generally distributed or made available to customers or the public, rather than require prior approval of any communication which is generally distributed or made available to customers or the public. In addition, NYSE Rule 472, as amended, provides that research reports must be approved in advance by a supervisory analyst. Finally, the NYSE proposes to amend Exchange Rule 440, ''Books and Records,'' to indicate that members must preserve books and records as required under SEC Rule 17a–3 and comply with the recordkeeping format, medium and retention period specified in SEC Rule 17a–4.

The text of the proposed rule change is available at the office of the Secretary, NYSE, 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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[1] On November 7, 1996, the NYSE amended NYSE Rule 440, ''Books and Records,'' to indicate that members must preserve books and records as required under SEC Rule 17a–3 and comply with the recordkeeping format, medium and retention period specified in SEC Rule 17a–4. In addition, the NYSE amended paragraph (c) of NYSE Rule 472, ''Communications with the Public,'' to clarify that records retained must be readily available to the Exchange, upon request. *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated November 6, 1996 (''Amendment No. 1''). In addition, the NYSE submitted a draft of an information memo to members which explains the proposed changes to the Exchange's rules governing supervision and review of communications with the public. *See* Letter from Donald Van Weezel, Managing Director, Regulatory Affairs, NYSE, to Katherine A. England, Assistant Director, Division, Commission, dated November 5, 1996 (''NYSE Information Memo'').