thereafter, the acquiring company would have more than 5% of its total assets invested in the securities of the selling company. Applicants request an exemption from section 12(d)(1)(A)(ii) to permit each Fund to invest in a Money Market Fund the greater of 5% of such Fund's total net assets or $2.5 million. The perceived abuses section 12(d)(1) sought to address include undue influence by an acquiring fund over the management of an acquired fund, layering of fees, and complex structures. Applicants believe that none of these concerns are presented by the proposed transactions and that the proposed transactions meet the section 6(c) standards for relief.

Applicants' Conditions

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

1. The shares of the Money Market Fund sold to and redeemed from the Investing Funds will not be subject to a sales load, redemption fee, or distribution fee under a plan adopted in accordance with rule 12b–1.

2. Applicants will cause the Investment Advisers, in their capacities as advisers for the Money Market Funds, to remit to the respective Investing Fund or waive an amount equal to all investment advisory fees received by them under their respective advisory agreements with the Money Market Funds to the extent such fees are based upon the Investing Fund's assets invested in shares of the Money Market Funds. Any of these fees remitted or waived will not be subject to recoupment by the Funds' Investment Advisers at a later date.

3. For the purpose of determining any amount to be waived and/or expenses to be borne to comply with any Expense Waiver, the adjusted fees for an Investing Fund (gross fees minus Expense Waiver) will be calculated without reference to the amount waived or remitted pursuant to condition 2. Adjusted fees will then be reduced by the amount waived pursuant to condition 2. If the amount waived pursuant to condition 2 exceeds adjusted fees, the applicable Money Market Fund's Investment Adviser also will reimburse the Investing Fund in an amount equal to such excess.

4. Each of the Investing Funds will be permitted to invest Uninvested Cash in, and hold shares of, a Money Market Fund only to the extent that the Investing Fund's aggregate investment in the Money Market Fund does not exceed the greater of 5% of the Investing Fund's total net assets or $2.5 million.

5. The Investing Funds will vote their shares of each of the Money Market Funds in the same proportion as the votes of all other shareholders in such Money Market Funds.

6. The Investing Funds will receive dividends and bear their proportionate share of expenses on the same basis as other shareholders of such Money Market Funds. A separate account will be established in the shareholder records of each of the Money Market Funds for each of the acquiring Investing Funds.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2327 Filed 2–2–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21713; 812–9926]

Lexington Growth and Income Fund, Inc., et al.; Notice of Application

January 30, 1996.

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

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

APPLICANTS: Lexington Crosby Small Cap Asia Growth Fund, Inc., Lexington Emerging Markets Fund, Inc., Lexington Global Fund, Inc., Lexington GNMA Income Fund, Inc., Lexington Goldfund, Inc., Lexington Growth and Income Fund, Inc., Lexington International Fund, Inc., Lexington Money Market Trust, Lexington Natural Resources Trust, Lexington Ramirez Global Income Fund, Lexington SmallCap Value Fund, Inc., Lexington Strategic Investments Fund, Inc., Lexington Strategic Silver Fund, Inc., Lexington Tax Free Money Fund, Inc., and Lexington Worldwide Emerging Markets Fund, Inc., (collectively, the ''Investment Companies''); and Lexington Management Corporation (the ''Adviser'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1), and pursuant to rule 17d–1 under the Act to permit certain joint arrangements in accordance with section 17(d) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain investment companies to enter into deferred compensation arrangements with their trustees.

FILING DATE: The application was filed on December 26, 1995.

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 February 26, 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 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Lawrence Kantor, Park 80 West, Plaza Two, Saddle Brook, New Jersey 07662.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, 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 at the SEC's Public Reference Branch.

Applicants' Representations

1. The Investment Companies are registered under the Act as open-end management investment companies. The Adviser serves as the investment adviser for the Investment Companies and Lexington Funds Distributor, Inc. serves as their distributor.

2. Applicants request that relief granted pursuant to the application also apply to any subsequently registered open-end investment company, or series thereof, advised by the Adviser (together with the Investment Companies, the ''Funds'').

3. Each Investment Company has a board of trustees, a majority of the members of which are not ''interested persons'' of such Investment Company within the meaning of section 2(a)(19) of the Act. Each of the trustees who is not an employee of the Adviser, or of any of the Investment Companies, or any of their affiliates (''Eligible Trustees'') receives annual fees. Applicants request an order to permit the Eligible Trustees to elect to defer receipt of all or a

portion of their fees pursuant to a deferred compensation plan (the ''Plan''). Under the Plan, the Eligible Trustees could defer payment of trustees' fees (the ''Deferred Fees'') in order to defer payment of income taxes or for other reasons.

4. Under the Plan, the deferred fees payable by a Fund to a participating Eligible Trustee will be credited to a book reserve account established by the Fund (a ''Deferred Account''), as of the first business day following the date such fees would have been paid to the Eligible Trustee. The trustee may select one or more Investment Companies from a list of available Investment Companies that will be used to measure the hypothetical investment performance of the trustee's Deferred Account. The value of a Deferred Account will be equal to the value such account would have had if the amount credited to it had been invested and reinvested in shares of the investment portfolios designated by the trustee (the ''Designated Shares'').

5. Each Investment Company generally intends to purchase and maintain Designated Shares in an amount equal to the deemed investments of the Deferred Accounts of its trustees. Any participating money market series of a Fund that values its assets by the amortized cost method will buy and hold the Designated Shares that determine the performance of the Deferral Accounts in order to achieve an exact match between such series' liability to pay deferred fees and the assets that offset such liability.

6. The Funds' respective obligations to make payments of amounts accrued under the Plan will be general unsecured obligations, payable solely from their respective general assets and property. The Plan provides that the Funds will be under no obligation to purchase, hold or dispose of any investments under the Plan, but, if one or more of the Funds choose to purchase investments to cover their obligations under the Plan, then any and all such investments will continue to be a part of the respective general assets and property of such Funds.

7. When the deferred fees are paid, payment will be made to Eligible Trustees in a lump sum or in generally equal annual installments over a period of no more than 10 years as selected by the Eligible Trustee at the time of deferral. In the event of death, amounts payable to the Eligible Trustee under the Plan will become payable to a beneficiary designated by the Eligible Trustee. In all other events, the Eligible Trustee's right to receive payments is non-transferable.

8. The Plan was adopted prior to receipt of the requested relief. Pending receipt of SEC approval, the Plan provides that the compensation deferred by an Eligible Trustee will be credited to a Deferral Account in the form of cash and credited with an amount equal to the yield on 90-day U.S. Treasury Bills.[1]

Applicants' Legal Analysis

1. Applicants request an order which would exempt the Funds: (a) under section 6(c) of the Act from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, to the extent necessary to permit the Funds to adopt and implement the Plan; (b) under sections 6(c) and 17(b) of the Act from section 17(a)(1) to permit the Funds to sell securities for which they are the issuer to participating Funds in connection with the Plan; and (c) under section 17(d) of the Act and rule 17d–1 thereunder to permit the Funds to effect certain joint transactions incident to the Plan.

2. Section 18(f)(1) generally prohibits a registered open end investment company from issuing senior securities. Section 13(a)(2) requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Applicants state that the Plan possesses none of the characteristics of senior securities that led Congress to enact section 18(f)(1). The Plan would not: (a) Induce speculative investments or provide opportunities for manipulative allocation of any Fund's expenses or profits; (b) affect control of any Fund; or (c) confuse investors or convey a false impression as to the safety of their investments. All liabilities created under the Plan generally would be offset by equal amounts of assets that would not otherwise exist if the fees were paid on a current basis.

3. Section 22(f) prohibits undisclosed restrictions on transferability or negotiability of redeemable securities issued by open-end investment companies. Applicants state that such restrictions are set forth in the Plan, which would be included primarily to benefit the Eligible Trustees and would not adversely affect the interests of the trustees or of any shareholder.

4. Section 22(g) prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. This provision prevents the dilution of equity and voting power that may result when securities are issued for consideration that is not readily valued. Applicants believe that the Plan would merely provide for deferral of payment of such fees and thus should be viewed as being issued not in return for services but in return for a Fund not being required to pay such fees on a current basis.

5. Section 13(a)(3) provides that no registered investment company shall, unless authorized by the vote of a majority of its outstanding voting securities, deviate from any investment policy that is changeable only if authorized by shareholder vote. The relief requested from section 13(a)(3) would extend only to existing Investment Companies. Applicants believe that relief from the section is appropriate to enable the affected Investment Companies to invest in Designated Shares without a shareholder vote. Applicants will provide notice to shareholders in the prospectus of each affected Investment Company of the Deferred Fees under the Plan. The value of the Designated Shares will be *de minimis* in relation to the total net assets of the respective Investment Company, and will at all times equal the value of the Investment Company's obligations to pay deferred fees.

6. Rule 2a–7 imposes certain restrictions on the investments of ''money market funds,'' as defined under the rule, that would prohibit a Fund that is a money market Fund from investing in the shares of any other Fund. Applicants believe that the requested exemption would permit the Funds to achieve an exact matching of Designated Shares with the deemed investments of the Deferral Accounts, thereby ensuring that the deferred fees would not affect net asset value.

7. Section 6(c) provides, in relevant part, that the SEC may, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the relief requested from the above provisions satisfies this standard.

8. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company from selling any security to such registered investment company. Each portfolio may be an affiliated person of each other portfolio by reason of being under the common

[1] *See, e.g.,* American Balanced Fund, Inc. (pub. avail. Feb. 13, 1984) (no-action assurances given for deferred compensation plan in which the value of the deferred amounts did not depend upon the investment company's performance).

control of the Adviser.[2] The sale by a portfolio of any security to any other portfolio of any Fund would therefore be subject to the prohibitions of section 17(a)(1). Applicants assert that section 17(a)(1) was designed to prevent, among other things, sponsors of investment companies from using investment company assets as capital for enterprises with which they were associated or to acquire controlling interest in such enterprises. Applicants submit that the sale of securities issued by the Funds pursuant to the Plan does not implicate the concerns of Congress in enacting this section, but merely would facilitate the matching of each Fund's liability for deferred trustees' fees with the Designated Shares that would determine the amount of such Fund's liability.

9. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that 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, the transaction is consistent with the policies of the registered investment company, and the general purposes of the Act. Applicants assert that the proposed transaction satisfies the criteria of section 17(b). The finding that the terms of the transaction are consistent with the policies of the registered investment company is predicated on the assumption that relief is granted from section 13(a)(3). Applicants also request relief from section 17(a)(1) under section 6(c) to the extent necessary to implement the Deferred Fees under the Plan on an ongoing basis.[3]

10. Section 17(d) and rule 17d–1 generally prohibit a registered investment company's joint or joint and several participation with an affiliated person in a transaction in connection with any joint enterprise or other joint arrangement without SEC approval. Eligible Trustees will not receive a benefit that would otherwise inure to a Fund or its shareholders. Eligible Trustees will receive tax deferral but the Plan otherwise will maintain the parties, viewed both separately and in their relationship to one another, in the same position as if the deferred fees were paid on a current basis.

[2] Section 2(a)(3)(C) of the Act defines the term ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with such other person.

[3] Section 17(b) may permit only a single transaction, rather than a series of on-going transactions, to be exempted from section 17(a). *See Keystone Custodian Funds, Inc.*, 21 S.E.C. 295 (1945).

Applicants' Conditions

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

1. With respect to the requested relief from rule 2a–7, any money market Fund that values its assets by the amortized cost method will buy and hold Designated Shares that determine the performance of Deferral Accounts to achieve an exact match between the liability of any such Fund to pay compensation deferrals and the assets that offset that liability.

2. If a Fund purchases Designated Shares issued by an affiliated Fund, the Fund will vote such shares in proportion to the votes of all other shareholders of such affiliated Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2328 Filed 2–2–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 99000176]

Regent Capital Partners, L.P.; Notice of Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Regent Capital Partners, L.P., at 505 Park Avenue, Suite 1700, New York, New York 10022 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. §§ 661 et. seq.), and the Rules and Regulations promulgated thereunder.

Regent Capital Partners, L.P., is a Delaware limited partnership, of which Regent Capital Holdings, Inc. is the sole general partner.

The individual General Partners of Regent Capital Partners, L.P. are Richard H. Hochman, Nina E. McLemore and John Oliver Maggard. All three of these individuals have extensive experience in banking, finance, and investment analysis.

Regent Capital Partners, L. P. will begin operations with committed capital of $18.7 million and will be a source of equity and debt financings for qualified small business concerns.

The following partner will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
Alan Meltzer	10.7

The applicant intends to focus on subordinated debt and equity investments in small to medium size companies across a variety of industries. The applicant anticipates making portfolio investments in various industries including, consumer products and services, media and communications, and distribution.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: January 30, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–2309 Filed 2–2–96; 8:45 am]

BILLING CODE 8025–01–P

[Application No. 99000194]

Toronto Dominion Capital (U.S.A.), Inc.; Notice of Filing of Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Toronto Dominion Capital (U.S.A.), Inc., 31 West 52nd Street, 20th Floor, New York, New York, 10019 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. Seq.), and the Rules and Regulations promulgated