DEPARTMENT OF COMMERCE
DIVISION OF SECURITIES

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October 8, 1993

Mr. Lawrence Cohen
Morgan, Lewis & Bockius
101 Park Avenue
New York, New York 10178

Re: Dean Witter Financial Services Group, Inc. File #2-9765-21/A20244-21

Dear Mr. Cohen:

This letter is in response to your letters dated September 13, 1993 and September 21, 1993, regarding the proposed offering of securities of Dean Witter, Discover & Co. to certain employees, officers and directors of the company or its subsidiaries under the Dean Witter Financial Services Group, Inc. Capital Accumulation Plan.

Based upon the representations in your filing and a finding by the Division of Securities that registration is not necessary or appropriate for the protection of investors, it is the order of the Division of Securities, Department of Commerce, State of Utah, that the above-referenced securities may be distributed in Utah, as described in your filing, without registration pursuant to § 61-1-14(2)(s) of the Utah Uniform Securities Act.

Because this finding is based upon the representations made to the Division of Securities, it should be noted that any different facts or conditions of a material nature might require a different conclusion.

Please note that this order relates only to the referenced transaction and shall have no value for future similar offerings.

Very truly yours,

MARK J. GRIFFIN, DIRECTOR
UTAH DIVISION OF SECURITIES

Steven J. Nielsen
Assistant Director

jmj

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September 13, 1993

VIA FEDERAL EXPRESS

Mr. Steven J. Nielsen
Assistant Director
Division of Securities
Department of Commerce
160 East 300 South
Salt Lake City, Utah 84111

Re: No-Action Letter Request
Dean Witter Financial Services Group, Inc.
Capital Accumulation Plan, as amended

Dear Mr. Nielsen:

On behalf of Dean Witter, Discover & Co. (formerly known as Dean Witter Financial Services Group, Inc.), a Delaware corporation (the "Company"), and its subsidiaries, we are writing to request that the Division of Securities of the Utah Department of Commerce will take no enforcement action if the interests available to certain employees, directors and persons affiliated with the Company or its subsidiaries under the Dean Witter Financial Services Group, Inc. Capital Accumulation Plan, as amended (the "Plan") are not registered under the Utah Uniform Securities Act (the "Act") § 61-1-7. A copy of the Plan is attached hereto as Exhibit A. This request is submitted in duplicate with a check in the amount of $120, pursuant to Utah Securities Division regulation R164-25-5. We contend that the Plan interests need not be registered in Utah because: (a) they are not "securities" as defined in § 61-1-13(22) of the Act; (b) if the Plan interests are considered to be securities, they constitute an "investment contract issued in connection with an employees'...savings...or similar benefit plan," which is an exempt security under § 61-1-14(l)(j) of the Act; and/or (c) the transactions in the Plan interests do not involve a public offering and are exempt under § 61-1-14(2)(n).

Facts: The Company is a corporation organized under the laws of the State of Delaware, and is a wholly-owned subsidiary of Sears. The Company is a holding company and the Company and its subsidiaries comprise one of the four principal business groups of Sears, Roebuck & Co. ("Sears").

On September 29, 1992, Sears announced plans to sell up to 20% of the Company to the public in the first quarter of 1993. Sears also announced that it also plans to spin-off the remaining 80% of the Company shares to Sears shareholders. As a result of these proposed transactions the Company will become a publicly-owned company.

The Plan is an unfunded deferred compensation plan of the Company which implemented the Plan for the benefit of certain employees of the Company, Dean Witter Reynolds Inc. ("DWR"), NOVUS Credit Services Inc. (f/k/a Sears Consumer Financial Corporation ("NOVUS") and for the benefit of certain employees of the subsidiaries of the Company and NOVUS. DWR and NOVUS are wholly-owned subsidiaries of the Company.

The purpose of the Plan is to provide the Eligible Employees (as defined below) a means to defer compensation according to the terms and conditions of the Plan. The benefit of the Plan is to allow employees to defer compensation for services rendered in the current taxable year until future years. The Plan also provides that the employer companies may transfer amounts equal to the amounts of deferred compensation of its employees under the Plan to DWR through capital contributions. The amounts of these capital contributions become subordinated debt obligations of DWR owed to the Plan for the benefit of those Participants that elected this investment option. These amounts are subordinated to the claims of general creditors and are available to DWR in computing its net capital under the Securities and Exchange Commission's Uniform Net Capital Rule.

Employees of (i) the Company, (ii) DWR, (iii) NOVUS, (iv) all corporations, trades and businesses in which the Company or NOVUS owns directly or indirectly, at least eighty percent (80%) of the total voting power of the stock of such corporations or at least an eighty percent (80%) ownership interest in such trades or businesses, any successors of any such corporations, trades or businesses and (v) any other member of the Affiliated Group (as defined below), (each such corporation, trade and

business being called an "Employer Company") who are exempt from the overtime provisions of the Fair Labor Standards Act of 1938, as amended, and who have been designed as a key, highly compensated, or management employee and as an "Eligible Employee" for purposes of the Plan by the chief executive officer of the Employer Company or his delegate are "Eligible Employees" and may elect to defer compensation pursuant to the Plan.

For purposes of the preceding paragraph "Affiliated Group" means (i) the Company and all corporations, trades or businesses in which the Company owns, directly or indirectly, at least eighty percent (80%) ownership interest in such trade or business; (ii) any corporation, trade or business in which the Company acquires at least eighty percent (80%) of the total voting stock of such corporation, or at least an eighty percent (80%) ownership interest in such trade or business; (iii) NOVUS, and (iv) other entities that are designated as members of the Affiliated Group by the Compensation Committee of the Board of Directors of the Company.

Four Eligible Employees currently reside in Utah, and 106 reside in other states (91 in Illinois). An Eligible Employee may become a participant in the Plan under the terms and conditions contained in Section 2(a) of the Plan and thereby may defer compensation to the extent set forth in Section 2(c) of the Plan. An Eligible Employee may defer, on an annual basis, no less than $5,000 and no more than fifty percent (50%) of the *Eligible Employee's Compensation (as defined in the Plan)* for the relevant calendar year (or portion thereof) for which such Eligible Employee has made an election to participate in the Plan.

Pursuant to Section 3 of the Plan, a participant in the Plan may elect to subordinate the balance of their Accounts (meaning the account(s) maintained by the employer company pursuant to Section 4(a) of the Plan for each participant for amounts of compensation deferred pursuant to the Plan) by signing an election to subordinate. A participant may only elect to subordinate if their employer company has executed an agreement with DWR to transfer to DWR an amount of capital equal to the aggregate amount of subordinated funds credited to the Accounts of its employees. Under the terms of such agreement, DWR assumes the obligation to pay such subordinated funds to the participant.

Amounts of deferred compensation held by or transferred to DWR pursuant to the Plan become part of DWR's capital and shall be subject to the risks of DWR's business.

Discussion: We refer you to the Dean Witter Reynolds, Inc., SEC No-Action Letter (pub. avail. March 4, 1985), attached hereto as Exhibit B (the "SEC Letter"). The SEC Letter sets forth the legal analysis under the federal securities laws and relevant case law as to whether instruments such as the Plan interests are considered to be "securities" within the meaning of the federal securities laws. Although we believe that the federal analysis is relevant and permits the Division to reach a similar conclusion, since we are not admitted to practice in Utah, we are unable to express any opinion as to the applicability of the tests and provisions set forth in the SEC Letter to Utah's laws or regulations. In support of your reaching a like conclusion, we point out that the Illinois Securities Department had determined that, under Illinois securities law, the Plan interests are not considered to be "securities," and were not required to be registered.

Even if it is determined that these Plan interests are securities under the Act, we maintain that they would constitute investment contracts offered in connection with an employee savings or similar benefit plan. The language in the applicable provision of the Act is certainly broad enough to encompass the Plan interests. They are clearly a vehicle for employee savings, even though there is a strong tax-driven component to the Plan.

Finally, the low number of eligible employees in Utah should permit you to conclude that these transactions do not involve a "public offering" in your state. While the term "public offering" is not defined in the Act or any regulation thereunder, if the quantity of offerees is interpreted to refer to the number of prospective participants in Utah, it is clear that having four Utah participants in the Plan would not be deemed to be a public offering. Further, the manner of the offering does not involve general solicitation or public advertisement and the participants are all employees or directors with close prior relationships to the Company, as well as ready access to information about the Company's business and financial condition.

We represent that there is no legal action, judicial or administrative, which relates, directly or indirectly, to the facts set forth above. We also represent that, according to the Company, the eligible employees in Utah have not yet confirmed their participation in the Plan.

Please contact the undersigned if you require any further information in this matter. We would greatly appreciate your prompt reply.

Sincerely,

Lawrence Cohen

Enclosures

LC/dbc