

has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 97-240 Filed 1-6-97; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22425; International Series Release No. 1041; 812-10184]

Canadian Imperial Holdings Inc.; Notice of Application

December 31, 1996.

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

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

APPLICANT: Canadian Imperial Holdings Inc.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicant from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant requests an order that would permit it to sell certain debt securities and use the proceeds to finance the business activities of its parent company, Canadian Imperial Bank of Commerce ("CIBC"), and certain companies controlled by CIBC.

FILING DATE: The applicant was filed on June 6, 1996 and was amended on December 20, 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 applicant 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 27, 1997, 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 notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 425 Lexington Avenue, 9th Floor, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942-0573, 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 at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Delaware corporation formed in December, 1981. All of applicant's outstanding voting securities are owned by CIBC. CIBC, a diversified financial institution governed by the Bank Act (Canada), provides, directly and through its subsidiaries, a broad range of personal, commercial, investment, and corporate banking services for its customers throughout the world. CIBC Inc. ("CI") is a wholly-owned subsidiary of applicant that engages in the business of making loans primarily to commercial and industrial companies, real estate related loans and lease activities, and loans to depository institutions and foreign governments. CIBC Leasing Inc., also a wholly-owned subsidiary of applicant, engages in commercial leasing activities, primarily equipment leases to manufacturing companies.

2. In addition to owning CI and CIBC Leasing Inc., applicant acts as a holding company for CIBC's United States subsidiaries ("U.S. Subsidiaries"). Applicant also engages in financing activities and provides funds for CIBC, CI, CIBC Leasing Inc., and the U.S. Subsidiaries (collectively, the "CIBC Entities"). Applicant proposes to obtain funds through the offer and sale of its debt securities in the United States and in overseas markets, and to lend the proceeds to the CIBC Entities.

3. Due to the nature of the debt markets, applicant may borrow in amounts exceeding the amounts required by the CIBC Entities at any given time. However, at least 85% of the cash or cash equivalents raised by applicant through the sale of debt securities will be loaned to the CIBC Entities as soon as practicable, but in no event later than six months after applicant's receipt of such cash or cash equivalents. Amounts that are not loaned to the CIBC Entities will be invested in government securities, securities of CIBC, CI or a company

controlled by CIBC (or, in the case of a partnership or joint venture, the securities of the partners or participants in the joint venture), debt securities (including repurchase agreements) which are exempted from the provisions of the Securities Act of 1933 (the "Securities Act") by section 3(a)(3) of the Securities Act, or equity securities of unaffiliated companies in an amount that does not exceed 4% of applicant's assets.

4. Any issuance of debt securities by applicant will be guaranteed unconditionally by CIBC as to the payment of principal, interest, and premium on the securities, if any (the "Guarantee"), in accordance with rule 3a-5(a)(1). The Guarantee will provide each holder of applicant's debt securities a direct right of action against CIBC to enforce CIBC's obligations under the Guarantee without first proceeding against applicant.

Applicant's Legal Analysis

1. Applicant requests relief under section 6(c) of the Act for an exemption from all provisions of the Act. The Commission has determined that it is appropriate to exempt a finance subsidiary from all provisions of the Act where the primary purpose of the finance subsidiary is to finance the business operations of its parent or other subsidiaries controlled by its parent and where any purchaser of the finance subsidiary's securities ultimately looks to the parent for repayment and not to the finance subsidiary.¹

2. Rule 3a-5(b)(3)(i) in relevant part defines a "company controlled by the parent company" to be a corporation, partnership, or joint venture that is not considered an investment company under section 3(a) or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules and regulations under section 3(a). Certain of the CIBC Entities do not fit within the technical definition of "companies controlled by the parent company" because they derive their non-investment company status from section 3(c) of the Act.

3. In the release adopting rule 3a-5, the Commission stated that it may be appropriate to grant exemptive relief to the finance subsidiary of a section 3(c) issuer, but only on a case-by-case basis upon an examination of all relevant

¹ Investment Company Act Release No. 14275 (Dec. 14, 1984) (release adopting rule 3a-5 under the Act). Rule 3a-5 provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

facts. According to the adopting release, the concern was that a company may be considered a non-investment company for the purposes of the Act under section 3(c) and still be engaged primarily in investment company activities. Applicant states that none of the CIBC Entities to which applicant may loan money are engaged primarily in investment company activities. In addition, if CIBC issued the securities that are to be issued by applicant and use the proceeds, none of the CIBC Entities would be subject to regulation under the Act. While CIBC has chosen instead to use applicant as a financing vehicle, the Guarantee ensures that holders of applicant's securities will have direct access to CIBC's credit.

4. Under rule 3a-5(a)(6), a finance subsidiary may only invest in government securities, securities of its parent company or a company controlled by its parent company, or debt securities exempt under section 3(a)(3) of the Securities Act. Applicant intends to invest in equity securities of unaffiliated companies in an amount that does not exceed 4% of its assets. Applicant will hold such securities due to non-U.S. tax constraints applicable to CIBC. Applicant's primary purpose, however, will continue to be the financing of the business operations of CIBC and companies controlled by CIBC. In addition, purchasers of applicant's debt securities will receive disclosure documents that make clear that such purchasers should ultimately look to CIBC for repayment pursuant to CIBC's guarantee. Thus, applicant asserts that, because neither its structure nor its mode of operation will resemble that of an investment company, the holders of applicant's securities will not rely on applicant's management of securities issued by unaffiliated companies.

5. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, 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. Applicant submits that the relief requested satisfies the section 6(c) standard.

Applicant's Condition

Applicant agrees that any order issued on this application shall be subject to the following condition:

Applicant will comply with all of the provisions of rule 3a-5 under the Act, except: (a) applicant will be permitted

to invest in or make loans to corporations, partnerships, and joint ventures that do not meet the portion of the definition of "company controlled by the parent company" in rule 3a-5(b)(3)(i) solely because they are excluded from the definition of investment company by section 3(c) (1), (3), (4), (6), or (7), *provided* that any such entity excluded from the definition of investment company pursuant to section 3(c)(1) will only engage in lending, leasing or related activities (such as entering into credit derivatives to manage that credit risk exposures of its lending and leasing activities) and will not be structured solely as a means of avoiding regulation under the Act, and *provided further*, that any such entity excluded from the definition of investment company pursuant to section 3(c)(6) of the Act will not be engaged primarily, directly or indirectly, in one or more of the businesses described in section 3(c)(5) of the Act; and (b) applicant will be permitted to invest in, reinvest in, own, hold, or trade in equity securities of unaffiliated companies with a purchase price not in excess of \$200 million (or any higher amount not in excess of 4% of applicant's assets).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-239 Filed 1-6-97; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Release No. 22421; 811-7069]

Senior High Income Portfolio II, Inc.; Notice of Application

December 30, 1996.

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

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

APPLICANT: Senior High Income Portfolio II, Inc.

RELEVANT ACT SECTION: Order requested under section 8(f) of the Act.

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

FILING DATE: The application was filed on October 8, 1996 and amended on December 13, 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 applicant 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 24, 1997, and should be accompanied by proof of service on the 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 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. Applicant, 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942-0517, 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. Applicant is a closed-end, non-diversified management investment company organized as a Maryland corporation. On July 19, 1993, applicant filed a Notification of Registration on Form N-8A pursuant to section 8(a) of the Act and a registration statement on Form N-2 under the Act and the Securities Act of 1933. The registration statement became effective on September 17, 1993, and applicant commenced the initial public offering the same day.

2. On December 6, 1995, applicant's board of directors approved an Agreement and Plan of Merger (the "Plan") whereby applicant would transfer its assets to Senior High Income Portfolio, Inc. ("SHIP I"), a registered closed-end management investment company, in exchange for shares of SHIP I. Pursuant to rule 17a-8 under the Act,¹ applicant's board of directors determined that the proposed reorganization was in the best interest of applicant and that the interests of the existing shareholders would not be

¹ Rule 17a-8 provides an exemption from section 17(a) of the Act for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers.