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. Under the Plan, participating trustees will not receive a benefit that otherwise would inure to a Fund or its shareholders. Deferral of a trustee's fees in accordance with the Plan would essentially maintain the parties, viewed both separately and in their relationship to one another, in the same position (apart from tax effects) as would occur if the fees were paid on a current basis and then invested by the trustee directly in Designated Shares.

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 holders of shares of such affiliated Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–9300 Filed 4–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 21878; 812–9516]

The Asia Tigers Fund, Inc., et al.; Notice of Application

April 9, 1996.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''Act'').

APPLICANTS: The Asia Tigers Fund, Inc.; The Czech Republic Fund, Inc. (''Czech Fund''); The India Fund, Inc.; The Mexico Equity and Income Fund, Inc. (''Mexico Fund''); The Emerging Markets Floating Rate Fund Inc.; The Emerging Markets Income Fund Inc; The Emerging Markets Income Fund II Inc; Global Partners Income Fund Inc. (collectively, the ''Funds''); and Oppenheimer & Co., Inc. (''OpCo''), on behalf of themselves and any other future investment companies for which Advantage Advisers, Inc. (''Advantage''), a wholly owned subsidiary of OpCo, or any other entity controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with OpCo, serves as investment adviser.

RELEVANT ACT SECTIONS: Order requested under rule 17d–1 to permit certain transactions in accordance with section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order to permit OpCo to receive a fee from the Funds for its services as lending agent in connection with the loan of portfolio securities owned by the Funds. The proposed fee would be based upon a share of the proceeds derived by the Funds from the securities lending program.

FILING DATES: The application was filed on March 9, 1995, and amended on October 30, 1995, and March 29, 1996.

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 May 6, 1996, and should be accompanied by proof of service on applicant, 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 such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: The Asia Tigers Fund, Inc., Czech Fund, The India Fund, Inc., Mexico Fund, and OpCo, Oppenheimer Tower, 200 Liberty Street, One World Financial Center, New York, New York 10281; The Emerging Markets Floating Rate Fund Inc., Emerging Markets Income Fund Inc., The Emerging Markets Income Fund II Inc., and Global Partners Income Fund Inc., 7 World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942–0583, or Alison E. Baur, 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.

Applicant's Representations

1. Each of the Funds is a Maryland corporation registered under the Act as a closed-end management investment company. The Funds invest in a range of equity and fixed-income securities. Advantage, an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), serves as investment adviser to each of the Funds. Advantage advises and consults with each Fund's day-to-day investment adviser regarding the Fund's overall investment strategy and its use of leveraging techniques, and monitors the performance of the Fund's outside service providers. Advantage is not currently responsible for making specific investment decisions for the Funds, except for the Mexico Fund. With respect to the Mexico Fund, Advantage and the Fund's day-to-day investment adviser are jointly responsible for making the Fund's investment decisions.

2. OpCo, a Delaware corporation that is an indirect, wholly owned subsidiary of Oppenheimer Group, Inc., is a privately-owned securities brokerage, investment banking, and asset management firm that offers a broad range of services to corporations, institutions, and private investors. OpCo serves as administrator to The Asia Tigers Fund, Inc., The India Fund, Inc., the Czech Fund, and the Mexico Fund. OpCo is registered as a broker-dealer under the Securities Exchange Act of 1934, and as an investment adviser under the Advisers Act.

3. Each of the Funds is permitted under its investment objectives, policies, and restrictions to lend its portfolio securities. Advantage has proposed that each Fund establish a securities lending program to increase the income earned by the Fund and the total return to shareholders. In connection with the establishment of such a program, the board of directors of the Fund, including a majority of the directors who are not ''interested persons'' as defined in section 2(a)(19) of the Act, would institute procedures to govern the program. These procedures, which would comply with the previous policies set forth by the Commission and its staff in no-action letters, would include specific guidelines relating to the creditworthiness of borrowers, the amount of securities that may be loaned

at any one time and to any one borrower, and the creditworthiness of issuers from whom a Fund may accept irrevocable letters of credit as collateral.

4. Each Fund's day-to-day investment adviser, subject to the supervision of the board of directors, would be responsible for negotiating the terms of loans, selecting borrowers, investing cash collateral, and determining which specific securities are available to be loaned, subject to the parameters set forth in the procedures approved by the board of directors of each Fund. In addition, the day-to-day investment adviser would retain full discretion and power to prevent any loan from being made or to terminate any loan.

5. Since each Fund currently does not have the internal resources necessary to lend securities efficiently or effectively without the services of a third-party lending agent, Advantage has proposed that each Fund engage one or more third parties to act as lending agent. The lending agent would be responsible for soliciting borrowers and confirming their creditworthiness, monitoring daily the value of the loaned securities and collateral, requesting that borrowers add to the collateral when required by the loan arrangements, and performing other administrative functions in connection with the Fund's securities lending program. In addition, the lending agent, under the supervision of the day-to-day investment adviser of a Fund may enter into loans with pre-approved borrowers on terms, the parameters of which would be pre-approved by the investment adviser, and invest cash collateral for the loans in instruments pre-approved by the investment adviser. All such duties of the lending agent, as well as procedures governing the determination of borrowers, loan terms, and investment instruments, will be included in a Fund's agreement with the lending agent or otherwise detailed in writing. The day-to-day investment adviser will monitor the lending agent to ensure that the securities loans are effected in accordance with its instructions and within the procedures adopted by the Fund's board of directors. Applicants represent that the day-to-day investment adviser's delegation of authority to the lending agent will be consistent with (and will not exceed) the parameters set forth in *Norwest Bank* (pub. avail. May 25, 1995).

6. Each borrower of a Fund's securities will be required to tender collateral equal to at least 100% of the value of the securities loaned to be held by the Fund's custodian or sub-custodian in the form of cash, securities issued or guaranteed by the United States Government, its agencies, or instrumentalities (''U.S. Government securities''), or irrevocable letters of credit issued by certain approved banks. If necessary, the collateral will be supplemented to cover differences between the value of the collateral and the market value of the loaned securities.

7. In transactions where the collateral consists of U.S. Government securities or letters of credit, the lending agent will negotiate on behalf of the Fund a lending fee to be paid by the borrower to the Fund. Where the collateral consists of U.S. Government securities, the beneficial ownership of the collateral and the right to the income earned will remain with the borrower. At the termination of a loan, the borrower will pay the lending fee to the Fund, and the lending agent will receive its pre-negotiated percentage of the fee.

8. In transactions where the collateral consists of cash, the Fund, instead of receiving a separate lending fee from the borrower, will receive a portion of the return earned on the investment of the cash collateral by or under the direction of the Fund's day-to-day investment adviser. Depending on the arrangements negotiated with the borrower by the lending agent, a percentage of the return on the investment of the cash collateral may be remitted by the Fund to the borrower. Out of the amounts earned on the investment of the cash collateral, the Fund first will pay the borrower the amount agreed upon, if any, and then, out of any remaining earnings, will pay the lending agent its pre-negotiated percentage.

9. OpCo currently operates a ''match-book'' securities lending practice in which it borrows securities from one client and immediately lends those securities to another client. Advantage may, subject to obtaining the requested relief, recommend to a Fund's board of directors that OpCo serve as lending agent to the Fund. OpCo believes that it can provide lending agent services to each Fund in an efficient and profitable manner, and in a manner comparable to that of other potential lending agents.

10. Applicants believe that, absent exemptive relief, OpCo may be prohibited by section 17(d) of the Act and rule 17d–1 thereunder from receiving lending agent fees based upon a share of the profits derived from the Fund's securities lending program. Applicants propose that, if the board of directors of a Fund determines that OpCo should act as the Fund's lending agent, the fund will adopt the following procedures to ensure that the fee arrangement and other terms governing the relationship between the Fund and OpCo will be fair:

a. In connection with the initial approval of OpCo as lending agent to the Fund, a majority of the board of directors of the Fund (including a majority of the directors who are not ''interested persons'' as defined in section 2(a)(19) of the Act) will determine that (1) the contract with OpCo is in the best interests of the Fund and its shareholders; (2) the services to be performed by OpCo are required by the Fund; (3) the nature and quality of the services provided by OpCo are at least equal to those provided by others offering the same or similar services; and (4) the fees for OpCo's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

b. Each Fund's contract with OpCo for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the board of directors of each Fund (including a majority of the directors who are not interested persons) makes the determinations referred to above.

c. In connection with the initial approval of OpCo as lending agent to a Fund, the board of directors of the Fund will obtain competing quotes regarding lending agent fees from at least three independent lending agents to assist the board of directors in making the determinations referred to above.

d. The board of directors of each Fund, including a majority of the directors who are not interested persons, will (1) determine at each quarterly meeting that the loan transactions during the prior quarter were effected in compliance with the conditions and procedures set forth herein, and (2) review no less frequently than annually the conditions and procedures set forth herein for continuing appropriateness.

e. Each Fund will (1) maintain and preserve permanently in an easily accessible place a written copy of the conditions and procedures (and modifications thereto) described in the application or otherwise followed in connection with lending securities, and (2) maintain and preserve for a period not less than six years from the end of the fiscal year in which any loan transaction occurred, the first two years in an easily accessible place, a written record of each such loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, the terms of the loan transaction, and the information or materials upon which the determination was made that each

loan was in accordance with the procedures set forth above and the conditions to the application.

Applicants' Legal Analysis

1. Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any investment adviser of the investment company and any person directly or indirectly controlling, or under common control with, such investment adviser. Under section 2(a)(3), OpCo, which owns all of the outstanding stock of Advantage, is an affiliated person of Advantage. Since Advantage is an affiliated person of each Fund by virtue of its position as an investment adviser of each Fund, OpCo may thereby be deemed an affiliated person of an affiliated person of each Fund. OpCo also may be deemed an affiliated person of the Czech Fund, for which OpCo Advisors (''OpCap'') serves as day-to-day investment adviser, by virtue of the fact that OpCo and OPCap are under common control.

2. Section 17(d) of the Act and rule 17d–1 thereunder make it unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or other joint arrangement or profit-sharing plan in which such investment company is a joint participant, unless an application regarding such joint enterprise or other joint arrangement or profit-sharing plan has been filed with the SEC and has been granted by an order of the SEC. Rule 17d–1 provides that, in passing upon any such application, the SEC will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement or profit-sharing plan is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of the other participants. To the extent that OpCo's proposed activities as lending agent for the Funds in return for a share of the revenue generated thereby may be deemed a joint enterprise or profit sharing plan, applicants believe that such activities would be prohibited by section 17(d) and rule 17d–1.

3. Applicants believe that the procedures to be adopted by each Fund with respect to the Fund's employment of OpCo as lending agent will ensure the fairness of the fee arrangement and other terms governing this relationship. Applicants state that the proposed conditions and procedures place reliance on the directors who are not interested persons of a Fund to determine that the lending arrangements are fair and reasonable and in the best interests of the Fund and its shareholders. Accordingly, applicants believe that the application satisfies the standards for relief set forth in rule 17d–1.

Applicants' Conditions

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

1. No Fund may lend its portfolio securities to a borrower that is an affiliated person of the Fund, any adviser of the Fund, or OpCo, or to an affiliated person of any such person.

2. Except as set forth herein, the securities lending program of each Fund will comply with all present and future applicable SEC staff positions regarding securities lending arrangements, *i.e.*, with respect to the type and amount of collateral, voting of loaned securities, limitations on the percentage of portfolio securities on loan, prospectus disclosure, termination of loans, receipt of dividends or other distributions, and compliance with fundamental policies.[1]

3. Approval of the board of directors of a Fund, including a majority of directors who are not ''interested persons'' under the Act, shall be required for the initial and subsequent approvals of OpCo's service as lending agent for the Fund, for the institution of all procedures relating to the securities lending program of the Fund, and for any periodic review of loan transactions for which OpCo acted as lending agent.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–9301 Filed 4–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37089; File No. SR–CBOE–96–12]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc., to Change the Method for Determining the Exercise Settlement Value of Nasdaq-100 Options

April 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 12, 1996, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange subsequently filed Amendment No. 1 to the proposed rule change on April 2, 1996.[3] The CBOE has requested accelerated approval for the proposal. This order approves the CBOE's proposal, as amended, on an accelerated basis and solicits comments from interested persons.

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

The CBOE is proposing to change the method of determining the settlement value of Nasdaq-100 options (''NDX'').[4] Currently, the NDX is an A.M.-settled index option. The Exchange is proposing that the NDX be settled by using the weighted average transaction prices of its underlying securities during a five-minute period on the last day of trading prior to expiration.

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 CBOE 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 III below. The CBOE 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] *See, e.g.,* SIFE Trust Fund (pub. avail. Feb. 17, 1982).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* letter from Timothy Thompson, Senior Attorney, CBOE, to Matthew S. Morris Attorney, Options and Derivatives Regulation, Division of Market Regulation, Commission, dated April 2, 1996 (''Amendment No. 1''). In Amendment No. 1, the CBOE represented that it would issue a regulatory circular to its membership concerning the change in settlement methodology for the Nasdaq-100 options. In addition, in Amendment No. 1 the CBOE confirmed that: (i) Nasdaq, Inc. will provide to the Exchange, on an on-going basis, the calculation of the settlement values for Nasdaq-100 options under both the old and new settlement methods; and (ii) neither the change in the settlement method for Nasdaq-100 options nor the operation of a dual settlement methodology will cause any operational problems for the Options Clearing Corporation (''OCC'').

[4] The NDX is a capitalization-weighted index composed of the stocks of 100 of the largest non-financial issuers whose securities are traded on Nasdaq.