

[FR Doc. 97-2786 Filed 2-4-97; 8:45 am]

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**[Docket No. A97-10]****Hertel, Wisconsin 54845 (Thomas M. Mrozik, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)**

January 30, 1997.

Before Commissioners: Edward J. Gleiman, Chairman; H. Edward Quick, Jr., Vice-Chairman; George W. Haley; W.H. "Trey" LeBlanc III.

*Docket Number:* A97-10.*Name of Affected Post Office:* Hertel, Wisconsin 54845.*Name(s) of Petitioner(s):* Thomas M. Mrozik.*Type of Determination:* Consolidation.*Date of Filing of Appeal Papers:*

January 28, 1997.

**Categories of Issues Apparently Raised:**

1. Effect on the community [39 U.S.C. § 404(b)(2)(A)].

2. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404(b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from

the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

**The Commission Orders**

(a) The Postal Service shall file the record in this appeal by February 12, 1997.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Margaret P. Crenshaw,  
*Secretary.*

**APPENDIX**

|                         |   |
|-------------------------|---|
| January 28, 1997 .....  | Filing of Appeal letter.  |
| January 30, 1997 .....  | Commission Notice and Order of Filing of Appeal.  |
| February 21, 1997 ..... | Last day of filing of petitions to intervene [see 39 CFR § 3001.111(b)].  |
| March 4, 1997 .....     | Petitioner's Participant Statement or Initial Brief [see 39 CFR § 3001.115(a) and (b)].   |
| March 24, 1997 .....    | Postal Service's Answering Brief [see 39 CFR § 3001.115(c)].  |
| April 8, 1997 .....     | Petitioner's Reply Brief should Petitioner choose to file one [see 39 CFR § 3001.115(d)].   |
| April 15, 1997 .....    | Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR § 3001.116]. |
| May 28, 1997 .....      | Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)].   |

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**SECURITIES AND EXCHANGE COMMISSION****[Rel. No. IC-22483; File No. 812-10484]****Anchor Pathway Fund, et al.**

January 29, 1997.

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

**ACTION:** Notice of application for exemptions under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** Anchor Pathway Fund ("APT") and SunAmerica Series Trust ("SST").

**RELEVANT 1940 ACT SECTIONS:** Order requested pursuant to Section 10(e)(3) of the 1940 Act suspending the operation of Section 10(a) of the 1940 Act.

**SUMMARY OF APPLICATION:** Applicants seeks an order, pursuant to Section 10(e)(3) of the 1940 Act, extending the sixty-day period provided for by Section 10(e)(2) of the 1940 Act to March 21, 1997, in order to provide time for the

identification, nomination and election of additional trustees. Applicants further request that the order grant retroactive relief for the period from January 21, 1997, the expiration date of the initial sixty-day period, to the date on which the order is issued.

**FILING DATE:** The application was filed on January 9, 1997.

**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 on this application by writing to the Secretary of the SEC and serving. Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on February 24, 1997, and 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 requester's interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Joan E. Boros, Esq.,

Katten, Muchin & Zavis, 1025 Thomas Jefferson Street, N.W., East Lobby, Suite 700, Washington, D.C. 20007-5201, or Robert M. Zakem, Esq., SunAmerica Asset Management Corp., The Sun-America Center, 733 Third Avenue, New York, NY 10017-3204.

**FOR FURTHER INFORMATION CONTACT:** Megan L. Dunphy, Staff Attorney, or Patrice M. Pitts, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

**Applicant's Representations**

1. APT and SST (collectively, the "Trusts") each are open-end, series type management investment companies organized as Massachusetts business trusts. APT and SST are registered under the 1940 Act, and their shares are registered under the Securities Act of 1933, as amended.

2. The Boards of Trustees of APT and SST (collectively, the "Boards") are identical in composition. Before

November 23, 1996, each Board had five members, two of whom were not "interested persons" as that term is defined by Section 2(a)(19) of the 1940 Act. One of the disinterested Trustees died on November 23, 1996, reducing each Board to four members, only one of whom is not an interested person. The remaining disinterested Trustee expressed his intention to resign effective February 1, 1997. Following the resignation, each Board will be reduced to three members, all of whom will be interested persons.

3. The Boards are seeking diligently to identify replacements for the two disinterested Trustees. The remaining Trustees must approve the nomination of suitable candidates. Shareholders of the Trusts and owners of the Contracts also must approve the new nomination of the new Trustees.

4. No actions will be taken by the Boards that require a vote of disinterested Trustees until after the Boards have been fully constituted and shareholders have elected the nominees. Nor have any such actions been taken since November 23, 1996.

#### Applicants' Legal Analysis

1. Applicants request that the Commission issue an order pursuant to Section 10(e)(3) of the 1940 Act extending the sixty day period provided for by Section 10(e)(2) of the 1940 Act to March 21, 1997. Applicants further request that the order grant retroactive relief for the period from January 21, 1997, the expiration date of the initial sixty day period, to the date on which the order is issued.

2. Section 10(a) of the 1940 Act provides, among other things, that no registered investment company shall have a board of directors more than 60 percent of whose members are persons or officers or employees of such registered company. Section 10(e) of the Act sets forth time limitations for filing vacancies created by reason of the death, disqualification or bona fide resignation of any director(s). Section 10(e)(2) further provides that the operation of Section 10(a) shall be suspended for a period of sixty days if a vote of shareholders is required to fill the vacancy(ies). Section 10(e)(3) authorizes the Commission, by order upon application, to prescribe a longer period as not inconsistent with the protection of investors.

3. Section 16(a) of the 1940 Act requires, in pertinent part, that immediately after filling a vacancy on a board of directors, at least two-thirds of the directors shall have been elected to such office by the shareholders of the registered investment company.

Applicants must submit the election of the Boards to the shareholders of the Trusts to comply with Section 16(a).

4. Applicants assert that the Boards have not yet identified appropriate candidates to fill the two vacancies which must be filled by Trustees who are not interested persons of the Trusts. Applicants represent that their efforts have been pursued with diligence, but to date have not resulted in the selection of appropriate nominees.

5. Applicants represent that once they have identified, interviewed and cleared potential nominees, their nomination will be considered at the meetings of the Boards scheduled for February 25, 1997. At those meetings, Applicants anticipate that the Boards will authorize the preparation and filing with the Commission of proxy materials relating to the election of the Boards and other significant matters that require shareholders approval.

6. Applicants assert that it is in the best interests of the separate accounts investing in the Applicants and the owners of variable annuity contracts funded through those separate accounts to take the necessary time to identify qualified and competent disinterested Trustees. Applicants represent that efforts have been undertaken and are continuing to obtain two disinterested Trustees, but that is now appears that the vacancies will not be filled until March 21, 1997.

7. Applicants represent that retroactive relief is necessary because they were not immediately notified of the death of one disinterested Trustee, and that sixty days is not sufficient time to prepare and file with the Commission, and for the Commission to consider, issue a notice and grant an order upon, an application for exemptive relief.

#### Conclusion

For the reasons stated above, Applicants assert that their requests for relief are consistent with the protection of investors.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 97-2781 Filed 2-4-97; 8:45 am]

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[Release No. IC-22485; File No. 812-10286]

#### The Mutual Life Insurance Company of New York, et al.

January 29, 1997.

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

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

**APPLICANTS:** The Mutual Life Insurance Company of New York ("MONY"), MONY Life Insurance Company of America ("MONY America," and collectively with MONY, "the Companies") and MONY America Variable Account A ("MONY America Account," and collectively with the MONY Account, "the Accounts").

**RELEVANT 1940 ACT SECTIONS:** Order requested pursuant to Section 26(b) of the 1940 Act approving a proposed substitution of securities and pursuant to Section 17(b) of the 1940 Act granting exemptions from the provisions of Sections 17(a)(1) and 17(a)(2) of the 1940 Act.

**SUMMARY OF APPLICATION:** Applicants seek an order approving the substitution of shares of the U.S. Government Series ("U.S. Government Portfolio") of OCC Accumulation Trust ("Trust") for shares of the Bond Series ("Bond Portfolio") of the Trust. Applicants also seek an exemption from Section 17(a)(1) and 17(a)(2) of the 1940 Act to the extent necessary to permit Applicants to carry out the above referenced substitution in part by redeeming shares of the Bond Portfolio in-kind and using the redemption proceeds to purchase shares of the U.S. Government Portfolio.

**FILING DATE:** The application was filed on August 7, 1996.

**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 SEC and serving the applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on February 24, 1997, 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. Any person may request notification of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Frederick C. Tedeshi,