[Rel. No. IC–20938; File No. 812–9314]

The Northwestern Mutual Life Insurance Company, et al.

March 3, 1995.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: The Northwestern Mutual Life Insurance Company (''Northwestern''), NML Variable Annuity Account B (''Account B'') and Northwestern Mutual Investment Services, Inc. (''NMIS'').

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

SUMMARY OF THE APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of Account B under certain flexible premium variable annuity contracts (the ''Contracts'') and any materially similar contracts offered in the future by Account B.[1]

FILING DATE: The application was filed on November 3, 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 by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 28, 1995, 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 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, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o The Northwestern Mutual Life Insurance Company, 720 East Wisconsin Avenue, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

[1] Applicants represent that they will amend the application during the Notice Period to reflect this representation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Northwestern, a mutual life insurance company organized under the laws of Wisconsin, is licensed to do business in all fifty states and the District of Columbia.

2. Northwestern established Account B as a separate account under Wisconsin law to fund the Contracts. Account B is registered as a unit investment trust under the 1940 Act. Account B has nine subdivisions (''Divisions''), each of which invests in shares of the corresponding portfolio (''portfolio'') of Northwestern Mutual Series Fund, Inc. (''Fund''), which is registered under the 1940 Act as an open-end management investment company. Shares of each Portfolio are purchased by Northwestern for the corresponding division of Account B at net asset value.

3. NMIS, a wholly-owned second tier subsidiary of Northwestern, is the underwriter of the Contracts and is the investment adviser for the Fund.

4. The Contracts are individual periodic payment deferred variable annuity contracts that are intended to be used in connection with retirement plans qualified under Sections 403(b), 408, and 457 of the Internal Revenue Code (''Code'') or by other purchasers in situations which do not qualify for special treatment under the Code, and for roll-over of termination benefits from tax qualified corporate or HR–10 plans or trusts. A contract owner may allocate purchase payments and/or the accumulation value among the Divisions of Account B. The Contract owner may select among annuity payment options that include variable or fixed annuity options.

5. The Contracts are offered as either Front Load or Back Load Contracts. The minimum initial purchase payment for the Front Load Contracts is $10,000. For the Back Load Contracts, the minimum is $25 for plans qualified under Sections 403(b), 408 (except individual retirement annuities (''IRAs'')) and 457 of the Code; $100 for IRAs and non-tax qualified Contracts; and $3,500 for roll-over of termination benefits from tax-qualified corporate or HR–10 plans.

6. Front Load Contracts have a maximum front-end sales load of 4% deducted from each purchase payment. There are no withdrawal charges for Front Load Contracts. Back Load Contracts have no front-end sales load deducted from purchase payments. Withdrawals for Back Load Contracts are subject to a contingent deferred sales load at a maximum rate of 8%, and up to 10% of the Contract's accumulated value as of the last Contract anniversary can be withdrawn without a withdrawal charge subject to restrictions described in the Contract. The withdrawal charge reduces by 1% per year.

7. The withdrawal charge for current and future Contracts will not exceed 8.5% of the purchase payments under the Contract. Applicants are relying on Rule 6c–8 under the 1940 Act to deduct the contingent deferred sales load.

8. Contract owners may make unlimited transfers among the Divisions during the accumulation period, subject to a minimum of the lesser of $100 or the entire amount in the Division from which the transfer is made. A transfer fee of $25 may apply for each transfer in excess of twelve per Contract year.

9. The Contracts are subject to an annual Contract fee of $30 which will be deducted on each Contract anniversary in proportion to the values in each Division. Applicants represent that the amounts collected will not exceed the corresponding administrative costs as defined by the applicable standards of Rule 262–1 under the 1940 Act.

10. The Contracts permit, after the first Contract anniversary, deduction from purchase payments or from Contract benefits paid of premium taxes incurred. Northwestern currently waives this deduction by administrative practice.

11. Northwestern reserves the right to charge for any tax liability it pays or reserves for resulting from the maintenance or operation of Account B or any of its Divisions.

12. Northwestern imposes a charge as compensation for bearing certain mortality and expense risks under the Contracts. The charge is assessed daily and is based on the net asset value of Account B. The mortality and expense risk charge will not exceed .75% of the net assets of Account B attributable to the Front Load Contracts, and 1.25% of the net assets of Account B attributable to the Back Load Contracts. Northwestern intends to charge at the annual rate of .40% of the net asset value of Account B attributable to Front Load Contracts, of which .15% is for the mortality risk and .25% is for the expense risk, but reserves the right to increase or decrease the charge for these risks subject to a maximum of .75%. For the Back Load Contracts, the mortality and expense risk charge will be deducted on a daily basis at an annual rate of 1.25%, of which .50% is for the mortality risk and .75% is for the expense risk. For contracts offered in

the future that are materially similar to the Front Load Contracts and the Back Load Contracts all charges and expenses will be identical to, or lower than, the corresponding charges and expenses for the Front Load Contracts and the Back Load Contracts, respectively, as described in the application.[2]

13. The mortality risk borne by Northwestern under both versions of the Contracts arises from its obligation to make annuity payments regardless of how long an annuitant may live. The mortality risk is the risk that annuitants will live longer than Northwestern's actuarial projections indicate, resulting in higher than expected annuity payments.

14. The expense risk borne by Northwestern under the Contracts is the risk that the charges for administering the Contracts, which are guaranteed for the life of each Contract, may be insufficient to cover the actual costs of issuing and administering the Contracts.

15. The mortality and expense risk is higher for the Back Load Contracts than for the Front Load Contracts for several reasons. Collection of a significant front end load inherently reduces the risk that charges will fall short of corresponding expenses since receipt of deferred loads is far less certain. The Front Load Contracts require a minimum initial purchase payment of $10,000, compared with $25, $100 or $3,500 for Back Load Contracts. The economies of scale associated with larger units reduce the expense risk. Northwestern asserts that an additional mortality risk for the Back Load Contract exists because the withdrawal charge does not apply upon the death of the annuitant.

Applicants' Legal Analysis and Conditions

1. Applicants request an exemption from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent any relief is necessary to permit the deduction from Account B of the mortality and expense risk charges under the Contracts. Applicants request that the order also permit the deduction of the mortality and expense risk charges described herein from the assets of Account B pursuant to other contracts offered in the future through Account B, to the extent that such contracts are materially similar to the Contracts.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and any depositor or underwriter thereof from selling periodic payment plan certificates unless the proceeds of all payments are deposited with a qualified trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

3. Applicants submit that their request for an order that applies to materially similar contracts offered in the future by Account B is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity contract market by eliminating the need for Northwestern to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. Investors would not receive any benefit or additional protection by requiring Northwestern to seek repeatedly exemptive relief regarding the same issues addressed in the application.

4. Applicants represent that they have reviewed publicly available information regarding the aggregate level of the mortality and expense risk charges under variable annuity contracts comparable to the Front Load Contracts and the Back Load Contracts currently being offered in the insurance industry taking into consideration such factors as current charge levels, the manner in which charges are imposed, the presence of expense and annuity rate guarantees and the markets in which the Contracts will be offered. Based upon this review, Applicants represent that the mortality and expense risk charges under the Contracts are within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission, upon request, a memorandum outlining the methodology underlying this representation. Similarly, prior to making available any materially similar contracts through Account B, Applicants will represent that the mortality and expense risk charges under any such contracts will be within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission, upon request, a memorandum outlining the methodology underlying such representation.

5. Applicants represent that Account B will invest only in underlying funds which undertake, in the event they should adopt a plan under Rule 12b–1 under the 1940 Act to finance distribution expenses, to have a board of directors or trustees, a majority of whom are not interested persons as defined under Section 2(a)(19) of the 1940 Act, formulate and approve any such plan.

6. Applicants do not expect the front-end sales load or contingent deferred sales load imposed under the Contracts will necessarily cover the expected costs of distributing the Contracts. Any shortfall will be made up from Northwestern's general assets which will include amounts derived from the mortality and expense risk charges. Northwestern has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts will benefit Account B and the Contract owners. Northwestern will keep and make available to the Commission, upon request, a memorandum setting forth the basis for this representation.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemption from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Contracts, or under materially similar contracts offered in the future by Account B, meets the standards in Section 6(c) of the 1940 Act. Applicants assert that the exemptions requested are appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–5814 Filed 3–8–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35436; File No. SR–PSE–95–01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Buy-Write Options Unitary Derivatives (''BOUNDs'')

March 2, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 6, 1995, the Pacific Stock Exchange, Inc. (''PSE'' 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 self-regulatory organization. The

[2] Applicants represent that they will amend the application during the Notice Period to reflect the representations in this paragraph.