noted a cost-based cap may be the most equitable means for assessing fees and reducing the costs of market data users.[19]

IV. Discussion

The Commission finds that the proposed plan amendments are consistent with the Act and the rules and regulations thereunder.[20] Specifically, the Commission finds that approval of the amendments is consistent with Rule 11Aa3–2(c)(2)[21] of the Act.

The Commission currently is conducting a broad review of the fee structures for obtaining market information and of the role of market information revenues in funding the self-regulatory organizations. As part of its review, the Commission intends to issue a release describing existing market information fees and revenues and inviting public comment on the subject. The proposed rule change implicates many of the issues that the Commission is reviewing. These include identifying the appropriate standards for determining (1) whether the fees charged by an exclusive processor of market information are fair and reasonable, and (2) whether a fee structure is unreasonably discriminatory or an inappropriate burden on competition.

The Commission has decided to approve the proposed plan amendments pending its review because they represent, in part, a very substantial reduction in the market information fees applicable to retail investors. In particular, the monthly fee for non-professional subscribers would be reduced from $3.25 per month to no greater than $1.00 per month. Under this monthly fee structure, there would be no limit on the amount of market information that retail investors would be entitled to receive. Such, a fee structure may enable vendors, to provide retail investors with more useful services than have previously been provided. In this regard, the proposed plan amendments are consistent with, and significantly further, one of the principal objectives for the national market system set forth in Section 11A(a)(1)(C)(iii)—increasing the availability of market information to broker-dealers and investors. The Commission wishes to emphasize, however, that its review of market information fees and revenues is ongoing and may require a re-evaluation of the fee structures contained in the proposed plan amendments at some point in the future.

The Commission recognizes that one commenter opposes the proposal, while the other supports approval of the proposed fee reductions primarily because they represent an improvement over the CTA's current fee structure. Other issues raised by the commenters (*e.g.*, discriminatory impact of the CTA fee structure on on-line investors, the appropriate standard to be applied in assessing the fairness and reasonableness of market information fees) have broader implications on the functioning and regulation of the national market system. As such, these issues will be addressed in the Commission's forthcoming concept release on market information fees and revenues.

The Commission also finds that the minor, non-substantive changes made to the form of Schedules A–3 of Exhibit E to both the CTA and CQ Plans reflect the proposed amendments, thereby clarifying the fee schedules to make them more understandable.

V. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,[22] and the rules thereunder, that the proposed amendments to the Plans (SR–CTA/CQ–99–02) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30274 Filed 11–18–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24135; File No. 812–11480]

PFL Life Insurance Company, et al.

November 15, 1999.

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

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

Applicants: PFL Life Insurance Company (''PFL''), PFL Endeavor VA Separate Account (''PFL Endeavor Account''), PFL Endeavor Target Account, PFL Retirement Builder Variable Annuity Account (''Retirement Builder Account''), PFL Life Variable Annuity Account C (''PFL Account C''), AUSA Life Insurance Company (''AUSA''), AUSA Endeavor Variable Annuity Account (''AUSA Endeavor Account''), AUSA Endeavor Target Account (together with PFL Endeavor Target Account, the ''Target Accounts''), AFSG Securities Corporation (''AFSG''), Western Reserve Life Assurance Co. Of Ohio (''Western Reserve''), WRL Series Annuity Account (''WRL Account''), Peoples Benefit Life Insurance Company (''Peoples Benefit''), Peoples Benefit Life Insurance Company Separate Account V (''People's Benefit Account''), Transamerica Occidental Life Insurance Company (''Transamerica Occidental''), Separate Account VA–2L, Transamerica Life Insurance Company of New York (''Transamerica New York''), Separate Account VA–2LNY, Separate Account VA–6NY, Transamerica Life Insurance and Annuity Company (''Transamerica''), Separate Account VA–6, and Separate Account VA–7 (all collectively, the ''Applicants'').

Relevant Sections of the Act: Order of exemption requested under Section 6(c) of the Act from the Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder.

Summary of Application: PFL, AUSA, Western Reserve, Peoples Benefit, Transamerica Occidental, Transamerica New York, and Transamerica are together referenced herein as the ''Companies,'' or individually as a ''Company.'' The PFL Endeavor Account, Retirement Builder Account, PFL Account C, AUSA Endeavor Account, Target Accounts, WRL Account, Peoples Benefit Account, Separate Account VA–2L, Separate Account VA–2LNY, Separate Account VA–6NY, Separate Account VA–6, and Separate Account VA–7 are together referenced herein as the ''Accounts,'' or individually as an ''Account.'' Applicants seek an order of the Commission exempting them with respect to the support of variable annuity policies that are similar in all material respects to the policies described herein, issued both currently (''Policies'') and the future (''Future Policies of Accounts''), and any other separate accounts of the Companies or their affiliated insurance companies that are controlling, controlled by, or under common control (within the meaning of Section 2(a)(9) of the Act) with the Companies (''Future Accounts'') that

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[19] *Id.*

[20] The Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f). The Commission realizes that the modified fee structure, as applied, may create competitive disparties. The new fee structure will, however, reduce the cost of access to market information, which should result in a reduction of costs for investors. The competitive concerns and solutions suggested by the commenters will be addressed in the Commission's forthcoming concept release on market information fees and revenues.

[21] 17 CFR 240.11Aa3–2(c)(2).

[22] 15 U.S.C. 78k–1.

[23] 17 CFR 200.30–3(a)(27).

support in the future variable annuity policies that are similar in all material respects to the policies described herein (''Future Policies of Future Accounts,'' and together with the Future Policies of Accounts, ''Future Policies''), and certain National Association of Securities Dealers, Inc. (''NASD'') member broker-dealers which may, in the future, act as principal underwriter of such policies (''Future Underwriters''), from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, pursuant to Section 6(c) of the Act, to the extent necessary to permit the deduction of a charge on certain redemptions under the optional Family Income Protector Rider, as summarized herein, available to the Policies and Future Policies.

Filing Date: The Application was filed on January 27, 1999, and amended and restated on June 3, 1999, July 12, 1999, and November 2, 1999.

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 Secretary of the Commission 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 December 8, 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 Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Frank A. Camp, Esquire, PFL Life Insurance Company, 4333 Edgewood Road, NE, Cedar Rapids, Iowa 52499. Copies to Frederick R. Bellamy, Esquire, Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, N.W., Washington, D.C. 20004–2415.

FOR FURTHER INFORMATION CONTACT: Ann L. Vlcek, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. PFL is a stock life insurance company. It was incorporated under the name NN Investors Life Insurance Company, Inc. under the laws of the State of Iowa on April 19, 1961. It is principally engaged in the sale of life insurance and annuity policies, and is licensed in the District of Columbia, Guam, and in all states except New York. PFL is a wholly-owned indirect subsidiary of AEGON USA, Inc., which conducts substantially all of its operations through subsidiary companies engaged in the insurance business or in providing non-insurance financial services. All of the stock of AEGON USA, Inc. is indirectly owned by AEGON n.v. of the Netherlands. AEGON n.v., a holding company, conducts its business through subsidiary companies engaged primarily in the insurance business.

2. AUSA is a stock life insurance company. It was incorporated under the laws of the State of New York on October 3, 1947. It is principally engaged in the sale of life insurance and annuity policies, and is licensed in the District of Columbia, and in all states except Alabama and Hawaii. AUSA is a wholly-owned indirect subsidiary of AEGON USA, Inc.

3. Western Reserve was incorporated under the laws of Ohio on October 1, 1957. It is engaged in the business of writing life insurance policies and annuity contracts. Western Reserve is licensed in the District of Columbia, Guam, Puerto Rico, and in all states except New York. Western Reserve is wholly-owned by First AUSA Life Insurance Company, a stock life insurance company which is wholly-owned by AEGON USA, Inc.

4. Peoples Benefit is a stock life insurance company incorporated under the laws of Missouri on August 6, 1920. People Benefit is principally engaged in offering life insurance, annuity contracts, and accident and health insurance, and is admitted to do business in all states except New York, as well as the District of Columbia and Puerto Rico. Peoples Benefit is a wholly-owned indirect subsidiary of AEGON USA, Inc.

5. Transamerica Occidental is a stock life insurance company incorporated under the laws of the State of California on June 30, 1906. It is mainly engaged in the sale of life insurance and annuity contracts. On July 21, 1999, Transamerica Corporation completed its merger with a subsidiary of AEGON N.V. Transamerica Corporation, a subsidiary of AEGON N.V., indirectly owns Transamerica Occidental.

6. Transamerica New York is a stock life insurance company incorporated under the laws of the State of New York on February 5, 1986. It is mainly engaged in the sale of life insurance and annuity policies. On July 21, 1999, Transamerica Corporation completed its merger with a subsidiary of AEGON N.V. Transamerica Corporation, a subsidiary of AEGON N.V., indirectly owns Transamerica New York.

7. Transamerica is a stock life insurance company incorporated under the laws of the State of California in 1966. The company moved to North Carolina in 1994. It is principally engaged in the sale of life insurance and annuity policies. On July 21, 1999, Transamerica Corporation completed its merger with a subsidiary of AEGON N.V. Transamerica Corporation, a subsidiary of AEGON N.V., indirectly owns Transamerica.

8. Each Account is comprised of sub-accounts established to receive and invest net purchase payments under the Policies (the ''Subaccounts''). The income, gains and losses, realized or unrealized, from the assets allocated to each Subaccount (each ''Investment Option'') will be credited to or charged against that Investment Option without regard to other income, gains or losses of the Companies. Applicants represent that each Account meets the definition of a ''separate account'' in Rule 0–1(e) under the Act.

9. The Board of Directors of PFL established the PFL Endeavor Account on January 19, 1990. The PFL Endeavor Account is registered under the Act as a unit investment trust (File No. 811–6032). The assets of the PFL Endeavor Account support certain flexible premium variable annuity policies, and interests in the PFL Endeavor Account offered through such contracts have been registered under the Securities Act of 1933 (''1933 Act'') on Form N–4 (File Nos. 33–33085 and 33–56908).

10. The Board of Directors of AUSA established the AUSA Endeavor Account on September 7, 1994. The AUSA Endeavor Account is registered under the Act as a unit investment trust (File No. 811–8750). The assets of the AUSA Endeavor Account support certain flexible premium variable annuity policies, and interests in the AUSA Endeavor Account offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 33–83560).

11. The Board of Directors of PFL established the Retirement Builder Account on March 29, 1996. The Retirement Builder Account is registered under the Act as a unit investment trust (File No. 811–7689).

The assets of the PFL Endeavor Account support certain flexible premium variable annuity policies, and interests in the PFL Endeavor Account offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 33–7509).

12. The Board of Directors of PFL established PFL Account C on February 20, 1997. PFL Account C is registered under the Act as a unit investment trust (File No. 811–9503). The assets of PFL Account C support certain flexible premium variable annuity policies, and interests in PFL Account C offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 33–83957).

13. The Target Accounts are registered under the Act as open-end management investment companies (File No. 811–8377 for the PFL Endeavor Target Account, and File No. 811–9305 for the AUSA Endeavor Target Account). The assets of the Target Accounts support certain flexible premium variable annuity policies, and interests in the Target Accounts offered through such contracts have been registered under the 1933 Act on Form N–3 (File Nos. 33–47027 and 33–36297 for contracts issued by PFL, and File No. 33–76803 for contracts issued by AUSA). Each Target Account is a managed account and may be divided into two or more Subaccounts, each of which invests according to specific investment strategies. PFL may establish additional Subaccounts in the future.

14. The Board of Directors of Western Reserve established the WRL Account on April 12, 1988. The WRL Account is registered under the Act as a unit investment trust (File No. 811–5672). The assets of the WRL Account support certain flexible premium variable annuity policies, and interests in the WRL Account offered through such contracts have been registered under the 1933 Act on Form N–4 (File Nos. 33–82705 and 33–84773).

15. The Board of Directors of Peoples Benefit established the Peoples Benefit Account on February 14, 1992. The Peoples Benefit Account is registered under the Act as a unit investment trust (File No. 811–06564). The assets of the Peoples Benefit Account support certain flexible premium variable annuity policies, and interests in the Peoples Benefit Account offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 33–79502).

16. The Board of Directors of Transamerica Occidental established Separate Account VA–2L on May 22, 1992. Separate Account VA–2L is registered under the Act as a unit investment trust (File No. 811–07042). The assets of Separate Account VA–2L support certain flexible premium variable annuity policies, and interests in Separate Account VA–2L offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 33–49998).

17. The Board of Directors of Transamerica New York established Separate Account VA–2LNY on June 23, 1992. Separate Account VA–2LNY is registered under the Act as a unit investment trust (File No. 811–07368). The assets of Separate Account VA–2LNY support certain flexible premium variable annuity policies, and interests in Separate Account VA–2LNY offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 33–55152).

18. The Board of Directors of Transamerica New York established Separate Account VA–6NY on September 11, 1996. Separate Account VA–6NY is registered under the Act as a unit investment trust (File No. 811–08677). The assets of Separate Account VA–6NY support certain flexible premium variable annuity policies, and interests in Separate Account VA–6NY offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 33–47219).

19. The Board of Directors of Transamerica established Separate Account VA–6 on June 11, 1996. Separate Account VA–6 is registered under the Act as a unit investment trust (File No. 811–07753). The assets of Separate Account VA–6 support certain flexible premium variable annuity policies, and interests in Separate Account VA–6 offered through such contracts have been registered under the 1933 Act on Form N–4 (File Nos. 33–09745 and 33–37883).

20. The Board of Directors of Transamerica established Separate Account VA–7 on June 11, 1996. Separate Account VA–7 is registered under the Act as a unit investment trust (File No. 811–08835). The assets of Separate Account VA–7 support certain flexible premium variable annuity policies, and interests in Separate Account VA–7 offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 33–57697).

21. AFSG, an affiliate of the Companies, is the principal underwriter and the distributor of the Policies. AFSG is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934, as amended, and is a member of the NASD. AFSG may enter into written sales agreements with various broker-dealers or banks to aid in the distribution of the Policies.

22. Each Investment Option (other than the Target Accounts) will invest exclusively in a designated series of shares, representing an interest in a particular portfolio of one or more designated management investment companies of the series type (''Funds''). Applicants reserve the right to designate the shares of another portfolio of the Funds or of other management investment companies of the series type (''Other Funds'') as the exclusive investment vehicle for each new Investment Option that may be created in the future. Subject to Commission approval under Section 26(b) of the Act, Applicants also reserve the right to substitute the shares of another portfolio of the Funds or of other Funds for the portfolio previously designated as the exclusive investment vehicle for each Investment Option.

23. The Policies are flexible premium variable annuity policies issued by the Companies through their respective separate accounts. The Policies provide for accumulation of values on a variable basis, fixed basis, or both during the accumulation period, and may provide settlement or annuity payment options on a variable basis, fixed basis, or both. The Policies may be purchased on a non-qualified tax basis. The Policies may also be purchased and used in connection with plans qualifying for favorable federal income tax treatment.[1]

24. The Policy owner determines how the initial net purchase payment will be allocated among the Investment Options of the Accounts and any guaranteed period options or dollar cost averaging option of the fixed account (the ''Fixed Account Options''). The Policy owner may allocate any whole percentage of net purchase payments, from 0% to 100%, to each Investment Option and to each Fixed Account Option. The Policy value will vary with the investment performance of the Investment Options selected, and the Policy owner bears the entire risk for amounts allocated to an Account.

25. A Policy owner may transfer Policy values. Transfers out of a Subaccount generally must be for at least a specified dollar amount, or the entire value of the Subaccount. If less than the specified amount would remain in a Subaccount following such

[1] The Companies state that the policies may use different terminology, such as contract or policy, investment option or investment division or sub-account, fixed account or guaranteed period option or general account, annuity commencement date or annuity date or maturity date, funds or portfolios, policy value or cash value or cash value or account value, *etc.*

a transfer, a Company may, at its discretion, either deny the transfer or include that amount as part of the transfer. Transfers may be limited, or a charge may apply. The Policy owner may surrender the Policy or make a partial withdrawal from the Policy value.

26. The Policy owner may elect or change an annuity payment option during the life-time of the Policy owner. The first annuity payment will be made as of the annuity commencement date. The Policy owner generally may change the annuity commencement date, subject to limits specified in the prospectus. The amount of each annuity payment under the annuity payment options will depend on the sex (if allowed) and age of the annuitant (or annuitants) at the time the first payment is due and the payment option.

27. The Family Income Protector rider [2] is an optional benefit which is available to Policy owners in the Accounts. It assures a Policy owner a minimum level of income in the future by guaranteeing a minimum annuitization value after 10 years, based on the Policy value at the date the rider is issued (the ''Rider Date'') [3] (adjusted for any withdrawals, applicable taxes and charges), and increased by a guaranteed annual growth rate (the ''Minimum Annuitization Value''). On the Rider Date, the Minimum Annuitization Value equals the Policy value. Thereafter, it will equal the Policy value on the Rider Date, plus any additional payments, minus an adjustment for any withdrawals made after the Rider Date, accumulated at an annual growth rate (specified in the rider) minus premium taxes. The annual growth rate is currently 6% per year, but may be increased or decreased by a Company at its discretion. The annual growth rate will never be less than 3% per year and, once in effect with respect to a particular rider, cannot be changed from the rate specified in that rider. A Policy owner may upgrade a Minimum Annuitization Value within thirty days after a Policy anniversary if the Policy value is greater than the Minimum Annuitization Value. If a Policy owner elects such an upgrade, a Company will terminate the Family Income Protector Rider then in effect and issue a new Family Income Protector Rider.

28. A Policy owner may only exercise the Family Income Protector within the thirty days immediately following the tenth or later Policy anniversary after the Family Income Protector is elected. If an upgrade is elected, the earliest date that a Policy owner may exercise the Family Income Protector will be extended to the tenth Policy anniversary following the upgrade. If a Policy owner annuities their Policy at any other time, the Family Income Protector cannot be exercised, and therefore will provide no benefits. The Family Income Protector is only applicable if a Policy owner annuitizes under the rider.

29. The Companies guarantee that the annuity payments under the Family Income Protector Rider will never be less than the initial payment, and will also be ''stabilized'' or held constant during each Policy year. Under the Family Income Protector Rider, each Policy year the ''stabilized'' payments are guaranteed to never be less than the initial payment for the Policy year. However, if the annuity units in the selected Subaccounts can support a payment higher than the initial payment, then the ''stabilized'' payment will be that higher amount. For this ''stabilized'' payment guarantee, the Companies currently deduct a ''stabilized payment'' fee equal to an effective annual rate of 1.25% of the daily net asset value in the variable investment options. This stabilized payment fee is deducted only after annuitization, and only if annuitization is under the Family Income Protector Rider. This fee is reflected in the daily calculation of annuity unit values.[4] The Companies state that this stabilized payment fee is not the subject of this application.

30. Prior to the annuity commencement date, there will be a charge made each year for expenses related to the Family Income Protector available under the terms of the Family Income Protector Rider. The Companies deduct this charge through the cancellation of accumulation units at each Policy anniversary and at surrender to compensate it for the increased risks associated with providing the Family Income Protector Rider. The Companies state that the Family Income Protector Rider charge is not deducted when the Policy owner makes a partial withdrawal. Upon a full surrender prior to annuitization, the full charge is deducted. Surrenders are not permitted after annuitization, since the Family Income Protector Rider only applies to life contigent payment options. The Family Income Rider charge does not apply after annuitization. It is appropriate to deduct the charge upon surrender because it is an annual charge, and absent a surrender it applies retroactively, i.e., at the end of each Policy year. Deferring the charge and deducting it retroactively, at the end of each year, instead of deducting it prospectively, at the beginning of each year, gives Policy owners the benefit of any investment gains on that amount during the year.

31. The current Family Income Protector Rider charge equals an annual rate of 0.30% of the Minimum Annuitization Value on the previous Policy anniversary. The Companies guarantee that this charge will never exceed an annual rate of 0.50% of the Minimum Annuitization Value. The Family Income Protector Rider charge for a particular Rider cannot be changed after its Rider Date. Once elected, the Family Income Protector Rider cannot be canceled. This fee is the subject of this application.

Applicants' Legal Analysis

1. Applicants respectfully request that the Commission, pursuant to Section 6(c) of the Act, grant the exemptions set forth below to permit the Applicants to assess the full Family Income Protector Rider charge upon surrender where the Policy owner has elected the Family Income Protector Rider.

2. Section 6(c) authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the Act to the extent that the 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 state that, because the provisions described below may be inconsistent with certain aspects of the Family Income Protector Rider charge, they are seeking exemptions from Section 2(a)(32), 27(i)(2)(a) and 22(c) of the Act, and Rule 22c–1 thereunder, pursuant to Section 6(c), to the extent necessary to assess the full Family Income Protector Rider charge against Policies when a Policy owner surrenders the Policy prior to annuitization. Applicants seek exemptions therefrom in order to avoid any questions concerning the Policies' compliance with the Act and rules thereunder. For the reasons discussed below, Applicants assert that the

[2] The Companies state that the ''Family Income Protector'' is the name of the benefit in the current PFL and AUSA Policies, and that the benefit may have a different name in the other Companies' Policies (or in Future Policies). The Companies also state that, in the future, this feature may be included in the base policy rather than as a rider or endorsement.

[3] The Companies state that the Rider Date can be the date the policy is issued or a later date when the rider is elected.

[4] The Companies state that a Company may charge up to 2.25% for this stabilized payment fee but, for a particular rider, the amount cannot change after the Rider Date.

deduction of the Family Income Protector Rider charge is in the public interest and consistent with the protection of investors and purposes fairly intended by the Act.

3. Rule 6c–8(b) under the Act exempts a registered separate account and its depositor or principal underwriter from certain provisions of the Act and Rule 22c–1 to permit imposition of a deferred sales load on variable annuity contracts participating in such separate account. Applicants maintain that Rule 6c–8(b) is not available with respect to imposition of the Family Income Protector Rider charge because it is a charge for an optional insurance benefit rather than a deferred sales load.

4. Rule 6c–8(c) provides exemptions from certain provisions of the Act and Rule 22c–1 to permit deduction of a full annual administrative services fee from variable annuity contacts upon surrender. Applications state that the Family Income Protector Rider charge, however, is not a fee for ''administrative services,'' and therefore Rule 6c–8(c) is not applicable. Applicants note, however, that Rule 6c–8(c) permits deduction of the entire annual administrative fee upon surrender; it does not require that the feel be prorated.

5. Section 2(a)(32) of the Act defines ''redeemable security'' as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Applicants submit that the imposition of a Family Income Protector Rider charge upon surrender does not violate Section 2(a)(32) of the Act. Applicants state that the Companies assess the Family Income Protector Rider charge to compensate them for the increased risk they bear if a Policy owner elects the Family Income Protector Rider. Applicants further maintain that the Family Income Protector benefit represents an optional insurance benefit that the Companies may provide through the life of the Policy and for which they are entitled to receive compensation. Applicants state that, normally, the Family Income Protector Rider charge accrues each Policy year and is deducted retroactively on each Policy anniversary, for that prior Policy year. Applicants submit that, by deducting the Family Income Protector Rider charge upon a Policy owner's surrender, the Policy owner merely compensates a Company for the additional risk a Company bears. Applicants state that, accordingly, the deduction of the Family Income Protector Rider charge upon surrender is a legitimate charge for an optional insurance benefit and, therefore, does into reduce the amount of each Account's current net assets a Policy owner would otherwise be entitled to receive.

6. Section 22(c) of the Act gives the Commission authority to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company. Rule 22c–1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in such security, and a principal underwriter of, or dealer in, any such security from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security. Applicants represent that, although they assess the Family Income Protector Rider charge upon surrender, the net surrender value is still determined based on the current net asset value. Applicants state that the Companies deduct the Family Income Protector Rider charge from the surrender proceeds. Applicants maintain that, accordingly the assessment of the Family Income Protector Rider charge upon surrender, or at any other time during the life of the Policy, will not alter the Policy's current accumulation unit value.

7. Applicants contend that the deduction of the Family Income Protector Rider charge is consistent with the policy behind Rule 22c–1. Applicants note that the Commission's stated purpose in adopting Rule 22c–1 was to minimize (1) dilution of the interests of other security holders and (2) speculative trading practices that are unfair to such holders. Applicants maintain that the Family Income Protector Rider charge will in no way have the dilutive effect that Rule 22c–1 is designed to prohibit, because a surrendering Policy will ''receive'' no more than an amount equal to the Policy value determined pursuant to the formula set out in the Policy after the receipt of the Policy owner's request for surrender of the Policy. Furthermore, Applicants state that variable annuities, by nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c–1 was aimed against and, even if they could be so used, the Family Income Protector Rider charge would discourage, rather than encourage, any such trading.

8. Section 27(i)(2)(A) of the Act, in pertinent part, makes it unlawful for any registered separate account funding variable insurance contracts, or for the sponsoring insurance company of such account, to sell any such contract unless such contract is a redeemable security. Applicants submit that the assessment of a Family Income Protector Rider charge upon a Policy owner's surrender, which is fully disclosed in the prospectus for the Policy (or a supplement thereto), should not be construed as a restriction on redemption. Applicants maintain that the Policies are redeemable securities and that the imposition of the Family Income Protector Rider charge upon surrender represents nothing more than the deduction of an insurance charge that could otherwise be deducted daily through the life of the Policy (or prospectively, at the beginning of each year, rather than retrospectively). Moreover, as they previously stated, Applicants note that the charge is only assessed if the Policy owner has elected the optional Family Income Protector Rider.

9. Accordingly, Applicants request exemptions from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit the deduction upon surrender of the full non pro rata Family Income Protector Rider charge, currently equal to 0.30% (but in no event more than 0.50%) of the Minimum Annuitization Value as described herein. For the reasons set forth above, Applicants believe that the exemptions requested are necessary and 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 and Commission precedent.

10. Applicants seek relief not only for themselves with respect to the support of the Policies, but also with respect to Future Accounts and Future Policies as described herein.

11. Applicants represent that the terms of the relief requested with respect to any Policies or Future Policies funded by the Accounts and Future Accounts are consistent with the standards set forth in section 6(c) of the Act and Commission precedent.

12. Applicants represent that the terms of the relief requested with respect to any Future Underwriters are also consistent with the standards set forth in section 6(c) of the Act and Commission precedent.

13. Applicants state that, without the requested class relief, exemptive relief for any Future Account, Future Policy or Future Underwriter would have to be

requested and obtained separately. Applicants represent that these additional requests for exemptive relief would present no issues under the Act not already addressed herein. Applicants state that, if the Applicants were to repeatedly seek exemptive relief with respect to the same issues addressed herein, investors would not receive additional protection or benefit, and investors and the Applicants could be disadvantaged by increased costs from preparing such additional requests for relief. Applicants argue that the requested class relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the need for the Companies or their affiliates to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. Elimination of the delay and the expense of repeatedly seeking exemptive relief would, Applicants opine, enhance each Applicant's ability to effectively take advantage of business opportunities as such opportunities arise. Applicants submit, for all the reasons stated herein, that their request for class exemptions 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, and that an order of the Commission including such class relief, should, therefore, be granted. All entities that currently intend to rely on the requested order are named as Applicants. Any entity that relies upon the requested order in the future will comply with the terms and conditions contained in this application.

Conclusion

Applicants represent that the Family Income Protector Rider charge under the Policies meets (and the charge under Future Policies will meet) all of the requirements for exemptive relief pursuant to Section 6(c) of the Act. Applicants submit that the requested exemptions are necessary and appropriate in the public interest and consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants therefore request that an order be granted permitting the proposed transactions.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30272 Filed 11–18–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24132; 812–11772]

STI Classic Funds and SunTrust Banks, Inc.; Notice of Application

November 15, 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 two series of a registered open-end management investment company to acquire all of the assets, subject to certain liabilities, of two other series of the investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: STI Classic Funds (''STI Funds'') and SunTrust Banks, Inc. (''SunTrust'').

FILING DATES: The application was filed on September 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 December 8, 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, N.W., Washington, D.C. 20549–0609. Applicants, c/o W. John McGuire, Esq., Morgan, Lewis & Bockius LLP, 1800 M Street, N.W., Washington, D.C. 20036–5869.

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, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. STI Funds, a Massachusetts business trust, is registered under the Act as an open-end management investment company and offers thirty-six series, including the SmallCap Growth Stock Fund (''Small Cap Fund'') and the International Equity Fund (''International Fund'') (together, the ''Acquiring Funds'') and the Sun Belt Equity Fund (''Equity Fund'') and the Emerging Markets Equity Fund (''Emerging Markets Fund'') (together, the ''Acquired Funds,'' and together with the Acquiring Funds, the ''Funds'').

2. SunTrust, a Georgia corporation, is a bank holding company and the parent of Trusco Capital Management, Inc. (''Trusco'') and STI Capital Management, N.A. (''STI Capital''), both wholly-owned subsidiaries. Trusco is registered under the Investment Advisers Act of 1940 (the ''Advisers Act'') and is the investment adviser to the Small Cap and Equity Funds. STI Capital, a bank, is exempt from registration under the Advisers Act and is the investment adviser to the International and Emerging Markets Funds. Currently, bank subsidiaries of SunTrust own in the aggregate, in a fiduciary capacity, 25% or more of the outstanding voting securities of each Fund.

3. On May 18, 1999 and August 17, 1999, the board of trustees of STI Funds (the ''Board''), including all of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), approved a plan of reorganization between the Small Cap Fund and Equity Fund and between the International Fund and Emerging Markets Fund, respectively (the ''Plan''). Under the Plan, on the date of the exchange (the ''Closing Date''), which is currently anticipated to be December 13, 1999, each Acquiring Fund will acquire all of the assets and certain stated liabilities of