

with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 20, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After March 20, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Cinergy Corp. (70-9445)

Cinergy Corp. ("Cinergy"), 139 East Fourth Street, Cincinnati, Ohio 45202, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

On December 12, 1999, Cinergy's board of directors adopted the Cinergy Corp. Sharesave Scheme, an employee savings plan ("Plan"), for employees of Cinergy Global Power Services Ltd. ("CGPS"), an indirect wholly owned subsidiary of Cinergy organized under the laws of the United Kingdom. Adoption of the Plan does not require shareholder approval. Cinergy proposes to issue and sell under the Plan up to 75,000 shares of Cinergy common stock ("Common Stock") to employees of CGPS through December 31, 2004.

An employee may participate in the Plan by entering into a savings contract ("Savings Contract") under which he or she would make monthly contributions into a savings account ("Savings Account") for either a three or five year period ("Savings Period"). Each employee participating in the Plan would be granted a right, which may be exercised at the end of the Savings Period, to acquire shares of Common Stock using the funds accumulated in his or her Savings Account. The price at which the shares may be acquired by

the employee would be set at a discount of up to twenty percent off the average high and low sales price for the Common Stock on a predetermined date preceding the execution by the employee of the Savings Contract.

Participants are not required to exercise their right to acquire shares of Common Stock. If the Option Price is higher than the market value of the Common Stock on the Option maturity date, participants may withdraw the amounts accrued in their respective Savings Accounts to that date.

A three-person committee, initially made up of two CGPS officers and one Cinergy officer, will administer the Plan, which will have a ten year duration. Cinergy intends to use authorized, unissued, as well as, previously issued shares of Common Stock acquired by Cinergy to provide the shares acquired through the Plan.

Cinergy proposes to use proceeds from sales of Common Stock under the Plan for general corporate purposes.

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

Jonathan G. Katz,
Secretary.

[FR Doc. 99-5465 Filed 3-4-99; 8:45 am]
BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23722; 812-11470]

The Victory Portfolios, et al.; Notice of Application

February 26, 1999.

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

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION:

Applicants request an order to permit the Victory Special Growth Fund, a series of The Victory Portfolios, to acquire all of the assets and liabilities of the Gradison Opportunity Growth Trust, a series of Gradison Growth Trust. Because of certain affiliations, applicants may not rely on rule 17a-8 under the Act.

APPLICANTS: The Victory Portfolios ("Victory"), Gradison Growth Trust ("Gradison"), and Key Asset Management Inc. ("Adviser").

FILING DATES: The application was filed on January 13, 1999. Applicants have agreed to file an amendment to the

application during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 22, 1999, 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 Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549. Applicants, c/o S. Elliot Cohan, Esq., Kramer Levin Naftalis & Frankel LLP, 919 Third Avenue, New York, New York 10022-3852.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942-0714, or George J. Zornada, 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 Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (telephone (202) 942-8090).

Applicants' Representations

1. Victory, a Delaware business trust, is registered under the Act as an open-end management investment company and is currently comprised of thirty series, including the Victory Special Growth Fund (the "Acquiring Fund"). Gradison, an Ohio business trust, is registered under the Act as an open-end management investment company. Gradison Opportunity Value Fund (the "Acquired Fund") is a series of Gradison.

2. The Adviser, a New York corporation, is registered under the Investment Advisers Act of 1940 ("Advisers Act") and is the investment adviser to the Acquiring Fund. At the time of the Reorganization, as defined below, the Adviser will be a bank holding company subsidiary of KeyCorp, a financial services holding company. McDonald Investments, Inc. ("McDonald") is registered under the

Advisers Act and is the investment adviser to the Acquired Fund. McDonald's parent corporation has merged with Key Corp and McDonald plans to combine its advisory services with the Adviser. A pooled investment vehicle managed by a division of the Adviser for the benefit of KeyCorp employees (the "Cash Balance Fund") owns 42.6% of the Acquiring Fund.

3. On November 6, 1998, and December 11, 1998, the boards of trustees of Victory and Gradison (together, the "Boards"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees"), respectively, approved an Agreement and Plan Reorganization and Termination ("Plan"). Under the Plan, on the date of the exchange (the "Closing Date"), which is currently anticipated to be March 25, 1999, the Acquiring Fund will acquire all of the assets and liabilities of the Acquired Fund in exchange for Class G shares of the Acquiring Fund that have an aggregate net asset value ("NAV") equal to the aggregate NAV of the Acquired Fund as of the close of business on the business day preceding the Closing Date. On the Closing Date, or as soon as practical thereafter, the Acquired Fund will liquidate and distribute *pro rata* the Class G shares of the Acquiring Fund to the shareholders of the Acquired Fund (the "Reorganization"). The value of the assets of the Funds will be determined in the manner set forth in the Funds' then-current prospectuses and statements of additional information.

4. Applicants state that the investment objectives, policies, and limitations of the Acquiring Fund are similar to those of the Acquired Fund. Class G shares of the acquiring Fund are not subject to any sales charge or redemption fee, but do pay and asset-based sales charge that is the same as the asset-base sales charge imposed on shares of the Acquired Fund. For a period of at least two years following the Reorganization, the Adviser has agreed to waive or reimburse expenses so that the total fund operating expenses of the Acquiring Fund would not exceed the total fund operating expenses of the Acquired Fund. Shareholders of the Acquired Fund will not incur any sales charges in connection with the Reorganization. Legal and audit expenses of the Reorganization will be borne by Victory and expenses related to the registration of shares will be borne by the Acquiring Fund's distributor, BISYS Fund Services, Inc.

5. The Boards, including all of the Independent Trustees, determined that

the Reorganization is in the best interests of the shareholders of the Acquired Fund and the Acquiring Fund, and that the interests of the existing shareholders of the Acquired Fund and Acquiring Fund would not be diluted by the Reorganization. In assessing the Reorganization, the Boards considered various factors, including: (a) The investment objectives, policies and limitations of the Acquired and Acquiring Funds; (b) the terms and conditions of the Reorganization; (c) the tax free-nature of the Reorganization; (d) the expense ratios of the Acquiring and Acquired Funds; and (e) alternative options to the Reorganization.

6. The Reorganization is subject to a number of conditions precedent, including that: (a) The shareholders of the Acquired Fund approve the Plan; (b) the Acquiring and Acquired Funds receive opinions of counsel that the Reorganization will be tax-free for the Funds; and (c) applicants receive from the Commission an exemption from section 17(a) of the Act for the Reorganization. The Plan may be terminated and the Reorganization abandoned by mutual consent of the Boards or by either party in case of a breach of the Plan. Applicants agree not to make any material changes to the Plan without prior Commission approval.

7. Definitive proxy solicitation materials have been filed with the Commission and were mailed to shareholders of the Acquired Fund on January 31, 1999. A special meeting of shareholders is scheduled for March 5, 1999.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or

sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a-8 in connection with the Reorganization because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that KeyCorp may be deemed to have an indirect pecuniary interest in the assets held by the Cash Balance Fund. Applicants further state that because the Cash Balance Fund owns 42.6% of the Acquiring Fund, the Acquiring Fund may be deemed an affiliated person of an affiliated person of the Acquired Fund for a reason other than having a common investment adviser, common directors and/or common officers.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(b) of the Act. Applicants believe that the terms of the Reorganization are fair and reasonable and do not involve overreaching. Applicants state that the Reorganization will be based on the relative NAVs of the Acquiring and Acquired Funds' shares. Applicants also state that the investment objectives, policies and restrictions of the Funds are, in material respects, substantially similar. In addition, applicants state that the Boards, including all of the Independent Trustees, have made the requisite determinations that the participation of the Acquiring and Acquired Funds in the Reorganization is in the best interests of each Fund and that such participation will not dilute the interests of shareholders of the Funds.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 99-5443 Filed 3-4-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-23721]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

February 26, 1999.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of February, 1999. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW, Washington, DC 20549 (tel. 202-942-8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant 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 March 23, 1999, 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 who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. For Further Information Contact: Diane L. Titus, at (202) 942-0564, SEC, Division of Investment Management, Office of Investment Company Regulation, Mail Stop 5-6, 450 Fifth Street, NW, Washington, DC 20549.

Morgan Stanley Dean Witter Intermediate Term U.S. Treasury Trust [File No. 811-7249]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 26, 1998, applicant made a final liquidating distribution to its securityholders at net asset value per share. Expenses of approximately \$16,000 incurred in connection with the liquidation were paid by Morgan Stanley Dean Witter Advisors Inc., applicant's investment adviser.

Filing Date: The application was filed on January 27, 1999.

Applicant's Address: Two World Trade Center, New York, New York 10048.

Concord Fund, Inc. [File No. 811-566]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. As of January 29, 1999, applicant made a liquidating distribution to 104 shareholders. On that same date applicant had 272 registered shareholder accounts that had not surrendered their shares. ChaseMellon Shareholder Services, L.L.C., applicant's disbursing agent, is holding funds representing the aggregate liquidation value of applicant's remaining shares. Expenses of approximately \$67,151 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on January 20, 1999 and amended on February 5, 1999.

Applicant's Address: c/o Shapiro, Weiss & Company, 60 State Street, 38th Floor, Boston, Massachusetts 02109.

Russia and Eastern Europe Portfolio [File No. 811-8491]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities, nor does it propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on January 28, 1999.

Applicant's Address: c/o Boston Management and Research, 24 Federal Street, Boston, Massachusetts 02110.

Taurus MuniNew York Holdings, Inc. [File No. 811-5884]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 9, 1998, applicant transferred all its assets and liabilities to MuniYield New York Insured Fund II, Inc. ("MuniYield Insured II") in exchange for shares of common stock and shares of auction market preferred stock ("AMPS") of MuniYield Insured II. Each holder of applicant's common stock received the number of shares of MuniYield Insured II common stock with a net asset value ("NAV") equal to the NAV of applicant's common stock held by such shareholder, and each holder of applicant's AMPS received the number of shares of MuniYield Insured II AMPS with an aggregate liquidation preference equal to the aggregate liquidation preference of applicant's AMPS owned by such shareholder. MuniYield Insured

II paid approximately \$281,000 in expenses incurred in connection with the reorganization. In addition, applicant incurred approximately \$4,000 in liquidation expenses.

Filing Dates: The application was filed on September 14, 1998 and amended on January 12, 1999 and February 17, 1999.

Applicant's Address: 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

Taurus MuniCalifornia Holdings, Inc. [File No. 811-5882]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 9, 1998, applicant transferred all of its assets and liabilities to MuniYield California Fund, Inc. ("MuniYield California") in exchange for shares of common stock and shares of auction market preferred stock ("AMPS") of MuniYield California. Each holder of applicant's common stock received the number of shares of MuniYield California common stock with a net asset value ("NAV") equal to the NAV of applicant's common stock held by such shareholder, and each holder of applicant's AMPS received the number of shares of MuniYield California AMPS with an aggregate liquidation preference equal to the aggregate liquidation preference of applicant's AMPS owned by such shareholder. MuniYield California paid approximately \$270,000 in expenses incurred in connection with the reorganization. In addition, applicant incurred approximately \$4,000 in liquidation expenses.

Filing Dates: The application was filed on October 14, 1998 and amended on January 12, 1999 and February 17, 1999.

Applicant's Address: 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

SCM Portfolio Fund [File No. 811-5630]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By November 30, 1998, applicant had distributed substantially all of its assets to its securityholders at the net asset value per share. Expenses incurred in connection with the liquidation totaled \$5,258, of which the board of directors paid approximately \$4,844 and non-board securityholders paid approximately \$414.

Filing Dates: The application was filed on December 24, 1998. Applicant has agreed to file an amendment during the notice period.