

Conditions for Relief

1. Applicants represent that CG Life will monitor the reasonableness of the charge to be deducted by CG Life pursuant to the requested exemptive relief.

2. Applicants represent that the registration statement for each Contract under which the charge referenced in paragraph one of this section is deducted will: (i) disclose the charge; (ii) explain the purpose of the charge; and (iii) state that the charge is reasonable in relation to CG Life's increased federal income tax burden under Section 848 resulting from the receipt of premiums.

3. Applicants represent that the registration statement for each Contract under which the charge referenced in paragraph one of this section is deducted will contain as an exhibit an actuarial opinion as to: (i) the reasonableness of the charge in relation to CG Life's increased federal income tax burden under Section 848 resulting from the receipt of premiums;¹ (ii) the reasonableness of the after tax rate of return that is used in calculating such charge and the relationship that such charge has to CG Life's cost of capital; and (iii) the appropriateness of the factors taken into account by CG Life in determining the after tax rate of return.

Conclusion

Applicants submit that, for the reasons and upon the facts set forth above, the requested exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e-3(T)(c)(4)(v) thereunder, to permit CG Life to deduct 1.15% of premium payments under the Contracts, meet the standards set forth in Section 6(c) of the 1940 Act. In this regard, Applicants assert that granting the relief requested in the application would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Jonathan G. Katz,
Secretary.

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BILLING CODE 8010-01-M

¹ Applicants represent that they will amend the application during the Notice period to include this condition as set forth herein.

[Investment Company Act Release No. 21597; 812-9476]

The Diversified Investors Funds Group, et al.; Notice of Application

December 13, 1995.

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

ACTION: Notice of Application for an Order Under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Diversified Investors Funds Group ("Diversified Fund"); Diversified Investors Portfolios ("Diversified Portfolios"); Diversified Investment Advisors, Inc. ("Diversified"), on behalf of itself and each open-end management investment company or series thereof organized in the future (the "Future Funds") which is a member of the same "group of investment companies" as defined in rule 11a-3 under the Act; and Diversified Investors Securities Corp. (the "Distributor").

RELEVANT ACT SECTIONS: Order of exemption requested pursuant to section 6(c) of the Act from section 12(d)(1) of the Act, pursuant to sections 6(c) and 17(b) of the Act from section 17(a) of the Act, and pursuant to rule 17d-1 under the Act permitting certain joint transactions in accordance with section 17(d) of the Act and rule 17d-1 thereunder.

SUMMARY OF APPLICATION: The requested order would permit applicants to create a "fund of funds" that initially will have three portfolios. Each portfolio would allocate substantially all of its assets among the series of Diversified Fund or of the Future Funds (each such series and Future Fund is referred to individually as an "Underlying Spoke," and all such series and Future Funds, collectively, as the "Underlying Spokes") without regard to the percentage limitations of section 12(d)(1). The Underlying Spokes, in turn, will invest in a corresponding series of Diversified Portfolios or of a Future Fund (each such series and Future Fund is referred to individually as an "Underlying Hub," and all such series and Future Funds, collectively, as the "Underlying Hubs"). The requested order also would permit certain affiliated joint transactions in accordance with section 17(d) of the Act and rule 17d-1.

FILING DATES: The application was filed on February 6, 1995, and amended and restated on June 2, 1995, July 12, 1995, and December 12, 1995.

HEARING OR NOTIFICATION OF HEARINGS: 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 January 8, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 4 Manhattanville Road, Purchase, New York 10577.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney, at (202) 942-0579, or C. David Messman, Branch Chief, at (202) 942-0564 (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 from the SEC's Public Reference Branch.

Applicants' Representations

1. Diversified Fund is organized as a Massachusetts business trust. Diversified Portfolios is organized as a trust under the laws of the State of New York. Each of Diversified Fund and Diversified Portfolios is registered as an open-end management investment company under the Act. Diversified Fund currently consists of eight separate series and Diversified Portfolios currently consists of nine separate series.

2. Diversified is a registered investment adviser under the Investment Advisers Act of 1940. Diversified is an indirect, wholly-owned subsidiary of AEGON USA, Inc., a financial services holding company whose primary emphasis is life and health insurance and annuity and investment products. AEGON USA, Inc. is an indirect, wholly-owned subsidiary of AEGON nv, a Netherlands corporation which is a publicly traded international insurance group. Diversified currently is the investment manager for Diversified Portfolios and acts as administrator and transfer agent for Diversified Fund. Each Underlying Spoke organized in the future will be administered by Diversified, and each Underlying Hub organizer in the future will be advised by Diversified. Diversified Investors Securities Corp.

(the "Distributor"), a Delaware corporation, acts as distributor for Diversified Fund.

3. Applicants propose to organize The Diversified Investors Strategic Allocation Funds ("Strategic Fund"), which will operate as a "fund of funds." Strategic Fund will be organized as a Massachusetts business trust, and, subject to the receipt of the requested order, will be registered under the Act as a non-diversified, open-end, management investment company. Strategic Fund initially will have three series or portfolios, identified as the Aggressive Portfolio, the Moderate Portfolio, and the Conservative Portfolio (collectively referred to as the "Portfolios," or individually as a "Portfolio"). Each Portfolio will invest all of its investable assets in shares of the Underlying Spokes and will allocate and reallocate its assets among the Underlying Spokes. Investments also may be made in money market investments for cash management and temporary defensive purposes.

4. The Underlying Spokes are, or will be, "feeder" (or "spoke") funds in a "master-feeder" (or "Hub and Spoke®")¹ structure in which there are other feeders investing in the master funds. Each of the existing Underlying Spokes invests, and each future Underlying Spoke will invest, all of its investable assets in an Underlying Hub having the same investment objective and policies as the Underlying Spoke. Each current Underlying Hub has one or more sub-advisers who are responsible for its day-to-day investment selections. In addition to the Underlying Spokes, each of the existing Underlying Hubs has a number of additional "spokes," including a bank sponsored collective trust, insurance company separate accounts established in respect of variable annuity contracts which are registered as unit investment trusts, and non-registered insurance company separate accounts. In the future, each Underlying Hub may sell interests to other eligible entities to the extent permitted by applicable law.

5. Allocations of a Portfolio's assets among shares of the Underlying Spokes will be made consistent with its investment objective. For example, it is anticipated that the Aggressive Portfolio would, under normal circumstances, invest substantially all of its assets in Underlying Spokes/Hubs that invest in equity securities. The Underlying Spokes/Hubs in which each Portfolio may invest will be described in the Portfolio's prospectus. In addition, the

prospectus will disclose the general ranges for investment by the Portfolio in each type of Underlying Spoke (i.e., equity, fixed-income, and money market), and in each specific Underlying Spoke. Shareholders will receive disclosure of any changes in the identity of the Underlying Spokes in which the Portfolio may invest (e.g., if a new Underlying Spoke is included) or any changes in the investment ranges. Allocations of a Portfolio's assets among Underlying Spokes initially will be made, and subsequently adjusted, consistent with quantitative and other market and economic analyses administered by Diversified in its role as investment manager to Strategic Fund.

6. It currently is contemplated that Strategic Fund will be sold without a front-end or deferred sales charge, and will not have a rule 12b-1 distribution plan. The only direct expense payable by Strategic Fund will be an asset allocation and administrative fee, which initially will be at a rate of .20% per annum of average daily net assets for each Portfolio.² In return for the fee, Diversified will furnish Strategic Fund with all operating and administrative services and will pay all of the operating expenses (e.g., the fees and expenses of Strategic Fund's independent trustees and the minimal fees and expenses associated with the preparation and audit of its financial statements, but not portfolio brokerage expenses) for Strategic Fund.

7. Each existing Underlying Spoke and Underlying Hub is, and, subject to the right to institute such fees and charges to the extent permitted in condition 5 below, each future Underlying Spoke and Underlying Hub will be, sold without a front-end or deferred sales charge. The shareholders of Strategic Fund, however will pay indirectly their proportional share of the expenses of each Underlying Spoke in which Strategic Fund invests. These expenses include (a) an administration fee payable to Diversified, which covers, among other things, the expenses of transfer agency services, (b) rule 12b-1 fees, which are payable by the existing Underlying Spokes at a maximum rate of .25% per annum of net assets, and (c) other customary expenses of registered investment companies, primarily consisting of compensation to independent trustees, insurance premiums, fees and expenses of independent auditors and legal counsel,

² Because Strategic Fund under normal circumstances will invest exclusively in shares of the Underlying Spokes, it is not anticipated that it will bear any portfolio brokerage expenses except those associated with the short-term investment of cash, if any.

and accounting expenses. The expenses also include the Underlying Spokes proportional share of the expenses of the Underlying Hubs in which they invest, which include advisory fees and other customary expenses of registered investment companies.

8. Applicants may, although they do not contemplate doing so in the near future, enter into a special servicing agreement (the "Servicing Agreement"), pursuant to which the Distributor will provide all distribution and distribution-related services relating to Strategic Fund. The Servicing Agreement would provide that a portion of each Underlying Spoke's rule 12b-1 fees attributable to shares held by Strategic Fund may be used to reimburse the Distributor for expenses incurred in rendering distribution and distribution-related services to the Portfolios. Each Underlying Spoke thus would be permitted to pay rule 12b-1 fees in respect of distribution of shares of a Portfolio, but only to the extent that the Portfolio has invested in the Underlying Spoke.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent 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 any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) 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.

2. Section 6(c) provides that the SEC may exempt persons or transactions if, and to the extent that, 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 request an order under section 6(c) exempting them from section 12(d)(1) to permit Strategic Fund to invest in the Underlying Spokes in excess of the percentage limitations of section 12(d)(1).

¹ Hub and Spoke® is a registered service mark of Signature Financial Group, Inc.

3. Applicants propose to organize Strategic Fund to provide investors with a simple means of investing in a diversified mutual fund investment program tailored by investment professionals to different investment goals and risk tolerances. Applicants believe that Strategic Fund will provide an alternative to other programs that investors turn to for diversification and asset allocation advice, such as wrap fee programs using mutual funds and inter-complex funds of funds.

4. Section 12(d)(1) is intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the acquiring fund imposing undue influence over the management of the acquired funds through the threat of large-scale redemptions, the acquisition by the acquiring company of voting control of the acquired company, the layering of sales charges, advisory fees, and administrative costs, and the creation of a complex pyramidal structure which may be confusing to investors.

5. Applicants believe that Strategic Fund is structured in a manner consistent with the intent of section 12(d)(1) and which avoids the abuses intended to be prevented by that section. Applicants state that the proposed structure of Strategic Fund is very different from the structure of the investment companies whose practices led to the adoption of section 12(d)(1) and its amendment in 1970. Strategic Fund and the Underlying Spokes and the Underlying Hubs are part of the same group of investment companies, and each of these funds is or will be a registered investment company subject to the protections of the Act. In addition, because Diversified will be the investment adviser to Strategic Fund and each of the Underlying Hubs, applicants assert that it will be obligated to treat each fund fairly and impartially in the exercise of its fiduciary obligations. Diversified also will be subject to its fiduciary obligation to avoid self-dealing, therefore, it may not enter into transactions solely for the purpose of benefitting Diversified at the expense of Strategic Fund or any of the Underlying Hubs. Finally, applicants argue that Diversified's self-interest will prompt it to maximize benefits to all shareholders, and not disrupt the operations of Strategic Fund or any of the Underlying Spokes or Underlying Hubs.

6. Applicants believe that, although the proposed structure of Strategic Fund could be deemed to involve three levels of fees rather than two levels, this does

not change the analysis with respect to the requested relief. Applicants assert that the structure of the Underlying Spokes and the Underlying Hubs does not create a layering of fees of the type that section 12(d)(1) was meant to address. They argue that this structure, which is specifically permitted by section 12(d)(1)(E), merely separates typical mutual fund expenses into two distinct levels. The expenses of the Underlying Spokes generally are limited to fund administrative and operating expenses (primarily the administration fee and the rule 12b-1 fee). The expenses of the Underlying Hubs generally are limited to investment advisory fees, custodian fees, portfolio accounting fees, and fees for transfer/accounting services. Thus, applicants assert that there is no significant overlap in the various expenses incurred at the hub level and at the spoke level, and that it is appropriate to collapse these two levels for purposes of the analysis of the operation of Strategic Fund.

7. Applicants believe that, while Strategic Fund could invest directly in the Underlying Hubs (and accordingly impose the same expenses that are charged at the level of the Underlying Spokes directly on Strategic Fund), the proposed structure has advantages for shareholders. Applicants assert that the proposed structure will offer shareholders a clearly defined choice either to allocate and reallocate their assets among the Underlying Spokes of their choosing, or to pay the incremental asset allocation fee so that Strategic Fund will make the asset allocation decisions. In addition, they argue that investing in the Underlying Spokes rather than directly in the Underlying Hubs serves to facilitate the Hub and Spoke® accounting function and avoid the extra costs that would be incurred if a Portfolio invested directly in several Underlying Hubs.

8. Applicants assert that there will be no layering of fees as a consequence of the Strategic Fund structure which will result in fees in excess of those permitted to be imposed by a single fund. Subject to the right to institute such fees and charges to the extent permitted in condition 5 below, it currently is contemplated that Strategic Fund will not impose, and no Underlying Spoke will impose, any front-end or deferred sales charge. The existing Underlying Spokes currently are permitted to pay the Distributor rule 12b-1 fees at a maximum rate of .25% per annum of net assets. Applicants have agreed that any sales charges or service fees charged with respect to Strategic Fund (including those paid at the Underlying Spoke level) will not

exceed the limits set forth in the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

9. Applicants believe that Strategic Fund's asset allocation and administrative fee will be justified by the incremental benefits, not otherwise available, of the professional asset allocation service that Diversified will provide for investors choosing to invest in Strategic Fund rather than in specific Underlying Spokes, as well as compensate Diversified for the operating and administrative obligations it will undertake with respect to Strategic Fund. Applicants assert that many investors who have little interest or experience in selecting investments feel a need to seek professional advice in order to achieve successful asset allocation and diversification for initial investments and changes in their mutual fund mix. Applicants believe that Strategic Fund will provide investors with a competitive and viable alternative to other mutual fund based asset allocation programs. Accordingly, applicants believe that the requested exemption from section 12(d)(1) is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

B. Section 17(a)

1. Section 17(a) makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities from, the company. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act.

2. Applicants request exemptive relief from the prohibitions of section 17(a) to allow the transactions described in the application. Applicants believe that the relief is consistent with the standards of section 17(b). Applicants assert that the terms of the proposed transaction are reasonable and fair because the shareholders in Strategic Fund will benefit from the valuable incremental services provided as a result of the proposed structure and from savings that accrue based upon their individual situations, such as by not having to pay fees to a financial adviser or sales commissions to a broker-dealer. Strategic Fund shareholders also will receive practical benefits from the

consolidation of records and reports, and the general ease of investing in one fund instead of several. In addition, in return for the indirect expenses of investing in the Underlying Spokes and the Underlying Hubs, the Portfolios and their shareholders will benefit to the same extent as other shareholders in the Underlying Spokes from the administrative services provided to the Underlying Spokes and the portfolio management services provided to the Underlying Hubs.

C. Section 17(d) and Rule 17d-1

1. Section 17(d) prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of SEC rules and regulations. Rule 17d-1 provides that an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, shall not participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the SEC has issued an order approving the arrangement.

2. Applicants believe that all shareholders of the Underlying Spokes, including Strategic Fund, will benefit equally from the distribution and distribution-related services received from the Distributor, which services will be financed, in part, from rule 12b-1 fees. Under the Servicing Agreement, the distribution-related expenses relating to Strategic Fund would be paid from the rule 12b-1 fees of the Underlying Spokes only up to the amount of such fees attributable to the shares of the Portfolios, and no Underlying Spoke would be required to pay any additional distribution-related expenses attributable to the Portfolios. In addition to the benefit to each Portfolio from the sale of its shares, applicants assert that each Underlying Spoke would receive a benefit from the sale of shares of the Portfolios to the extent that a Portfolio invests in such Underlying Spoke. Applicants submit that, based on these considerations: (a) Strategic Fund may create benefits for the Underlying Spokes; (b) the benefits would be shared by the Underlying Spokes in proportion to their assets; (c) the Underlying Spokes and Strategic Fund would participate in the arrangement on the same or substantially the same basis; (d) none of the Underlying Spokes, the Underlying Hubs, Strategic Fund, Diversified, or the

Distributor would be advantaged or disadvantaged over one another; and (e) the entire arrangement would be consistent with the provisions, policies, and purposes of the Act.

Applicants' Conditions

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

1. Strategic Fund and each Underlying Spoke and Underlying Hub will be part of the same "group of investment companies," as defined in rule 11a-3 under the Act.

2. No Underlying Hub shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of Strategic Fund will not be "interested persons," as defined in section 2(a)(19) of the Act (the "Independent Trustees").

4. Before approving any advisory contract under section 15 of the Act, the trustees of Strategic Fund, including a majority of the Independent Trustees, shall find that advisory fees charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Hub's advisory contract. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of Strategic Fund.

5. Any sales charges or service fees charged with respect to securities of Strategic Fund, when aggregated with any sales charges or service fees paid by Strategic Fund with respect to securities of the Underlying Spokes, shall not exceed the limits set forth in Article III, section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the Division: monthly average total assets for each Portfolio and each of its Underlying Spokes and Underlying Hubs; monthly purchases and redemptions (other than by exchange) for each Portfolio and each of its Underlying Spokes and underlying Hubs; monthly exchanges into and out of each Portfolio and each of its Underlying Spokes; month-end allocations of each Portfolio's assets among its Underlying Spokes; annual expense ratios for each Portfolio and each of its Underlying Spokes and Underlying Hubs; and a description of any vote taken by the shareholders of any Underlying Spoke, including a statement of the percentage of votes cast for and against the proposal by Strategic

Fund and by the other shareholders of the Underlying Spoke. Such information will be provided as soon as reasonably practicable following each fiscal year-end of Strategic Fund (unless the Chief Financial Analyst shall notify Strategic Fund or Diversified in writing that such information need no longer be submitted).

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

Jonathan G. Katz,
Secretary.

[FR Doc. 95-30861 Filed 12-19-95; 8:45 am]

BILLING CODE 8010-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. part 540, as amended:

The Peninsular and Oriental Steam Navigation Company, Princess Cruises, Inc. and P & O Cruises (UK) Limited, 77 New Oxford Street, London WC1A 1PP, England, Vessels: CANBERRA, ORIANA and VICTORIA

Dated: December 15, 1995.

Joseph C. Polking,
Secretary.

[FR Doc. 95-30926 Filed 12-19-95; 8:45 am]

BILLING CODE 6730-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-21596; 811-4607]

Eaton Vance High Income Trust; Notice of Application

December 13, 1995.

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

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Easton Vance Income Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.