

if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 98-16246 Filed 6-17-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-23249; 812-10904]

New York Life Capital Corporation; Notice of Application

June 12, 1998.

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

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant, New York Life Capital Corporation, requests an order that would permit it to sell certain debt securities and use the proceeds to finance the business activities of its parent company and certain companies controlled by the parent company.

FILING DATES: The application was filed on December 18, 1997, and amended on April 28, 1998, and June 4, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 8, 1998 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 51 Madison Avenue, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT:

Edward P. Macdonald, 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 SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, D.C. 20549 (tel. 202-942-8090).

Applicant's Representations

1. Applicant is a Delaware corporation and a wholly-owned indirect subsidiary of New York Life Insurance Company ("New York Life"). New York Life is a mutual insurance company organized under the laws of the State of New York. New York Life, directly and through its subsidiaries, provides various financial services including the sale of group pension products, health insurance, annuities, brokerage services, investment advisory services, mutual funds, and variable life and annuity insurance products. New York Life is exempt from regulation under the Act by section 3(c)(3) of the Act.

2. Applicant was formed in 1995 for the purpose of financing the business operations of New York Life and its subsidiaries ("Controlled Companies"). Applicant's primary function to borrow funds through the sale of short-term, medium-term, and long-term debt securities as well as non-voting preferred stock, and to lend the proceeds from these offerings to New York Life and its Controlled Companies to help finance their operations. Certain of the Controlled Companies are exempt from regulations under the Act by certain provisions of section 3(c) of the Act. None of the Controlled Companies to which applicant may lend will be relying on sections 3(c)(1) or 3(c)(7) of the Act.

3. All of applicant's debt securities and non-voting preferred stock issued to or held by the public will be unconditionally guaranteed by New York Life as to the payment of, as applicable, principal, interest, premium, dividends, liquidation preference and sinking fund payments. In the event of any default in payment of these amounts, the public holders of the securities may institute legal proceedings directly against New York Life without first proceeding against applicant. Furthermore, any convertible or exchangeable securities issued by applicant shall be convertible or exchangeable only for securities issued by New York Life or for applicant's debt securities or non-voting preferred stock.

4. Applicant will invest in or loan at least 85% of any cash or cash equivalents raised by applicant to New York Life and its Controlled Companies as soon as practicable, but in no event later than six months after applicant receives the cash or cash equivalents. If applicant borrows amounts in excess of the amounts required by New York Life and its Controlled Companies, applicant will invest this excess in certain temporary investments pursuant to rule 3a-5 under the Act discussed below.

Applicant's Legal Analysis

1. Applicant requests an order under section 6(c) of the Act exempting it from all provisions of the Act. Applicant states that rule 3a-5 under the Act provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

2. Rule 3a-5(b)(2) provides that a "parent company" is a company that derives its non-investment company status from section 3(a) of the Act, the rules under section 3(a) of the Act, or section 3(b) of the Act. Rule 3a-5(b)(3)(i) in relevant part defines a "company controlled by the parent company" to be a corporation, partnership, or joint venture that is not considered an investment company under section 3(a) of the Act, the rules under section 3(a) of the Act, or section 3(b) of the Act.

3. Applicant states that New York Life may not qualify as a "parent company" under rule 3a-5(b)(2) because it derives its non-investment company status from section 3(c)(3) of the Act. Applicant also states that certain Controlled Companies that may receive loans from applicant, may not qualify as a "company controlled by the parent company" under rule 3a-5(b)(3)(i) because these Companies derive their non-investment company status from sections 3(c)(2), 3(c)(3), 3(c)(5), or 3(c)(6) of the Act.

4. Applicant asserts that neither New York Life nor these Controlled Companies engage primarily in investment company activities. If New York Life, or any of its Controlled Companies, were itself to issue the debt obligations that are to be issued by applicant and use the proceeds for its own purposes or advance them to its subsidiaries, neither New York Life nor any of its Controlled Companies would be subject to regulation under the Act. New York Life has chosen instead to use applicant as a vehicle for this borrowing for reasons unrelated to the regulatory purposes of the Act.

5. Section 6(c) of the Act provides that the SEC may exempt any person,

security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act when 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. Applicant states that for the reasons given above its request for exemptive relief meets the standards of section 6(c).

Applicant's Condition

Applicant agrees that the order granting the requested relief will be subject to the following condition:

1. Applicant will comply with all of the provisions of rule 3a-5 under the Act, except: (a) New York Life will not meet the portion of the definition of parent company in rule 3a-5(b)(2)(i) solely because it is excluded from the definition of investment company under section 3(c)(3) of the Act; and (b) Controlled Companies will not meet the portion of the definition of "company controlled by the parent company" in rule 3a-5(b)(3)(i) solely because they are excluded from the definition of investment company by sections 3(c)(2), 3(c)(3), 3(c)(5), or 3(c)(6) of the Act, provided that any such entity excluded from the definition of investment company under section 3(c)(5) of the Act will fall within section 3(c)(5)(A) or section 3(c)(5)(B) solely by reason of its holdings of accounts receivable of either their own customers or of the customers of other New York Life Controlled Companies, or by reason of loans made by it to such New York Life Controlled Companies or customers, provided further, that any such entity excluded from the definition of investment company pursuant to section 3(c)(6) of the Act will not be engaged primarily, directly or through majority-owned subsidiaries, in one or more of the businesses described in section 3(c)(5) of the Act (except as permitted in this condition).

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

Jonathan G. Katz,
Secretary.

[FR Doc. 98-16259 Filed 6-17-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the

Securities and Exchange Commission will hold the following meetings during the week of June 22, 1998.

An open meeting will be held on Monday, June 22, 1998, at 11:00 a.m.

A closed meeting will be held on Monday, June 22, 1998, following the 11:00 a.m. closed meeting. A closed meeting will be held on Tuesday, June 23, 1998, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The open meeting scheduled for Monday, June 22, 1998, at 11:00 a.m., will be:

The Commission will hear oral argument on an appeal by Laurie Jones Canady, formerly a salesperson with Merrill Lynch, Pierce, Fenner & Smith Incorporated, from an administrative law judge's initial decision. For further information, contact Kermit B. Kennedy at (202) 942-0879.

The closed meeting scheduled for Monday, June 22, 1998, following the 11:00 a.m. open meeting, will be:

Post argument discussion.

The subject matter of the closed meeting scheduled for Tuesday, June 23, 1998, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: June 16, 1998.

Jonathan G. Katz,
Secretary.

[FR Doc. 98-16344 Filed 6-16-98; 11:46 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [63 FR 32273, June 12, 1998].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: June 12, 1998.

CHANGE IN THE MEETING: Correction.

The Commission considered the following item at a closed meeting held on Tuesday, June 16, 1998, at 10:00 a.m. The item was inadvertently omitted from the notice announced in the **Federal Register** on June 12, 1998 (63 FR 32273).

Post argument discussion.

Commissioner Unger, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942-7070.

Dated: June 16, 1998.

Jonathan G. Katz,
Secretary.

[FR Doc. 98-16345 Filed 6-16-98; 11:46 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40080; File No. SR-CBOE-98-24]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to ILX Fees

June 9, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 2, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.