

considering technological feasibility, in accordance with the following schedule:

(3) Placement of final radon barrier designed and constructed to limit radon emissions to an average flux of no more than 20 pCi/m² sec above background—December 31, 1999 for areas not covered by the evaporation ponds and by December 31, 2014 for the area under the avaporation ponds.

Rio Algom's request to amend LC 55 A.(3) of Source Material License SUA-1119, which describes the proposed changes to the license condition and the reason for the request, is being made available for public inspection at the NRC's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR Part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Rio Algom Corporation, 6305 Waterford Blvd., Suite 325, Oklahoma City, Oklahoma 73118, Attention: William Paul Goranson; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated at Rockville, Maryland, this 4th day of December 1998.

For the U.S. Nuclear Regulatory Commission.

N. King Stablein,

Acting Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98-33110 Filed 12-11-98; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request Review of Information Collection: Year 2000 Compliance Survey

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for clearance of a revised information collection. Year 2000 assessment survey is used to collect information from approximately 1300 international, national and local philanthropic and nonprofit organizations to be compiled in a report to the President's Council on Year 2000 Conversion. The report is due in December 1998. Each form takes approximately 60 minutes to complete. The annual estimated burden is 1300 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on 202/606-8358, or E-mail to mbtoomey@opm.gov.

Comments on this proposal should be received within 3 calendar days from the date of this publication.

ADDRESS: Send or deliver comments to: Jennifer M. Hirschmann, Office of Extragovernmental Affairs, CFC Operations, US Office of Personnel

Management 1900 "E" Street, NW, Room 5450, Washington, DC 20415 and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98-33194 Filed 12-10-98; 3:10 pm]

BILLING CODE 6325-01-P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23591; No. 812-11328]

Dow Target Variable Fund LLC

December 8, 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 "Act").

APPLICANT: Dow Target Variable Fund LLC.

SUMMARY OF APPLICATION: Applicant seeks an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit Applicant's portfolios to invest up to 10% of their total assets in securities of issuers that derive more than 15% of their gross revenues from securities related activities.

FILING DATE: The application was filed on September 28, 1998 and amended on December 2, 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 Secretary of the SEC and serving 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 December 29, 1998, 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 be received by the Commission by 5:30 p.m. on December 29, 1998, 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 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 Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, One Financial Way, Cincinnati, Ohio 45242.

FOR FURTHER INFORMATION CONTACT: Susan M. Olson, Senior Counsel, or Kevin M. Kirchoff, 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 (tel. (202) 942-8090).

Applicant's Representations

1. Applicant is a registered, open-end management investment company (File No. 811-09019). It currently consists of twelve non-diversified portfolios, each named after a calendar month (January Portfolio, February Portfolio, etc.). Applicant was organized under the laws of Ohio as a limited liability company on September 21, 1998. Under Ohio law, a limited liability company does not issue shares of stock. Instead, ownership rights are contained in membership interests. Each membership interest of Applicant ("Interest") represents an undivided interest in the stocks held in one of Applicant's portfolios.

2. The Interests are not offered directly to the public. The only direct owner of the Interests is The Ohio National Life Insurance Company ("Ohio National Life"), through its variable annuity separate accounts. Those of Ohio National Life's variable annuity owners who have contract values allocated to any of Applicant's portfolios have indirect beneficial rights in the Interests and have the right to instruct Ohio National Life with regard to how it votes the Interests that it holds in its variable annuity separate accounts.

3. Applicant's investment adviser is Ohio National Investments, Inc. (the "Adviser"). First Trust Advisors L.P. ("First Trust") is the sub-adviser to each of Applicant's portfolios.

4. Applicant states that each of its twelve portfolios consist of an investment portfolio of the common stocks of the ten companies in the Dow Jones Industrial Average (the "Dow") having the highest dividend yield as of the close of business of the last business

day of the month preceding the month for which the portfolio is named (the "Stock Selection Date"). These ten companies are popularly known as the "Dogs of the Dow." Applicant states that on or about the first business day of the month for which a portfolio is named, First Trust will set the proportionate relationships among the ten stocks to be held in that portfolio for the next twelve months. At the end of a portfolio's twelfth month, the portfolio will be re-balanced with a new mix of ten Dogs of the Dow stocks.

5. Applicant states that the objective of each portfolio is to provide above-average total return through both capital appreciation and dividend income. The portfolios may or may not achieve that objective. Applicant states that the ten stocks held in any portfolio are not expected to reflect the entire index, and the prices of Interests are not intended to parallel or correlate with movements in the Dow. Applicant states that, generally, it will not be possible for all of the portfolios' funds to be invested in the prescribed mix of ten stocks at any time. Applicant states that the Adviser and First Trust will try, to the extent practicable, to maintain a minimum cash position at all times. Applicant represents that normally the only cash items held will represent amounts expected to be deducted as charges and amounts too small to purchase additional proportionate round lots of the Dogs of the Dow stocks.

6. The Dow consists of 30 stocks selected by Dow Jones & Company, Inc. as representative of the broader domestic stock market and of American industry. Applicant states that the Dow Jones & Company, Inc. is not affiliated with it and has not participated, and will not participate, in any way in the creation of the portfolios or the selection of the stocks purchased by the portfolios.

7. Applicant states that until the end of the initial month of a portfolio, Interests may be purchased by variable annuity separate accounts of Ohio National Life. After the initial month of a portfolio, no further Interests in that portfolio may be purchased until eleven months later. Interests may be redeemed at any time.

8. Applicant states that any purchase of Interests made after the initial business day of the month for which the portfolio is named, will duplicate, as nearly as is practicable, the original proportionate relationships of the ten stocks held by that portfolio. Because the prices of each of the ten stocks will change nearly every day, the ratio of the price of each to the total price of the entire group of ten will also change

daily. However, Applicant states that the proportion of stocks held by that portfolio will not change materially as a result of the sales of additional Interests after the first business day of the month for which the portfolio is named.

9. Applicant states that it is not a "regulated investment company" under Subchapter M of the Internal Revenue Code of 1986, as amended (the "Code"). Nonetheless, Applicant states that it does not pay federal income tax on its interest, dividend income or capital gains. As a limited liability company whose interests are sold only to Ohio National Life, Applicant states that it is disregarded as an entity for purposes of federal income taxation. Applicant states that Ohio National Life, through its variable annuity separate accounts, is treated as owning the assets of the portfolios directly and its tax obligations thereon are computed pursuant to Subchapter L of the Code (which governs the taxation of insurance companies). Applicant states that under current tax law, interest, dividend income and capital gains of Applicant are not taxable to Applicant, and are not currently taxable to Ohio National Life or to contract owners, when left to accumulate within a variable annuity contract.

10. Section 817(h) of 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 that account must be "adequately diversified" in accordance with Treasury regulations.

11. Applicant states that each portfolio must comply with the Section 817(h) diversification requirements. Therefore, Applicant states that the Adviser and First Trust may depart from the portfolio investment strategy, if necessary, in order to satisfy these Section 817(h) diversification requirements. Applicant represents that under all circumstances, except in order to meet Section 817(h) diversification requirements, the common stocks purchased for each portfolio will be chosen solely according to the formula described above and will not be based on the research opinions or buy or sell recommendations of the Adviser or First Trust. Applicant represents that neither the Adviser nor First Trust has any discretion as to which common stocks are purchased. Applicant states that securities purchased for each portfolio may include securities of issuers in the Dow that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities.

Applicant's Legal Analysis

1. Section 12(d)(3) of the 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 Act exempts from Section 12(d)(3) 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 15% of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after any such acquisition the acquiring company has invested not more than 5% of the value of its total assets in the securities of the issuer. Each of Applicant's portfolios undertakes to comply with all of the requirements of Rule 12d3-1, except the condition in subparagraph (b)(3) prohibiting an investment company from investing more than 5% of the value of its total assets in securities of a securities related issuer.

2. Section 6(c) of the Act provides that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes thereof, from any provision of the Act or any rule or regulation 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 Act.

3. Applicant states that Section 12(d)(3) was intended: (a) to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses; (b) to prevent potential conflicts of interest; (c) to eliminate certain reciprocal practices between investment companies and securities related businesses; and (d) to ensure that investment companies maintain adequate liquidity in their portfolios.

4. A potential conflict could occur, for example, 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 the basis of investment merit. Applicant states that this concern does not arise in this situation.

Applicant states that generally, neither the Applicant, the Adviser nor First Trust has discretion in choosing the common stock or amount purchased. Applicant states that the stock must first be included in the Dow (which along with Dow Jones & Company, Inc., is

unaffiliated with Applicant, the Adviser or First Trust). In addition, the stock must also qualify as one of the ten companies in the Dow that has the highest dividend yield as of the Stock Selection Date.

5. Applicant states that identical exemptive relief from Section 12(d)(3) has recently been granted to a management investment company for a structure which also involves investment options underlying variable annuities. In addition, Applicant states that Section 12(d)(3) relief has been granted to unit investment trusts with no discretion to choose the portfolio securities or the amount purchased, but with discretion to sell portfolio securities to the extent necessary to meet redemptions.

6. Applicant states that the Adviser and First Trust are obligated to follow the investment formula described above as nearly as practicable. Applicant states that, like prior applications for Section 12(d)(3) relief, securities purchased for each portfolio will be chosen with respect to the specified formula. Applicant states that the only time any deviation from the formula would be permitted would be where circumstances were such that the investments of a particular portfolio would fail to be "adequately diversified" under the Section 817(h) diversification requirements, and would thus cause the annuity contracts to fail to qualify as an annuity contract under the Code. Applicant states that the likelihood of this exception arising is extremely remote. In such a situation, Applicant states that it must be permitted to deviate from the investment strategy in order to meet the Section 817(h) diversification requirements and then only to the extent necessary to do so. Applicant states that this limited discretion does not give rise to the potential conflicts of interest or to the possible reciprocal practices between investment companies and securities related businesses that Section 12(d)(3) is designed to prevent.

7. Applicant states that the liquidity of a portfolio is not a concern here since each common stock selected will be a component of the Dow, listed on the New York Stock Exchange, and among the most actively traded securities in the United States.

8. In addition, Applicant states that the effect of a portfolio's purchase of the stock of parents of broker-dealers would be *de minimis*. Applicant states that the common stocks of securities related issuers represented in the Dow are widely held with active markets and that potential purchases by a portfolio

would represent an insignificant amount of the outstanding common stock and trading volume of any of these issuers. Therefore, Applicant argues that it is almost inconceivable that these purchases would have any significant effect on the market value of any of these securities related issuers.

9. Another possible conflict of interest which has raised concern is where broker-dealers may be influenced to recommend certain investment company funds which invest in the stock of the broker-dealer or any of its affiliates. Applicant states that because of the large market capitalization of the Dow issuers and the small portion of these issuers' common stock and trading volume that would be purchased by a portfolio, it is extremely unlikely that any device offered by a broker-dealer to a customer as to which investment company to invest in would be influenced by the possibility that a portfolio would be invested in the broker-dealer or a parent thereof.

10. Finally, 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 the broker-dealer may not offer the best price and execution. To preclude this type of conflict, Applicant agrees, as a condition of this application, that no company whose stock is held in any portfolio, nor any affiliate of such a company, will act as broker or dealer for any portfolio in the purchase or sale of any security.

11. Applicant represents that the terms of the relief requested are consistent with the relief previously granted in similar applications. Applicant states that the terms of the relief requested are consistent with the standards set forth in Section 6(c) of the Act.

Applicant's Conditions

Applicant and each portfolio of Applicant agrees that any order granting the requested relief from Section 12(d)(3) shall be subject to the following conditions:

1. The common stock is included in the Dow as of the Stock Selection Date;

2. The common stock represents one of the ten companies in the Dow that have the highest dividend yield as of the Stock Selection Date;

3. As of close of business on the Stock Selection Date, the value of the common stock of each securities related issuer represents approximately 10% of the value of any portfolio's total assets, but

in no event more than 10.5% of the value of the portfolio's total assets; and

4. No company whose stock is held in a portfolio, nor any affiliate thereof, will act as broker or dealer for any portfolio in the purchase or sale of any security for that portfolio.

Conclusion

For the reasons summarized above, Applicant asserts that the order requested is 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.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-33073 Filed 12-11-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26948]

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

December 4, 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 complete statements of the proposed transaction(s) and any amendment is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by *December 28, 1998*, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After *December 28, 1998*, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Ameren Corporation

(70-9383)

Ameren Corporation ("Ameren"), a registered holding company, located at 1901 Chateau Avenue, St. Louis, Missouri 63103, has filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(c) of the Act and rules 42, 46 and 54 under the Act.

Ameren requests authority to implement a shareholder rights plan ("Plan") and to enter into a related Rights Agreement ("Agreement"). The Plan is intended, among other things, to give Ameren shareholders adequate time to assess a takeover bid without undue pressure. Under the Plan, the board of directors of Ameren ("Board") would declare a dividend distribution of one right ("Right") for each outstanding share of common stock, \$.01 par value, of Ameren ("Common Stock") to shareholders of record at the close of business on a specified record date.

Terms of the Rights

Each Right issued to a registered holder of Common Stock would, after the Right becomes exercisable, entitle the holder to purchase from Ameren one 1/100th of a share of Series A Junior Participating Preferred Stock, \$.01 par value ("Preferred Stock"), at a price to be determined by the Board, subject to adjustment ("Purchase Price"). Rights will not confer on the Rights holder any rights as a shareholder of Ameren shareholder until those Rights are exercised or exchanged, as described below. The Rights will expire at the close of business on October 9, 2008, unless earlier redeemed or exchanged by Ameren, as described below.

Until the earlier of two dates described below ("Distribution Date"), Rights will be evidenced only by the related Common Stock certificates and will be transferrable only in connection with the transfer of that Common Stock. One date occurs the tenth day following the date of a public announcement that any individual or entity ("Person") or group of affiliated or associated Person¹ acquired, or obtained the right to acquire, beneficial ownership of Common Stock aggregating fifteen percent or more of the then outstanding shares of Common Stock ("Acquiring Person"). The second date occurs on the tenth day (or such later date as the Board may determine prior to the time any Person or group of Persons becomes an Acquiring Person) after the date of

¹ A Person would not include Ameren, any subsidiary of Ameren, an employee benefit plan of Ameren or of a subsidiary of Ameren ("Benefit Plan"), or any entity holding Common Stock for or in accordance with the terms of a Benefit Plan.

commencement of, or announcement of an intention to commence, a tender offer or exchange offer the consummation of which would result in that Person or group of Persons becoming an Acquiring Person. After the Distribution Date, separate certificates evidencing the Rights will be mailed to those Rights holders who are Common Stock holders of record as of the close of business on the Distribution Date.

Exercise of Rights

In the event that a Person becomes an Acquiring Person, each holder of a Right will have the right to buy that number of shares of Common Stock (or, in certain circumstances, Preferred Stock, other Ameren securities or other assets) having a market value equal to two times the exercise price of Right. Under certain circumstances where Ameren is acquired in a business combination transaction with, or 50% or more of its assets or earning power is sold or transferred to, another company ("Acquiring Company"), exercise of a Right will entitle its holder to receive common stock or other equity of the Acquiring Company also having a value equal to twice the exercise price of the Right. Rights beneficially owned by any Acquiring Person will be null and void.

Redemption and Termination of Rights

At any time after a Person becomes an Acquiring Person and before the acquisition by such Person of 50% or more of outstanding Common Stock, the Board may exchange the Rights in whole or in part (other than Rights owned by an Acquiring Person which will have become void), at an exchange ratio or one share of Common Stock (or 1/100th of a share of Preferred Stock) per Right, subject to adjustment.² In addition, the Board may redeem all of the Rights at any time prior to a Person becoming an Acquiring Person, at a price of \$.01 per Right, subject to adjustment ("Redemption Price"). If the Board orders the redemption of Rights or the exchange of Rights in whole, the only right of the holders of the Rights will be to receive the exchanged property or the Redemption Price, as the case may be.

Adjustments and Amendments

The Purchase Price, the number of shares of Preferred Stock covered by each Right and the number of Rights outstanding are subject to adjustment from time to time to prevent dilution. With certain exceptions, no adjustment

² The Rights may also be exchanged, under certain circumstances, for other Ameren securities or other assets.