

SECURITIES AND EXCHANGE COMMISSION

Investment Company Act Release No. 33369; 812-14986

Victory Capital Management Inc. et al.

February 6, 2019

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice

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 in rule 20a-1 under the Act, Item 19(a)(3) of Form N-1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6-07(2)(a), (b), and (c) of Regulation S-X (“Disclosure Requirements”). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

Applicants: Victory Portfolios and Victory Portfolios II (each, a “Victory Investment Company” and together, the “Victory Investment Companies” with multiple series (each, a “Fund”)); Victory Capital Management Inc. (“VCM”) (the “Adviser”); Victory Capital Advisers, Inc. (“VCA”) and Foreside Fund Services, LLC (“Foreside”), collectively, the “Applicants”. Each Victory Investment Company is organized as a Delaware statutory trust and is registered with the Commission as an open-end management investment company under the Act.

Filing Dates: The application was filed on December 10, 2018, and amended on February 1, 2019.

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 March 4, 2019, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, 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: c/o James G. Silk, Esq., Willkie Farr & Gallagher LLP, 1875 K Street, NW, Washington, DC 20006 and Jay G. Baris, Shearman & Sterling LLP, 599 Lexington Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551-6915, or Kaitlin C. Bottock, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Summary of the Application

1. The Adviser will serve as the investment adviser to the Subadvised Funds pursuant to an investment advisory agreement with the Victory Investment Companies (each, an

“Investment Management Agreement”).<sup>1</sup> The Adviser will provide the Subadvised Funds with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Subadvised Funds’ board of directors or trustees (the “Board”).<sup>2</sup> Each Investment Management Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more Sub-Advisers the responsibility to provide the day-to-day portfolio investment management of each Subadvised Fund, subject to the supervision and direction of the Adviser.<sup>3</sup> The primary responsibility for managing the Subadvised Funds will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire a Non-Affiliated Sub-Adviser or a Wholly-Owned Sub-Adviser, pursuant to Sub-

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<sup>1</sup> Applicants request that the relief apply to the named Applicants, as well as to any future Fund and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that (i) is advised by the Adviser, its successors, and any entity controlling, controlled by or under common control with the Adviser or its successors (included in the term “Adviser”), (ii) uses the multi-manager structure described in the application, and (iii) complies with the terms and conditions of the application (each, a “Subadvised Fund”). For the purposes of the requested order, “successor” is limited to an entity resulting from a reorganization into another jurisdiction or a change in the type of business organization.

<sup>2</sup> The term “Board” includes the board of trustees or directors of a future Subadvised Fund.

<sup>3</sup> A “Sub-Adviser” for a Fund is (1) an indirect or direct “wholly-owned subsidiary” (as such term is defined in the Act) of the Adviser for that Fund, or (2) a sister company of the Adviser for that Fund that is an indirect or direct “wholly-owned subsidiary” (as such term is defined in the Act) of the same company that, indirectly or directly, wholly owns the Adviser, or (3) a company of which the Adviser for that Fund is an indirect or direct “wholly-owned subsidiary” (as such term is defined in the 1940 Act) (each of (1), (2) and (3) a “Wholly-Owned Sub-Adviser” and collectively, the “Wholly-Owned Sub-Advisers”), or (4) an investment sub-adviser for that Fund that is not an “affiliated person” (as such term is defined in Section 2(a)(3) of the Act) of the Fund, any Feeder Fund, (as defined below) invested in a Master Fund (as defined below), the Funds, or the Adviser, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to one or more Funds (each a “Non-Affiliated Sub-Adviser” and collectively, the “Non-Affiliated Sub-Advisers”).

In the future, a Fund may operate in a master-feeder structure pursuant to Section 12(d)(1)(E) of the Act. In such a structure, certain Funds (each, a “Feeder Fund”) may invest substantially all of their assets in a Fund (a “Master Fund”) pursuant to Section 12(d)(1)(E) of the Act. No Feeder Fund will engage any sub-advisers other than through approving the engagement of one or more of the Master Fund’s sub-advisers.

Advisory Agreements and materially amend Sub-Advisory Agreements with Non-Affiliated Sub-Advisers and Wholly-Owned Sub-Advisers without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f-2 under the Act.<sup>4</sup> Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Fund to disclose (as both a dollar amount and a percentage of the Subadvised Fund's net assets): (a) the aggregate fees paid to the Adviser and any Wholly-Owned Sub-Advisers; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Funds' shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Funds' shareholders.

4. 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 any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreement will remain subject to shareholder approval, while the role of the Sub-Advisers is substantially equivalent to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised

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<sup>4</sup> The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Fund, of any Feeder Fund or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Funds ("Affiliated Sub-Adviser").

Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Funds.

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

Eduardo A. Aleman  
Deputy Secretary