

2. *Applicant:* Gary D. Miller, Biology Department, University of New Mexico, Albuquerque, New Mexico 87131-0001. [Permit Application No. 2002-005]

*Activity for Which Permit is Requested:* Take and Import into the U.S. The applicant proposes continue the analysis of phylogenetic relationships, population genetics, and disease of Antarctic seabirds. The applicant proposes to collect blood and tissue samples from up to 400 Adelie and up to 200 Chinstrap, Gentoo, Macaroni, and Emperor penguins, South Polar and Antarctic skuas, Kelp gulls and Snowy Sheathbills each over the next two years. In addition, the applicant plans to attach up to 10 conventional VHF transmitters and not more than 3 satellite transmitters on skuas each year to determine the dynamics of movement around the breeding area and then to determine the greater distance traveled during migration. This will address the ability of skuas to become infected and subsequently pass on avian diseases.

The applicant will conduct most of his sampling in collaboration with Australian scientists at Davis Station in East Antarctica. Other samples will be taken on an opportunistic basis while serving as a lecturer onboard cruise ships operating in the Peninsula Area during the austral summer. Samples collected will be returned to the United States for analysis.

*Location:* Antarctic Peninsula and associated islands, East Antarctica and the Ross Sea region.

*Dates:* November 1, 2001 to April 1, 2003.

3. *Applicant:* Rudolf S. Scheltema, Biology Department, Woods Hole Oceanographic Institution, Woods Hole, MA 02543.

[Permit Application No. 2002-006]

*Activity for Which Permit is Requested:* Introduce into Antarctica. The applicant proposes to use *Thalassiosera pseudonana*, *Isochrysis galbana*, and *Dunaliella teriolecta* cultures of unicellular algae in rearing zooplankton organisms. Indigenous zooplankton will be collected in antarctic waters and reared in the laboratory onboard ship, using the above named unicellular algae as food. The study will deal with the history of antarctic organisms, in particular with the larvae of benthic organisms. The larval life history is especially important in understanding the demography of bottom organisms. At the completion of the study, the algal cultures will be disposed of by heat sterilization.

*Location:* Onboard the R/V LAURENCE M. GOULD in the region of

the South Shetland Islands, Antarctic Peninsula region.

*Dates:* November 30, 2001 to December 31, 2001.

**Nadene G. Kennedy,**

*Permit Officer, Office of Polar Programs.*

[FR Doc. 01-19800 Filed 8-6-01; 8:45 am]

**BILLING CODE 7555-01-M**

## NUCLEAR REGULATORY COMMISSION

### Sunshine Notice

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATE:** Weeks of August 6, 13, 20, 27, September 3, 10, 2001.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

### Matters To Be Considered

#### *Week of August 6, 2001*

There are no meetings scheduled for the Week of August 6, 2001.

#### *Week of August 13, 2001—Tentative*

Tuesday, August 14, 2001

9:30 a.m. Briefing on NRC International Activities (Public Meeting) (Contact: Elizabeth Doroshuk, 301-415-2775)

Wednesday, August 15, 2001

9:30 a.m. Briefing on EEO Program (Public Meeting) (Contact: Irene Little, 301-415-7380)

1:25 p.m. Affirmation Session (Public Meeting) (If needed)

1:30 p.m. Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: John Zabko, 301-415-1277)

#### *Week of August 20, 2001—Tentative*

There are no meetings scheduled for the Week of August 20, 2001.

#### *Week of August 27, 2001—Tentative*

There are no meetings scheduled for the Week of August 27, 2001.

#### *Week of September 3, 2001—Tentative*

There are no meetings scheduled for the Week of September 3, 2001.

#### *Week of September 10, 2001—Tentative*

There are no meetings scheduled for the Week of September 10, 2001.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(303) 415-1292. Contact person for more information: David Louis Gamberoni (301) 415-1651.

## Additional Information

By a vote of 4-0 on July 30, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of International Uranium (USA) Corporation (Source Material License Amendment, License No. SUA-1358) Docket No. 40-8681-MLA-8; Review of LBP-01-08" be held on July 30, and on less than one week's notice to the public.

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The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smi/schedule.htm>

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: August 2, 2001.

**David Louis Gamberoni,**

*Technical Coordinator, Office of the Secretary.*

[FR Doc. 01-19874 Filed 8-3-01; 12:49 am]

**BILLING CODE 7590-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25098; 812-12168]

### Sage Life Assurance of America, Inc. et al.; Notice of Application

August 1, 2000.

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

**ACTION:** Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

### Summary of Application

Applicants request an order that would permit them to implement a "fund of funds" arrangement. The fund of funds would invest in other funds that are part of the same group of investment companies and in funds that are not part of the same group of investment companies in reliance on section 12(d)(1)(F) of the Act.

**Applicants:** Sage Life Assurance of American, Inc. ("Sage Life"), Sage Life Assurance Co. of New York ("Sage Life/NY"), Sage Advisors, Inc. ("SAI"), Sage Distributors, Inc. ("SDI"), and Sage Life Investment Trust (the "Trust").

**Filing Dates:** The application was filed on July 7, 2000 and was amended on June 19, 2001.

**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 August 27, 2001, and should be accompanied by proof of service on the 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 20549-0609; Applications, c/o James E. Bronsdon, Esq., Sage Life Assurance of America, Inc., 300 Atlantic Street, 3rd Floor, Stamford, CT 06901.

**FOR FURTHER INFORMATION CONTACT:** Jean E. Minarick, Senior Counsel, at (202) 942-0527 (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 Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

### Applicant's Representations

1. Sage Life is a stock life insurance company organized and existing under the laws of the state of Delaware. Sage Life/NY is a stock insurance corporation organized in 1998 existing under the laws of the State of New York. Sage Group Limited is a South African corporation.

2. The Trust is a Delaware business trust registered under the Act as an open-end management investment company. The Trust currently consists of five series (each a "Series"). SAI is registered under the Investment Advisers Act of 1940 and serves as investment adviser to the Trust. Sage Distributors, Inc. ("SDI") is a registered broker-dealer and a member firm of the National Association of Securities

Dealers, Inc. ("NASD"). SDI is the principal underwriter of the Trust.

3. Applicants request relief to permit the Series and any other registered open-end management investment company or series thereof that is part of the "same group of investment companies" (as defined in section 12(d)(1)(G)(ii) of the Act) as the Trust (collectively, the "Asset Allocation Funds") to purchase shares of a Series of the Trust and other registered open-end management investment companies or their series, now existing or created in the future, that are part of the same "group of investment companies" as the Asset Allocation Funds (the "Underlying Funds").<sup>1</sup> The Asset Allocation Funds also would invest in shares of other registered open-end management investment companies that are not part of the same "group of investment companies" as the Trust (the "Other Funds") in reliance on section 12(d)(1)(F) of the Act. In addition to investing in the Underlying Funds and the Other Funds, the Asset Allocation Funds also may invest in a limited array of fixed income securities.

4. Shares of the Trust are currently, and shares of the Asset Allocation Funds will be, offered to variable contract separate accounts of Sage. Applicants state that the Asset Allocation Funds will be specifically designed to provide asset allocation for variable contract owners. In the future, shares of the Trust and shares of the Asset Allocation Funds may be offered to separate accounts of insurers not affiliated with Sage to fund variable contracts issued by such insurance companies. Shares of the Trust may also be offered in the future directly to qualified plans.

### Applicants' Legal Analysis

#### Section 12(d)(1) of the Act

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the acquired company's outstanding total voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other investment companies, represent more than 10% of the acquired company's total assets. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment

<sup>1</sup> The existing registered open-end management investment company that currently intends to rely on the order is named as an applicant. Any registered open-end management investment company that relies on the order in the future will do so only in accordance with the terms and conditions of the application.

company from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) shall not apply to the securities of a registered open-end investment company acquired by a registered open-end investment company if the acquired company and the acquiring company are part of the same group of investment companies, provided that certain other requirements contained in section 12(d)(1)(G) are met. Applicants state that they may not rely on section 23(d)(1)(G) because an Asset Allocation Fund will invest in shares of both the Underlying Funds and the Other Funds as well as fixed-income securities.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) of the Act to permit the Asset Allocation Funds to invest in the Underlying Funds and to permit an Underlying Fund to sell shares to an Asset Allocation Fund beyond the limits in sections 12(d)(1)(A) and 12(d)(1)(B). The Asset Allocation Funds will purchase shares of the Other Funds in reliance on section 12(d)(1)(F) of the Act.

4. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B), which includes concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Because the Asset Allocation Funds and the Underlying Funds are part of the same group of investment companies, Applicants submit that there is little risk for SAI to exercise inappropriate control over the Underlying Funds.

5. Applicants further state that the proposed conditions would appropriately address any concerns about the layering of advisory fees, sales charges, and other fees. Applicants state that the arrangements would not become overly complex because the Underlying Funds and Other Funds will not invest in other investment companies in excess of the limits of section 12(d)(1)(A).

### Section 17(a) of the Act

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person of a registered investment company or an affiliated person of such person acting as principal. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include: (a) Any person that directly or indirectly owns, controls, or holds with a power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Asset Allocation Funds and the Underlying Funds may be deemed to be affiliated persons of one another by virtue of being under the common control of SAI. Applicants also state that an Asset Allocation Fund and an Underlying Fund might be deemed affiliated persons if the Asset Allocation Fund acquires more than 5% of the Underlying Fund's outstanding voting securities. In light of these possible affiliations, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from an Asset Allocation Fund.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistently with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if such 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.

4. Applicants submit that the proposed arrangement satisfies the standards for relief under sections 17(b) and 6(c) of the Act. Applicants state that the terms of the proposed transactions are fair and do not involve overreaching. Applicants note that the consideration paid for the sale and redemption of shares of the Underlying Funds will be based on net asset values of the

Underlying Funds. Applicants also state that the proposed arrangement will be consistent with the policies of each Asset Allocation Fund and the general purposes of the Act.

### Applicants' Conditions

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

1. All underlying Funds and the Asset Allocation Funds will be part of the same "group of investment companies," as defined in section 12(d)(1)(G)(ii) of the Act.

2. No Underlying Fund or Other Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund or Other Fund(a) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund or Other Fund to (i) acquire securities of one or more affiliated investment companies for short-term cash management purposes; or (ii) engage in interfund borrowing and lending transactions.

3. With respect to separate accounts that invest in an Asset Allocation Fund, no sales load will be charged at the Asset Allocation Fund level or at the Underlying Fund/Other Fund level. Sales charges and service fees (as defined in rule 2830(d) of the Conduct Rules of the NASD), if any, will only be charged at the Asset Allocation Fund or at the Underlying Fund/Other Fund level, not both. With respect to other investments in an Asset Allocation Fund, any sales charges and or service fees (as those terms are defined in rule 2830(d) of the Conduct Rules of the NASD) charged with respect to shares of an Asset Allocation Fund will not exceed the limits set forth in rule 2830 applicable to a fund of funds (as defined in NASD Conduct rule 2830).

4. Before approving any advisory contract under section 15 of the Act, the board of trustees of an Asset Allocation Fund, including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, will find that the advisory fees charged under the Asset Allocation Fund's contract are based on services provided that are in addition to, rather than duplicative of, services provided

under the advisory contract of any Underlying Fund or Other Fund. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Asset Allocation Fund.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-19698 Filed 8-6-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25096; File No. 812-12206]

### Nations Separate Account Trust, et al.

July 31, 2001.

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

**ACTION:** Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "1940 Act") for exemptions from the provisions of sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

### Summary of Application

Applicants seek an order to permit shares of Nations Separate Account Trust (the "Trust")<sup>1</sup> and shares of any other investment company or portfolio that is designed to fund insurance products and for which Banc of America Advisors, LLC ("BA Advisors") or any of its affiliates may serve in the future as investment adviser, manager, principal underwriter, sponsor, or administrator ("Future Trusts") (the Trust together with Future Trusts are the "Trusts") to be sold to and held by: (a) Separate accounts funding variable annuity and variable life insurance contracts (collectively referred to herein as "Variable Contracts") issued by both affiliated and unaffiliated life insurance companies; (b) qualified pension and retirement plans ("Qualified Plans") outside of the separate account context; (c) separate accounts that are not registered as investment companies under the 1940 Act pursuant to exemptions from registration under section 3(c) of the 1940 Act; (d) BA Advisors or its affiliates (collectively, "BA Advisors"); and (e) the general account of any life insurance company, or certain related corporations, whose separate accounts hold, or will hold,

<sup>1</sup> Prior to May 1, 2001, the Trust was known as Nations Annuity Trust.