

(c) of Regulation S-X require that investment companies include in their financial statements certain information about investment advisory fees.

11. Applicants request relief from the above disclosure requirements under section 6(c). Applicants argue that, with the information provided in the Aggregate Fee Disclosure, Owners will have adequate information to compare the management and advisory fees of the Portfolios with those of other funds. Applicants believe that, while the amount of the total fees retained by the Manager is relevant to the Owners' determination of the value of the Manager's services, the specific portion of the total fee paid to an individual adviser provides no useful information since the Owner has engaged the Manager to select, monitor, and compensate the Advisers. Applicants also believe that because most investment advisers price their services based on "posted" fee rates, the Manager, without the requested relief, may only be able to obtain a specific Adviser's services by paying higher fee rates than if would otherwise be able to negotiate if the rates paid were not disclosed publicly.

Applicants' Conditions

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

1. Before a Portfolio may rely on the requested order, the operation of the Portfolio as described in the application will be approved by a majority of its outstanding voting securities, as defined in the Act, pursuant to voting instructions provided by Owners with assets allocated to any sub-account of a registered Separate Account for which a Portfolio serves as a funding medium or, in the case of a new Portfolio whose shareholders (*i.e.*, Separate Accounts) purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering shares of that Portfolio to prospective Owners through a Separate Account.

2. The Fund will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, the Fund will hold itself out to the public as employing the management structure described in the application. The prospectus relating to the Fund will prominently disclose that the Manager has ultimate responsibility to oversee Advisers and recommend their hiring, termination, and replacement.

3. Within 60 days of the hiring of any new Adviser, Owners with assets

allocated to any sub-account of any registered Separate Account for which a Portfolio serves as a funding medium will be furnished all information about a new Adviser or Advisory Agreement that would be included in a proxy statement, except as modified by the order to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Adviser. The Manager will meet this condition by providing these Owners with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Exchange Act and item 22 of Schedule 14A under the Exchange Act.

4. The Manager will not enter into an Advisory Agreement with any Affiliated Adviser without that Advisory Agreement, including the compensation to be paid under that agreement, being approved by the Owners with assets allocated to any sub-account of a Separate Account for which the applicable Portfolio serves as a funding medium.

5. At all times, a majority of the Board will not be "interested persons" of the Fund as defined in section 2(a)(19) of the Act ("Independent Directors"), and the nomination of new or additional Independent Directors will continue to be at the discretion of the then existing Independent Directors.

6. When an Adviser change is proposed for a Portfolio with an Affiliated Adviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Board's minutes, that the change is in the best interests of the Portfolio and Owners with assets allocated to any sub-account of a separate account for which a Portfolio serves as a funding medium and does not involve a conflict of interest from which the Manager or the Affiliated Adviser derives an inappropriate advantage.

7. Independent counsel knowledgeable about the Act and the duties of Independent Directors will be engaged to represent the Independent Directors of the Fund. The selection of such counsel will be within the discretion of the Independent Directors.

8. The Manager will provide the Board, no less frequently than quarterly, with information about the Manager's profitability on a per-Portfolio basis. This information will reflect the impact on profitability of the hiring or termination of any Adviser during the applicable quarter.

9. Whenever an Adviser is hired or terminated, the Manager will provide the Board information showing the

expected impact on the Manager's profitability.

10. The Manager will provide general management services to the Fund and its Portfolios, including overall supervisory responsibility for the general management and investment of each Portfolio's securities portfolio, and, subject to review and approval by the Board, will: (i) set each Portfolio's overall investment strategies; (ii) select Advisers; (iii) allocate and, when appropriate, reallocate a Portfolio's assets among multiple Advisers; (iv) monitor and evaluate the performance of Advisers; and (v) implement procedures reasonably designed to ensure that the Advisers comply with the Portfolio's investment objective, policies, and restrictions.

11. No director or officer of the Fund or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that director or officer) any interest in an Adviser, except for: (i) ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either an Adviser or an entity that controls, is controlled by, or is under common control with an Adviser.

12. The Fund will disclose in its registration statement the Aggregate Fee Disclosure.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-15631 Filed 6-11-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23241; File No. 812-10948]

PFL Endeavor Target Account, et al.; Notice of Application

June 5, 1998.

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

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940 (the "1940 Act").

SUMMARY OF APPLICATION: The Applicants seek an order pursuant to Section 6(c) of the 1940 Act exempting the Applicants and future separate

accounts of PFL or its affiliated insurance companies that support materially similar subaccounts from Section 12(d)(3) of the 1940 Act to the extent necessary to permit the Target 10 Subaccount to invest up to 10% and the Target 5 Subaccount to invest up to 20% of their (or, if there is more than one Portfolio thereunder, of the applicable Portfolio's) respective total assets in securities of issuers that derive more than 15% of their gross revenues in their most recent fiscal year from securities related activities.

APPLICANTS: PFL Endeavor Target Account (the "Target Account") and PFL Life Insurance Company ("PFL") (together, the "Applicants").

FILING DATE: The application was filed on January 2, 1998, and amended and restated on April 1, 1998, and June 5, 1998.

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 June 30, 1998, 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 who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road, N.E., Cedar Rapids, Iowa 53499.

FOR FURTHER INFORMATION CONTACT: Megan L. Dunphy, Attorney, or Mark Amorosi, 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, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942-8090).

Applicant's Representations

1. The Target Account is a separate account of PFL and is registered with the Commission as an open-end management investment company. The Target Account is currently divided into two non-diversified subaccounts, the DJIA Target 10 Subaccount and the DJIA

Target 5 Subaccount (each a "Subaccount" and together, the "Subaccounts"). Additional subaccounts may be established in the future at the discretion of PFL.

2. PFL, a stock life insurance company, is incorporated under the name NN Investors Life Insurance Company, Inc., pursuant to Iowa law. PFL 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 is indirectly owned by AEGON n.v. of the Netherlands.

3. The investments and administration of each Subaccount are under the direction of the Target Account's Board of Managers. Endeavor Investment Advisers (the "Manager") performs administrative and managerial functions for the Target Account. First Trust Advisers L.P. (the "Adviser"), the Target Account's investment adviser, is responsible for selecting the investments of each Subaccount consistent with the investment objectives and policies of that Subaccount, and will conduct securities trading for the Subaccounts.

4. The DJIA Target 10 Subaccount will invest approximately 10% of its (or, if there is more than one Portfolio thereunder, of the applicable Portfolio's) total assets in the common stock of each of the ten companies in the Dow Jones Industrial Average (the "DJIA") that have the highest dividend yield as of each specified Stock Selection Date.

5. The DJIA Target 5 Subaccount will invest approximately 20% of its (or, if there is more than one Portfolio thereunder, of the applicable Portfolio's) total assets in the common stock of each of the five companies with the lowest per share stock price of the ten companies in the DJIA that have the highest dividend yield as of each specified Stock Selection Date.

6. The DJIA comprises thirty stocks chosen by the editors of The Wall Street Journal. The DJIA is the property of the Dow Jones & Company, Inc., which is not affiliated with any Subaccount or PFL and does not participate in any way in the creation of any Subaccount or the selection of its stocks.

7. Applicants state that the objective of each Subaccount is to provide an above-average total return through a combination of dividend income and capital appreciation. On a Stock Selection Date specified in the prospectus, each Subaccount will invest, in substantially equal amounts, in the common stock of the companies meeting each Subaccount's investment

criteria (as held in a Subaccount, such common stock is referred to as the "Common Shares"). Each Subaccount may have different investment portfolios (each a "Portfolio") running simultaneously for different 12-month periods. For example, within the DJIA Target 10 Subaccount there may be more than one Portfolio, each with a different Stock Selection Date. A percentage relationship among the number of Common Shares in a Portfolio will be established as of that Stock Selection Date. When funds are deposited into or withdrawn from the Portfolio during the year, Common Shares will be purchased or sold, as appropriate, to duplicate, as nearly as practicable, the percentage relationship of the number of Common Shares established at the initial purchase. Applicants state that the percentage relationship among the number of Common Shares in the Portfolio therefore should remain stable (until the next Stock Selection Date).

8. Applicants state that, as of each Annual Stock Selection Date (i.e., the last Business Day of the 12-month period following each Stock Selection Date), a new percentage relationship will be established among the number of Common Shares for each Portfolio on such date. Common Shares may be sold or new equity securities bought so that the Portfolio is equally invested in the common stock of each company meeting the Subaccount's investment criteria. Thus, the Portfolio may or may not hold equity securities of the same companies as the previous year. Purchases or sales of Common Shares during the year will duplicate, as nearly as practicable, the percentage relationship among the number of Common Shares in the Portfolios as of the Annual Stock Selection Date.

9. Section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that in order for a variable contract which is based on a segregated asset account to qualify as an annuity contract under the Code, the investments made by such account must be "adequately diversified" in accordance with Treasury regulations. The Treasury regulations issued under Section 817(h) (Treas. Reg. § 1.817-5) apply a diversification requirement to each of the Subaccounts and any Portfolios thereunder ("Section 817(h) diversification requirements"). To qualify as "adequately diversified," each Subaccount and any Portfolio thereunder must have: (i) No more than 55% of the value of its total assets represented by any one investment; (ii) no more than 70% of the value of its total assets represented by any two

investments; (iii) no more than 80% of the value of its total assets represented by any three investments; and (iv) no more than 90% of the value of its total assets represented by any four investments.

10. Applicants state that the Target Account, through the Subaccounts and any Portfolios thereunder, intends to comply with the Section 817(h) diversification requirements. PFL has entered into an agreement with the Manager, who in turn, has entered into a contract with the Adviser that requires the Subaccounts and any Portfolios thereunder to be operated in compliance with the Treasury regulations. Therefore, the Adviser may depart from a Subaccount's or Portfolio's investment strategy, if necessary, in order to meet these Section 817(h) diversification requirements.

11. Applicants represent that, except in order to meet Section 817(h) diversification requirements, the Common Shares purchased for each Subaccount and any Portfolios thereunder will be chosen solely according to the formula described in the application and summarized in this notice, and will not be based on the research opinions or buy or sell recommendations of the Adviser. During each year, the Adviser will invest premiums received in additional Common Shares or arrange sales of Common Shares (e.g., to meet redemption or transfer requests) so that the original proportionate relationship among the number of shares of each stock in the Portfolio established at the beginning of the relevant 12-month period is maintained, to the extent practicable. The Adviser has no discretion as to which Common Shares are purchased. Securities purchased for each of the Subaccounts and any Portfolios thereunder may include securities of issuers in the DJIA that derived more than fifteen percent of their gross revenues in their most recent fiscal year from securities related activities.

Applicants' Legal Analysis

1. Section 12(d)(3) of the 1940 Act, with limited exceptions, prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter or investment adviser. Rule 12d3-1 under the 1940 Act exempts purchases by an investment company of securities of an issuer (except its own investment adviser, promoter or principal underwriter or their affiliates) that derived more than fifteen percent of its gross revenues in its most recent fiscal year from securities related activities,

provided that, among other things, immediately after such acquisition, the acquiring company has invested not more than five percent of the value of its total assets in securities of the issuer.

2. Section 6(c) of the 1940 Act provides that the Commission may exempt any person, transaction, or class of transactions from any provisions of the 1940 Act or any rule thereunder, if and 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 1940 Act.

3. Applicants request that the Commission exempt the Target Account from the provisions of Section 12(d)(3) in order to permit the DJIA Target 10 Subaccount (and any Portfolio thereunder) to acquire securities of an issuer that derives more than 15% of its gross revenues from securities related activities, provided that (i) those securities are included in the DJIA as of the applicable specified Stock Selection Date, (ii) they represent one of the ten companies in the DJIA that have the highest dividend yield as of the applicable specified Stock Selection Date, and (iii) as of the first business day after the applicable specified Stock Selection Date, the value of the Common Shares of each securities related issuer represents approximately 10%, but in no event more than 10.5%, of the value of the DJIA Target 10 Subaccount's (or, if there is more than one Portfolio thereunder, of the applicable Portfolio's) total. Applicants state that the use of the term "approximately" is intended to allow for such deviation from a precise 10% as to permit the purchase of round lots of 50 to 100 shares of stock. The 10.5% standard will be based on the prices of the Common Shares as of the close of business on the Stock Selection Date.

4. The Applicants further request that the Commission exempt the Target Account from the provisions of Section 12(d)(3) in order to permit the DJIA Target 5 Subaccount (and any Portfolio thereunder) to acquire securities of an issuer that derives more than 15% of its gross revenues from securities related activities, provided that (i) those securities are included in the DJIA as of the applicable specified Stock Selection Date, (ii) they represent one of the five companies with the lowest dollar per share stock price of the ten companies in the DJIA that have the highest dividend yield as of the applicable specified Stock Selection Date, and (iii) as of the first business day after the applicable specified Stock Selection Date, the value of the Common Shares

of each securities related issuer represents approximately 20%, but in no event more than 20.5%, of the value of the DJIA Target 5 Subaccount's (of, if there is more than one Portfolio thereunder, of the applicable Portfolio's) total assets. Applicants state that the use of the term "approximately" is intended to allow for such deviation from a precise 20% as to permit the purchase of round lots of 50 or 100 shares of stock. The 20.5% standard will be based on the prices of the Common Shares as of the close of business on the Stock Selection Date.

5. The Target Account and each Subaccount and any Portfolio thereunder undertake to comply with all of the requirements of Rule 12d3-1, except the condition prohibiting an investment company from investing more than 5% of the value of its total assets in securities of a securities related issuer.

6. Applicants represent that Section 12(d)(3) was intended: (i) to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses; (ii) to prevent potential conflicts of interest; (iii) to eliminate certain reciprocal practices between investment companies and securities related businesses; and (iv) to ensure that investment companies maintain adequate liquidity in their portfolios.

7. A potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicants maintain that this concern does not arise in this situation since neither the Adviser nor any Subaccount has discretion in choosing the Common Shares or amount purchased. The stock must first be included in the DJIA (which is unaffiliated with the Applicants, and Subaccount, the Adviser, the Manager or PFL). In addition, the security must also qualify as one of the ten companies in the DJIA that has the highest dividend yield as of the applicable specified Stock Selection Date, and with respect to the DJIA Target 5 Subaccount, the security must also qualify as one of the five companies with the lowest per share stock price of the ten companies in the DJIA that have the highest dividend yield as of the applicable specified Stock Selection Date.

8. Applicants state that prior Section 12(d)(3) relief has been granted to applicants which were unit investment trusts with no discretion to choose the portfolio securities or the amount purchased, but when discretion to sell

portfolio securities to the extent necessary to meet redemptions. The Target Account, however, is a managed investment company issuing variable annuities and, as such, will continually accept new premiums which it must continue to invest; it is not a unit investment trust with a fixed number of units outstanding. The Adviser is obligated to follow the investment formula described in the application and summarized in this notice as nearly as practicable, and therefore, for new investments during a year the 10% ratio for the DJIA Target 10 Subaccount and any Portfolios thereunder and the 20% ratio for the DJIA Target 5 Subaccount and any Portfolios thereunder will be based on the ratios of the number of shares established at the beginning of each year rather than the value of the stocks. Securities for each Subaccount and any Portfolio thereunder will be chosen with respect to specified formulas for each Subaccount or Portfolio and not in the Adviser's discretion.

9. The Adviser is permitted to deviate from the respective formula for a Subaccount or Portfolio where circumstances are such that the investment of a particular Subaccount or Portfolio would fail to meet the 817(h) diversification requirements and would thus cause the annuity contracts to fail to qualify as an annuity contract under the Code. Applicants maintain that, in such a situation, the Adviser must be permitted to deviate from a Subaccount's or Portfolio's investment strategy, but only in order to meet the 817(h) diversification requirements and then only to the extent necessary to do so. Applicants state that this limited discretion does not raise the concerns that Section 12(d)(3) is designed to prevent.

10. Applicants represent that the liquidity of a Subaccount's portfolio is not a concern here since the shares of common stock selected are each included in the DJIA, listed on the New York Stock Exchange and are among the most actively traded securities in the United States.

11. Applicants also represent that the effect of a Subaccount's purchase on the stock of parents of broker-dealers would be de minimis. The common stocks of securities related issuers represented in the DJIA are widely held and have active markets, and potential purchases by a Subaccount would represent an insignificant amount of the outstanding common stock and the trading volume of any of those issuers.

12. Applicants state that a potential conflict of interest could occur if broker-dealers are influenced to recommend

certain investment company funds which invest in the stock of the broker-dealer or any of its affiliates. Because of the large market capitalization of the DJIA issuers and the small portion of these issuers' common stock and trading volume that would be purchased by a Subaccount, however, Applicants find that it is extremely unlikely that any advice offered by a broker-dealer to a customer as to which investment company to invest in would be influenced by the possibility that the Target Account would be invested in the broker-dealer or parent thereof.

13. Finally, Applicants state that another potential conflict of interest could occur if an investment company directed brokerage to an affiliated broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, Applicants and each Subaccount agree, as a condition of the application, that no company held in a Subaccount portfolio, nor any affiliate of such company, will act as broker for any Subaccount in the purchase or sale of any security for its portfolio.

14. Applicants seek relief not only with respect to the Target Account and the Subaccounts described in the application, but also with respect to other separate accounts of PFL or its affiliated insurance companies hereinafter created that support materially similar subaccounts ("Future Accounts"). Applicants represent that the terms of relief requested with respect to Future Accounts are consistent with the standards set forth in Section 6(c) of the 1940 Act.

Applicants' Conditions

The Applicants agree to the following conditions:

1. The Common Shares are included in the DJIA as of the applicable specified Stock Selection Date;

2. The Common Shares represent one of the ten companies in the DJIA that have the highest dividend yield as of the applicable specified Stock Selection Date;

3. With respect to the DJIA Target 5 Subaccount, the Common Shares represent one of the five companies with the lowest dollar per share stock price of the ten companies in the DJIA that have the highest dividend yield as of the applicable specified Stock Selection Date;

4. With respect to the DJIA Target 10 Subaccount and any Portfolios thereunder, at the beginning of each year, the value of the Common Shares

of each securities related issuer represents approximately 10% of the value of the DJIA Target 10 Subaccount's (or, if there is more than one Portfolio thereunder, of the applicable Portfolio's) total assets, but in no event more than 10.5% of the value of the DJIA Target 10 Subaccount's (or, if there is more than one Portfolio thereunder, of the applicable Portfolio's) total assets on the first business day after each Stock Selection Date;

5. With respect to the DJIA Target 5 Subaccount and any Portfolios thereunder, at the beginning of each year, the value of the Common Shares of each securities related issuer represents approximately 20% of the value of the DJIA Target 5 Subaccount's (or, if there is more than one Portfolio thereunder, of the applicable Portfolio's) total assets, but in no event more than 20.5% of the value of the DJIA Target 5 Subaccount's (or, if there is more than one Portfolio thereunder, of the applicable Portfolio's) total assets on the first business day after each Stock Selection Date; and

6. No company whose stock is held in any Subaccount or Portfolio, nor any affiliate thereof, will act as broker for any Subaccount or Portfolio in the purchase or sale of any security for the Subaccount or Portfolio.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-15632 Filed 6-11-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26882]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

June 5, 1998.

Notice is hereby given that the following filing(s) has/have been made 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