

Agencies and Persons Consulted

The NRC staff consulted with the State of Ohio regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this proposed action, see the licensee's letters dated December 16, 1993 (PY-CEI/NRR-1732 L), and November 7, 1994 (PY-CEI/NRR-1880 L). These letters are available for public inspection at the Commission's Public Document room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland this 30th day of December 1994.

For the Nuclear Regulatory Commission.

Leif J. Norrholm,

Director, Project Directorate III-3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-20808; File No. 812-9122]

The Ohio National Life Insurance Co., et al.

December 29, 1994.

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

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

APPLICANTS: The Ohio National Life Insurance Company (the "Company"), Ohio National Variable Account D ("VAD"), and The O.N. Equity Sales Company ("ONESCO"), collectively, the "Applicants."

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act, granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit the issuance and sale of certain

group variable annuity contracts offered presently (the "Contracts") or in the future through existing and future subaccounts of VAD, from which a mortality and expense risk charge and/or a distribution charge may be deducted.

FILING DATE: The application was filed initially on July 20, 1994. An amended and restated application was filed on December 20, 1994.

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 the application by writing to the Secretary of the Commission and serving the Applicants with a copy of the request, either personally, or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on January 23, 1995, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 237 William Howard Taft Road, Cincinnati, OH 45219.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, at (202) 942-0670, Office of Insurance Products, Division of Investment Management.

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.

Applicants' Representations

1. The Company was organized under the laws of Ohio in 1909 as a stock life insurance company, and became a mutual life insurance company in 1959. The Company writes life, accident and health insurance, and annuities in 45 states and the District of Columbia.

2. Established by the Company in 1969 as a separate account under Ohio law, VAD funds group variable annuity contracts (including the Contracts). Income, gains and losses, whether or not realized, from assets allocated to VAD are credited to or charged against VAD without regard to other income, gains or losses of the Company. The assets maintained in VAD will not be charged with any liabilities arising out of any other business conducted by the Company. Nevertheless, all obligations arising under the variable annuity contracts funded by VAD, including the

commitment to make annuity payments, are general corporate obligations of the Company. Accordingly, all of the Company's assets are available to meet its obligations under those variable annuity contracts. VAD is registered as a unit investment trust under the 1940 Act.

3. ONESCO, a wholly-owned subsidiary of the Company, is a registered broker-dealer and a member of the National Association of Securities Dealers, Inc. ONESCO is the principal underwriter of the Contracts.

4. The Contracts are group variable annuity contracts that provide for the accumulation of values and the payment of annuity benefits on a variable and/or fixed basis. The Contracts are designed for the following types of tax-qualified retirement plans ("Plans"): (a) annuity purchase plans adopted by public school systems or by certain tax-exempt organizations which qualify for tax-deferred treatment pursuant to Section 403(b) of the Internal Revenue Code (the "Code"); (b) other employee pension or profit-sharing trusts or plans which qualify for tax-deferred treatment under Section 401(a), 401(k) or 403(a) of the Code; and (c) state and municipal deferred compensation plans.

5. The minimum contribution amount under each Contract is \$25 per Plan participant. Additional contributions may be made at any time, but not more often than biweekly. Generally, maximum contributions under the Contracts equal the maximum amounts permitted under the respective Plan.

6. Net purchase payments under the Contracts (after deduction of any applicable state premium tax) are allocated to one or more subaccounts of VAD and/or to the Company's general account. Assets of the subaccounts of VAD are invested in shares of a corresponding portfolio of Ohio National Fund, Inc., a mutual fund having seven diversified investment portfolios. Additional subaccounts may be created by VAD in the future to invest in new investment portfolios of Ohio National Fund, Inc., or in investment portfolios of other investment companies. In the future, VAD also may offer additional variable annuity contracts (the "future contracts") which are materially similar to the Contracts.

7. The Company will assess an administration expense charge, on an annual basis, to 0.35 percent of Contract value. The expenses reimbursed by the administration charge include, but are not limited to, those for: accounting, auditing, legal, and Contract owner services; reports to regulatory authorities and Contract owners; and

issuing Contracts. The Company will assess a charge of \$5 for each transfer of Contract value among the various subaccounts.

8. The administration expense and transfer charges will be deducted from VAD assets in reliance upon Rules 26a-1 and 11a-2 under the 1940 Act, and no relief is requested in connection with the deduction of those charges. Neither of these charges is designed to produce a profit, but rather to reimburse the Company for expenses incurred.

9. When applicable, the Company will deduct state premium taxes. Where permitted, the Company will assess a premium tax charge when annuity payments begin; otherwise, a premium tax charge will be deducted from premium payments. The Company will deduct a premium tax charge in reliance on Rule 26a-2 of the 1940 Act and, therefore, requests no relief connection with the deduction of such a charge.

10. The Company will assess a contingent deferred sales charge ("CDSC") for partial withdrawals or surrenders in the first seven years after a Plan participant's account has been established under the Contract. The CDSC will be deducted as a percentage of the amount withdrawn, and declines from 7 percent in the first year to 1 percent in the seventh year.

11. The prospectuses for the Contracts will disclose that, to the extent that the amount of the CDSC received by the Company is insufficient to recover the fees paid to ONESCO for sales commissions, any deficiency will be made up from the assets in the general account of the Company. Those general account assets include, among other things, any profit from mortality and expense risk charges. The CDSC will be deducted in reliance on Rule 6c-8 under the 1940 Act.

12. The Contracts provide that the Company has the right to deduct up to 0.40 percent of contract value, on an annual basis, for distribution expenses. This "distribution charge" is designed to compensate the Company for assuming the risk that the cost of distributing the Contracts will exceed the revenues from the CDSC. Whether the Applicants actually impose a distribution charge depends upon their assessment of the profitability of selling and administering the Contracts without such a charge. If sufficient sales levels are achieved without the charge, there may be no need to impose the charge, or at least no need to impose it at the maximum (0.40 percent) rate.

13. If and to the extent that a distribution charge is imposed, the Company will monitor VAD to ensure that aggregate deductions for

distribution expense and sales charges deducted upon partial withdrawals or surrender do not exceed 9 percent of aggregate contributions to be made by or on behalf of any Plan participant.

14. Although the distribution charge will not be imposed initially and may never be imposed, the prospectus for the Contracts will include a description of the distribution expense charge and a representation that aggregate deductions for distribution expense and sales charges deducted upon partial withdrawals or surrender will not exceed 9 percent of aggregate contributions made by any Contract owner.

15. The Company will assess a mortality and expense risks charge equal, on an annual basis, to 1 percent of Contract value. The Company estimates that 0.40 percent of the charge is for assumption of mortality risks, and 0.60 percent is for the assumption of expense risks. The Company hopes to realize a profit from this charge. If, however, the charge is insufficient to cover the actual mortality and expense risks involved, the loss will fall on the Company.

16. The mortality risk arises from the Company's guarantee that it will make annuity payments in accordance with annuity rate provisions established at the time the Contract is issued for the life of the annuitant, no matter how long the annuitant lives. The expense risk assumed by the Company is that the costs of administering the Contracts during the accumulation and annuity periods will exceed the amounts received from the administrative expense charge assessed by the Company.

17. Changes in annuity rates specified in a Contract may not be effected without the consent of the Contract holder unless a Contract has been in effect for at least 5 years and the Contract holder has been given 5 years' notice of the change; changes in annuity rates apply only to participant accounts established after the effective date of such changes. The administrative charge of 0.35 percent, the distribution charge of 0.40 percent, and the mortality and expense risks charge of 1 percent assessed under the Contracts may be modified during the first five years of a Contract only by written agreement with the Contract holder. Thereafter, changes in those charges may be made on any Contract anniversary, provided that the Contract holder is given 90 days notice of such changes. Any modification in administrative, distribution, and/or mortality and expense risks charges effected pursuant to a written agreement with the Contract holder would not

affect the rights of a participant, contingent annuitant, or beneficiary in or to any annuity effected before the date of the modification, unless (i) the modification was necessary to secure a tax benefit for the Contract holder or the participants, or (ii) a ruling or determination by a court of law or a governmental agency indicated that the modification was necessary in order to satisfy the requirements of any law or regulation administered by that agency. Because the order requested herein would permit deduction of mortality and expense risks charges of up to 1 percent, additional exemptive relief would be necessary to increase the mortality and expense risk charge in excess of that amount. The Contracts also provide that the mortality and expense risks charge may not be increased more frequently than once per year, and that the sum of the mortality and expense risks charge, the distribution charge, and the administrative charge may never exceed 2 percent.

Applicants' Legal Analysis

1. The Applicants request that the Commission, under Section 6(c) of the 1940 Act, grant exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof to the extent necessary to permit the issuance and sale of Contracts and any future contracts funded by existing and future subaccounts of VAD, from which a mortality and expense risk charge and/or a distribution charge may be deducted.

2. Section 6(c) of the 1940 Act provides, in pertinent part, 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 1940 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 1940 Act.

3. The Applicants submit that extending the requested relief to future subaccounts of VAD and to the future contracts is appropriate in the public interest. Such an order would eliminate the need for the Company to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. Both the delay and expense of repeatedly seeking exemptive relief in connection with new subaccounts or in connection with materially similar contracts would impair the ability of the Company to

take effective advantage of business opportunities that might arise. Investors would not receive any benefit or additional protection by requiring the company to seek exemptive relief repeatedly with respect to the issues addressed in this application.

4. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act require, among other things, that all payments received under a periodic payment plan certificate sold by a registered unit investment trust, any depositor thereof or underwriter thereof be held by a qualified bank as trustee or custodian, under arrangements which prohibit any payment to the depositor or principal underwriter except for the payment of a fee, not exceeding such reasonable amount as the Commission may prescribe, for bookkeeping and other administrative services.

5. The Applicants submit that the Company is entitled to reasonable compensation for its assumption of mortality and expense risks under the Contracts, and represent that the mortality and expense risks charge of 1.00 percent per annum proposed for the Contracts is within the range of industry practice for comparable variable annuity products. The Applicants represent that this representation is based upon an analysis made by the Company of publicly available information about selected similar industry products, taking into consideration such factors as annuity purchase rate guarantees, current levels of charges, any contractual right to increase charges above current levels, the existence of other charges, and the contractual right to make free withdrawals. The Company will maintain at its home office, and make available to the Commission, memoranda setting forth the products analyzed in the course of, and the methodology and results of, the comparative survey conducted.

6. Applicants acknowledge that the Company's revenues from the CDSC and distribution charge (if any) assessed under the Contracts could be insufficient to cover the costs of distributing the Contracts. If so, the excess distribution costs would be paid from the Company's general assets, including the profits (if any), from the mortality and expense risks charge assessed. In such circumstances, a portion of the mortality and expense risks charge might be viewed as covering a portion of the costs relating to the distribution of the Contracts.

7. The Applicants submit that, notwithstanding the foregoing, the Company has concluded that there is a reasonable likelihood that the proposed

distribution financing arrangements made with respect to the Contracts will benefit VAD and the contract owners. The basis for that conclusion is set forth in a memorandum which will be maintained by the Company at its service office and will be available to the Commission.

8. The Company represents that VAD will invest only in underlying mutual funds which have undertaken to have a board of directors, a majority of the members of which are not "interested persons" of that fund (within the meaning of Section 2(a)(19) of the 1940 Act), formulate and approve any plan to finance distribution expenses in accordance with Rule 12b-1 under the 1940 Act.

9. Applicants submit that, because the aggregate distribution charges (if any) and sales charges will never exceed 9 percent, Applicants will deduct no more to pay for distribution of the Contracts than is permitted by the 1940 Act and Rule 6c-8 thereunder. Because those charges will be deducted from Contract value over a period of many years, rather than from contributions to the Plans, Plan participants will have more funds available for investment than if a front-end sales charge of 9 percent were deducted.

Conclusion

The Applicants submit that, for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to permit the deduction of a mortality and expense risks charge and/or a distribution charge under the Contracts and the future contracts funded through existing and future subaccounts of VAD meet the statutory standards of Section 6(c) of the 1940 Act. Accordingly, the 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, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[Rel. No. IC-20811; 812-9346]

A.T. Ohio Municipal Money Fund and The Victory Funds; Notice of Application

December 29, 1994.

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

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

APPLICANTS: A.T. Ohio Municipal Money Fund ("A.T. Ohio") and the Victory Funds (the "Fund").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from rule 24f-2 under the Act.

SUMMARY OF APPLICATION: A.T. Ohio and the Fund request an order to permit them to pay a share registration fee due under rule 24f-2 for their fiscal years ending August 30, 1994 and August 31, 1994, respectively, based on net sales, *i.e.*, new sales minus redemptions, rather than on gross sales, *i.e.*, with no credit for redemptions.

FILING DATE: The application was filed on December 7, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested parties 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 January 23, 1995, and should be accompanied by proof of service on 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 5th Street, NW., Washington, DC 20549. Applicants, 125 West 55th Street, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Fran Pollack-Matz, Senior Attorney, at (202) 942-0570, or Robert A. Robertson, 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 at the SEC's Public Reference Branch.

APPLICANTS' REPRESENTATIONS: 1. A.T. Ohio and the Fund, registered open-end investment companies, each filed declarations pursuant to rule 24f-2