

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28191; File No. 812-13452]

Jefferson National Life Insurance Company, et al.

March 10, 2008

Agency: Securities and Exchange Commission (the “Commission”).

Action: Notice of application for an order of approval pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the “Act”), and an order of exemption pursuant to Section 17(b) of the Act from Section 17(a) of the Act.

Applicants: Jefferson National Life Insurance Company (“JNL”), Jefferson National Life Annuity Account C (“Separate Account C”), Jefferson National Life Annuity Account E (“Separate Account E”), Jefferson National Life Annuity Account F (“Separate Account F”), Jefferson National Life Annuity Account G (“Separate Account G”), Jefferson National Life Annuity Account H (“Separate Account H”), Jefferson National Life Annuity Account I (“Separate Account I”), Jefferson National Life Annuity Account J (“Separate Account J”), Jefferson National Life Annuity Account K (“Separate Account K”), Conseco Variable Insurance-Separate Account L (“Separate Account L”, and together with Separate Account C, Separate Account E, Separate Account F, Separate Account G, Separate Account H, Separate Account I, Separate Account J, and Separate Account K, the “Separate Accounts” and, collectively with JNL, the “Applicants”), and Northern Lights Variable Trust (“NLVT” and collectively with Applicants, the “Section 17 Applicants”).

Summary of Application: Applicants seek an order approving the proposed substitution of shares of the PIMCO Variable Insurance Trust Money Market Portfolio (the “Substitution”) for shares of the JNF Money Market Portfolio, a series of NLVT. Section 17 Applicants seek an order

exempting them from the provisions of Section 17(a) of the Act to the extent necessary to permit JNL to carry out the Substitution.

Filing Date: The application was originally filed on November 21, 2007 and amended on March 7, 2008.

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 Commission 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 April 2, 2008, 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, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549-1090. Applicants, 9920 Corporate Campus Drive, Suite 1000, Louisville, Kentucky 40223.

For Further Information Contact: Michael Kosoff, Staff Attorney, at (202) 551-6754 or Harry Eisenstein, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551-6795.

Supplementary Information: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 100 F Street, NE, Washington, DC 20549 (202-551-8090).

Applicants' and Section 17 Applicants' Representations:

1. JNL is a stock life insurance company originally organized in 1937 under the laws of Texas.
2. Separate Account C was established in 1980. Separate Account C is registered under the Act as a unit investment trust (File No. 811-04819) and is used to fund variable annuity contracts issued by JNL. Two variable annuity contracts funded by Separate Account C are affected by this application.

Separate Account E was established in 1993. Separate Account E is registered under the Act as a unit investment trust (File No. 811-08288) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account E is affected by this application.

Separate Account F was established in 1997. Separate Account F is registered under the Act as a unit investment trust (File No. 811-08483) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account F is affected by this application.

Separate Account G was established in 1996. Separate Account G is registered under the Act as a unit investment trust (File No. 811-07501) and is used to fund variable annuity contracts issued by JNL. Three variable annuity contracts funded by Separate Account G are affected by this application.

Separate Account H was established in 1999. Separate Account H is registered under the Act as a unit investment trust (File No. 811-09693) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account H is affected by this application.

Separate Account I was established in 2000. Separate Account I is registered under the Act as a unit investment trust (File No. 811-10213) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account I is affected by this application.

Separate Account J was established in 2003. Separate Account J is registered under the Act as a unit investment trust (File No. 811-21498) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account J is affected by this application.

Separate Account K was established in 2003. Separate Account K is registered under the Act as a unit investment trust (File No. 811-21500) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account K is affected by this application.

Separate Account L was established in 2000. Separate Account L is registered under the Act as a unit investment trust (File No. 811-10271) and is used to fund variable universal life contracts issued by JNL. One variable universal life contract funded by Separate Account L is affected by this application (all eleven variable annuity contracts and the one variable universal life contract affected by this application are hereinafter collectively referred to as the “Contracts”).

3. NLVT was organized in Delaware as a statutory trust on November 2, 2005 and is registered under the Act as an open-end management investment company.

4. Pacific Investment Management Company LLC (“PIMCO”) is the investment adviser for the PIMCO Variable Insurance Trust Money Market Portfolio (the “Replaced Fund”). PIMCO and the Replaced Fund are not affiliated with JNL. JNF Advisors, Inc. (“JNF Advisor”) is a

recently formed investment adviser under common control with JNL. JNF Advisor will serve as investment adviser to the JNF Money Market Portfolio (the “Replacement Fund”). AIM Advisors, Inc. (“AIM”) will be sub-adviser for the Replacement Fund. AIM is not affiliated with JNL. There are no corporate affiliations among the investment advisers.

5. Purchase payments under the Contracts may be allocated to one or more sub-accounts of the Separate Accounts (the “Sub-Accounts”). Income, gains and losses, whether or not realized, from assets allocated to the Separate Accounts are credited to or charged against the Separate Accounts without regard to other income, gains or losses of JNL. The assets maintained in the Separate Accounts will not be charged with any liabilities arising out of any other business conducted by JNL. Nevertheless, all obligations arising under the Contracts, including the commitment to make annuity payments or death benefit payments, are general corporate obligations of JNL. Accordingly, all of the assets of JNL are available to meet its obligations under the Contracts.

6. The Contracts permit allocations of account value to available Sub-Accounts that invest in specific investment portfolios of underlying registered investment companies (a “Fund” and, collectively, the “Mutual Funds”). The Mutual Funds are registered under the Act as open-end management investment companies.

7. The Contracts permit transfers of accumulation value from one Sub-Account to another Sub-Account at any time subject to certain restrictions. No sales charge applies to such a transfer of accumulation value among Sub-Accounts. A transaction fee is imposed on purchases or redemptions involving Sub-Accounts (“Transaction Fee Sub-Accounts”) which invest in certain Funds.¹ None of the Transaction Fee Sub-Accounts hold shares of a money market fund.

¹ The Monument Adviser contract (File No. 333-124048) is the only contract covered by this application that imposes the transaction fee.

8. The Contracts reserve the right, upon notice to contract owners (the “Contract Owners”), to substitute shares of another mutual fund for shares of a Fund held by a Sub-Account.

9. After the Substitution, the investment objective and policies of the Replacement Fund will be substantially similar to the investment objective and policies of the Replaced Fund.

10. JNF Advisor will serve as the investment adviser for the Replacement Fund. However, the management of the Replacement Fund will be sub-advised by AIM. For the Replaced Fund and the Replacement Fund, the investment objectives, principal risks, investment adviser/sub-adviser, and fee structure are shown in the tables that follow. The tables also show the Replaced Fund’s expenses for the fiscal year ending in 2007 and assets as of December 31, 2007.

11. Substitution 1

	Replaced Fund	Replacement Fund
Fund Name	PIMCO Variable Insurance Trust Money Market Portfolio	JNF Money Market Portfolio; subadvised by AIM
Investment Objective	Seeks maximum current income, consistent with preservation of capital and daily liquidity.	Seeks as high a level of current income as is consistent with preservation of capital and daily liquidity.
Strategy	Invests at least 95% of its total assets in a diversified portfolio of money market securities that are in the highest rating category for short-term obligations. May invest up to 5% of its total assets in money market securities in the second highest rating category. Will only invest in U.S. dollar denominated securities maturing in 397 days or less. Dollar-weighted average portfolio maturity will not exceed 90 days.	Invests at least 95% of its total assets in a diversified portfolio of money market securities that are in the highest rating category for short-term obligations. May invest up to 5% of its total assets in money market securities in the second highest rating category. Will only invest in U.S. dollar denominated securities maturing in 397 days or less. Dollar-weighted average portfolio maturity will not exceed 90 days.
Principal Risks	<ul style="list-style-type: none"> • Market Risk • Interest Rate Risk • Issuer Risk • Management Risk • Inflation – Indexed Securities Risk • Foreign (Non-U.S.) Investment Risk • Credit Risk 	<ul style="list-style-type: none"> • Market Risk • Interest Rates and Bond Maturities Risk • Municipal Bond Risk • U.S. Government Obligations Risk • Inflation – Index Securities Risk • Foreign Securities Risk • Credit Risk
Significant Principal Risk Disparities?	None	
Adviser/Subadviser	PIMCO	JNF Advisor/ AIM

	Replaced Fund	Replacement Fund
Fund Asset Level as of 9/30/07	\$376,000,000 ^(a)	\$0
Advisory Fee	0.15%	0.15%
Advisory Fee Schedule	0.15% ^(b)	0.15% ^(b)
Service Fee	0.15%	0
12b-1 Fee	0	0 ^(c)
Other Expenses	0.20%	0.51% ^(d)
Total Annual Operating Expenses	0.50%	0.66%
Fee Reduction	N/A	0.16% ^(e)
Net Total Annual Expenses	0.50%	0.50%

- (a) As of December 31, 2007, approximately 32% of the Replaced Fund's assets would be transferred to the Replacement Fund.
- (b) The advisory fee schedule does not contain breakpoints.
- (c) An affirmative vote of shareholders would be required to approve a Rule 12b-1 plan for the Replacement Fund.
- (d) Other fees are based on estimated amounts for the Portfolio's current fiscal year.
- (e) JNF Advisor has contractually agreed to waive its investment advisory fees and/or reimburse the Money Market Portfolio to the extent that the ratio of expenses (excluding brokerage fees and commissions, acquired fund fees and expenses, borrowing costs (such as interest and dividend expense on securities sold short), taxes and extraordinary expenses) to net assets on an annual basis exceeds 0.50% for the Money Market Portfolio. JNF Advisor may discontinue the contractual limits at any time after April 30, 2009, subject to the condition in this Application relating to the maximum total operating expenses for the Replacement Fund for the 24 months following the Substitution.

The Applicants believe that the Replacement Fund is an appropriate substitute for the Replaced Fund because the investment objective and policies of the Replacement Fund are substantially similar to those of the Replaced Fund. Because the Substitution involves replacing one money market fund with another money market fund, the Substitution will not result in a reduced number or a change in the investment characteristics of the investment options offered under the Contracts.

12. The Substitution will take place at the Funds' relative net asset values determined on the date of the Substitution in accordance with Section 22 of the Act and Rule 22c-1 thereunder with no change in the amount of any Contract Owner's account value or death benefit or in the dollar value of his or her investment in any of the Sub-Accounts. Accordingly, there will be no financial impact on any Contract Owner.

13. The Substitution may be effected by having each of the Sub-Accounts that invests in the Replaced Fund redeem its shares at the net asset value calculated on the date of the Substitution and purchase shares of the Replacement Fund at the net asset value calculated on the same date.

14. In the alternative, should the Replaced Fund determine that a cash redemption would adversely affect its shareholders, it may redeem the interest “in-kind.” In that case, the Substitution will be effected by the Sub-Account contributing all the securities it receives from the Replaced Fund for an amount of Replacement Fund shares equal to the fair market value of the securities contributed. All in-kind redemptions from the Replaced Fund of which any of the Applicants is an affiliated person will be effected in accordance with the conditions set forth in the Commission’s no-action letter issued to Signature Financial Group, Inc. (available Dec. 28, 1999).

15. The Substitution will be described in a supplement to the prospectuses for the Contracts (“Supplement”) filed with the Commission and mailed to Contract Owners. The Supplement will provide Contract Owners with notice of the Substitution and describe the reasons for engaging in the Substitution. The Supplement also will inform Contract Owners with assets allocated to a Sub-Account investing in the Replaced Fund that the Replaced Fund will not be an available investment option after the date of the Substitution and that Contract Owners will have the opportunity to reallocate account value on one day to one or more Sub-Accounts:

- prior to the Substitution, from the Sub-Accounts investing in the Replaced Fund, and
- for 30 days after the Substitution, from the Sub-Accounts investing in the Replacement Fund to Sub-Accounts investing in another Fund available under the respective Contracts,

without diminishing the number of free transfers that may be made in a given contract year and without the imposition of any transfer charge or limitation, other than the transaction fee applicable to certain Sub-Accounts and any applicable limitations in place to deter potentially harmful excessive trading.²

16. The prospectuses for the Contracts will contain the substance of the information contained in the Supplement concerning the Substitution. Each Contract Owner will be provided with a prospectus for the Replacement Fund before the Substitution, unless the Replacement Fund becomes effective contemporaneously with the Substitutions, in which case a prospectus will be sent to affected Contract Owners with the written confirmation. Within five days after the Substitution, JNL will send affected Contract Owners written confirmation that the Substitution has occurred and notice that Contract Owners will have the opportunity to reallocate account value for 30 days after the Substitution, from the Sub-Accounts investing in the Replacement Fund to Sub-Accounts investing in another Fund available under the respective Contracts, without diminishing the number of free transfers that may be made in a given contract year and without the imposition of any transfer charge or limitation, other than the transaction fee applicable to certain Sub-Accounts and any applicable limitations in place to deter potentially harmful excessive trading.

17. JNL will pay all direct and indirect expenses and transaction costs of the Substitution, including all legal, accounting and brokerage expenses relating to the Substitution. No costs will be borne by Contract Owners. Affected Contract Owners will not incur any fees or charges as a

² There are five Transaction Fee Sub-Accounts which are available only under one annuity contract (File No. 333-124048) which offers 160 no-fee Sub-Accounts. The Transaction Fee Sub-Accounts hold shares of the following Nationwide VIT Index Funds: S&P 500; Small Cap; Mid Cap; International and Bond. These funds have investment characteristics which are completely unlike those of the Pimco Variable Insurance Trust Money Market Portfolio which is being replaced in the Substitution. In light of the foregoing Applicants do not believe there is any investor protection basis not to allow the substituted Contract Owners to bear a charge applicable to all other Contract Owners seeking to invest in a Transaction Fee Sub-Account.

result of the Substitution, nor will their rights or the obligations of the Applicants under the Contracts be altered in any way. The Substitution will not cause the fees and charges under the Contracts currently being paid by Contract Owners to be greater after the Substitution than before the Substitution. The Substitution will have no adverse tax consequences to Contract Owners and will in no way alter the tax benefits to Contract Owners.

18. Applicants believe that their request satisfies the standards for relief pursuant to Section 26(c) of the Act, as set forth below, because the affected Contract Owners will have:

(1) account values allocated to a Sub-Account invested in the Replacement Fund with an investment objective and policies substantially similar to the investment objective and policies of the Replaced Fund; and

(2) The Replacement Fund whose current total annual expenses will be no higher than that of the Replaced Fund for its 2007 fiscal year because, as described below, JNL has agreed to, for a period of 24 months following the Substitutions, limit the total net expenses of the Replacement Fund to those of the Replaced Fund for the 2007 fiscal year. At the end of the 24 month period it is possible that the expenses of the Replacement Fund may be higher.

Applicants' and Section 17 Applicants' Legal Analysis:

1. The Applicants represent that Section 26(c) of the Act makes it unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission approves the substitution. The Commission will approve such a substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. The Applicants note that the purpose of Section 26(c) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate shares of a particular issuer by preventing unscrutinized substitutions that might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial premium payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Moreover, in the insurance product context, a Contract Owner forced to redeem may suffer adverse tax consequences. Section 26(c) affords this protection to investors by preventing a depositor or trustee of a unit investment trust that holds shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

3. The Applicants assert that the purposes, terms and conditions of the Substitution are consistent with the principles and purposes of Section 26(c) and do not entail any of the abuses that Section 26(c) is designed to prevent. Applicants have reserved the right to make such a substitution under the Contracts and this reserved right is disclosed in the prospectus for the Contracts.

4. The Applicants submit that the investment objectives and policies of the Replacement Fund are sufficiently similar to those of the Replaced Fund that Contract Owners will have continuity in investment expectations. Accordingly, the Replacement Fund is an appropriate investment vehicle for those Contract Owners who have account values allocated to the Replaced Fund.

5. The Applicants represent that for the 24-month period following the date of the Substitution, JNL agrees to limit the total operating expenses of the Replacement Fund (taking into account any expense waiver or reimbursement) on an annualized basis to the net expense

level of the Replaced Fund for the 2007 fiscal year. In addition, for 24 months following the Substitution, JNL will not increase asset-based fees or charges for Contracts outstanding on the day of the Substitution. JNL represents that the Substitution and the selection of the Replacement Fund were not motivated by any financial consideration paid or to be paid by the Replacement Fund, its adviser, its sub-adviser or underwriters, or their respective affiliates.³

6. The Applicants assert that the Substitution will not result in the type of costly forced redemption that Section 26(c) was intended to guard against and, for the following reasons, is consistent with the protection of investors and the purposes fairly intended by the Act:

- (1) The Replacement Fund is an appropriate fund to which to move Contract Owners with account values allocated to the Replaced Fund because the new fund has substantially similar investment objectives and policies.
- (2) The costs of the Substitution, including any brokerage costs, will be borne by JNL and will not be borne by Contract Owners. No charges will be assessed to effect the Substitution.
- (3) The Substitution will be at the net asset value of the shares without the imposition of any transfer or similar charge and with no change in the amount of any Contract Owner's account value.
- (4) The Substitution will not cause the fees and charges under the Contracts currently being paid by Contract Owners to be greater after the Substitution than before the

³ In this regard, JNL has been receiving .30% annually in "revenue sharing" with respect to investments by its separate accounts in the Replaced Fund and expects that it will receive that same percentage amount from the Replacement Fund. With respect to the Replaced Fund, JNL receives .15% pursuant to the Replaced Fund's Administrative Services Plan and .15% from the Replaced Fund's investment adviser for non-marketing services rendered to current and prospective Contract Owners. With respect to the Replacement Fund, JNL expects to receive from the Replacement Fund .30% for administrative services.

- Substitution and will result in Contract Owners' account values being moved to a Fund with the same or lower current total annual expenses.
- (5) All Contract Owners will be given notice of the Substitution prior to the Substitution and will have an opportunity before, and for 30 days after, the Substitution to reallocate account value among other available Sub-Accounts without diminishing the number of free transfers that may be made in a given contract year and without the imposition of any transfer charge or limitation, other than the transaction fee applicable to certain Sub-Accounts and any applicable limitations in place to deter potentially harmful excessive trading or limitation on the number of transfers to or from the fixed accounts available with the variable annuity contracts.
 - (6) Within five days after the Substitution, JNL will send to its affected Contract Owners written confirmation that the Substitution has occurred.
 - (7) The Substitution will in no way alter the insurance benefits to Contract Owners or the contractual obligations of JNL.
 - (8) The Substitution will have no adverse tax consequences to Contract Owners and will in no way alter the tax benefits to Contract Owners.
 - (9) The Replacement Fund will not rely on any "manager of managers" exemptive relief unless such action is approved by a majority of the Replacement Fund's shareholders at a meeting whose record date is after the Substitution has been effected.

7. The Section 17 Applicants request an order under Section 17(b) exempting them from the provisions of Section 17(a) to the extent necessary to permit JNL to carry out the proposed substitution. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from

knowingly selling any security or other property to that company. Section 17(a)(2) of the Act generally prohibits the persons described above, acting as principal, from knowingly purchasing any security or other property from the registered company.

8. JNL, as depositor of the Separate Accounts, is an affiliate of the Separate Accounts and also JNF Advisor, which serves as investment adviser for the affected NLVT series. As such, JNF Advisor could be deemed to control the affected NLVT series and be an affiliate of the affected NLVT series. Assuming, for this or other reasons, that an affected NLVT series is an affiliate of an affiliate of JNL, to the extent the Separate Accounts each use assets received in-kind to purchase Replacement Fund Shares, the substitutions would involve one or more purchases or sales of securities or property between persons who are affiliates of affiliates. Accordingly, the Section 17 Applicants are seeking relief, to the extent necessary, from Section 17(a) for the in-kind purchases and sales of Replacement Fund Shares.

9. Section 17(b) of the Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of Section 17(a) if the evidence establishes that:

(1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and records filed under the Act; and

(3) the proposed transaction is consistent with the general purposes of the Act.

10. The Section 17 Applicants submit that, for all the reasons set forth in paragraphs 3-6 immediately above, the terms of the proposed in-kind purchases of shares of the Replacement

Fund by the Separate Accounts, including the consideration to be paid and received, as described in this Application, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Section 17 Applicants also submit that the proposed in-kind purchases by the Separate Accounts are consistent with the policies of JNL and the affected NLVT series. Finally, the Section 17 Applicants submit that the proposed substitutions are consistent with the general purposes of the Act.

11. The Section 17 Applicants assert that, to the extent the Separate Account's in-kind purchases of Replacement Fund shares are deemed to involve principal transactions between entities which are affiliates of affiliates, the procedures described below should be sufficient to assure that the terms of the proposed transactions are reasonable and fair to all participants. The Section 17 Applicants maintain that the terms of the proposed in-kind purchase transactions, including the consideration to be paid and received by each Fund involved, are reasonable, fair and do not involve overreaching. In addition, although not applicable, the in-kind transactions will conform with all except one of the conditions enumerated in Rule 17a-7. The proposed transactions will take place at relative net asset value in conformity with the requirements of Section 22(c) of the Act and Rule 22c-1 thereunder with no change in the amount of any Contract Owner's account value or death benefit or in the dollar value of his or her investment in any Sub-Account. Contract Owners will not suffer any adverse tax consequences as a result of the substitution. The fees and charges under the Contracts will not increase because of the substitution. Even though they may not rely on Rule 17a-7, the Section 17 Applicants believe that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching.

12. The Section 17 Applicants will carry out the proposed in-kind purchases in conformity

with all of the conditions of Rule 17a-7 and the Replacement Fund's procedures thereunder, except that the consideration paid for the securities being purchased or sold may not be entirely cash. Nevertheless, the circumstances surrounding the proposed substitution will be such as to offer the same degree of protection to the Replacement Fund from overreaching that Rule 17a-7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business. In particular, JNL (or any of their affiliates) cannot effect the proposed transaction at a price that is disadvantageous to the Replacement Fund.

Although the transaction may not be entirely for cash, it will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a-7, and (2) the net asset value per share of the Fund valued in accordance with the procedures disclosed in its registration statement and as required by Rule 22c-1 under the Act. No brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed in-kind transaction.

13. The Section 17 Applicants assert that the sale of shares of the Replacement Fund for investment securities, as contemplated by the proposed in-kind transaction, is consistent with the investment policy and restrictions of the Replacement Fund because (1) the shares are sold at their net asset value, and (2) the portfolio securities are of the type and quality that the Replacement Fund would each have acquired with the proceeds from share sales had the shares been sold for cash. To assure that the second of these conditions is met, the sub-adviser will examine the portfolio securities being offered to the Replacement Fund and accept only those securities as consideration for shares that it would have acquired for such fund in a cash transaction.

14. The Section 17 Applicants submit that the proposed in-kind transactions are consistent with the general purposes of the Act as stated in the Findings and Declaration of Policy in Section 1 of the Act. The proposed transactions do not present any of the conditions or abuses that the Act was designed to prevent. In particular, Sections 1(b)(2) and (3) of the Act state, among other things, that the national public interest and the interest of investors are adversely affected “when investment companies are organized, operated, managed, or their portfolio securities are selected in the interest of directors, officers, investment advisers, depositors, or other affiliated persons thereof, or in the interests of other investment companies or persons engaged in other lines of business, rather than in the interest of all classes of such companies’ security holders; ...when investment companies issue securities containing inequitable or discriminatory provisions, or fail to protect the preferences and privileges of the holders of their outstanding securities....” For all the reasons stated in Sections V.B. and VI of the Application, the abuses described in Sections 1(b)(2) and (3) of the Act will not occur in connection with the proposed in-kind purchases.

15. The Section 17 Applicants note that the Commission has previously granted exemptions from Section 17(a) in circumstances substantially similar in all material respects to those presented in this Application to applicants affiliated with an open-end management investment company that proposed to purchase shares issued by the company with investment securities of the type that the company might otherwise have purchased for its portfolio. In these cases, the Commission issued an order pursuant to Section 17(b) of the Act where the expense of liquidating such investment securities and using the cash proceeds to purchase shares of the investment company would have reduced the value of investors’ ultimate investment in such shares.

Conclusion:

For the reasons and upon the facts set forth above, the Applicants and the Section 17 Applicants believe that the requested order meets the standards set forth in Section 26(c) and Section 17(b), respectively, and should, therefore, be granted.

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

Florence E. Harmon
Deputy Secretary