

charge levels, the manner in which charges are imposed, the presence of charge level or 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 state that NYLIAC will maintain at its corporate headquarters⁴ and make available to the Commission, upon request, a memorandum outlining the methodology underlying this representation.

Similarly, prior to making available any Other Contracts, Applicants will determine that the mortality and expense risk charges under any such Other Contracts will be within the range of industry practice for comparable contracts. Applicants state that NYLIAC will maintain at corporate headquarters⁵ and make available to the Commission, upon request, a memorandum outlining the methodology underlying such conclusion.

6. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge under the Contracts, all or a portion of such profit may be available to pay distribution expenses not reimbursed by the CDSC. NYLIAC has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Account and the Contract Owners. NYLIAC will keep at its corporate headquarters⁶ and make available to the Commission, upon request, a memorandum setting forth the basis for this representation.

7. Similarly, Applicants recognize that, if a profit is realized from the mortality and expense risk charge under the Other Contracts, all or a portion of such profit may be available to pay distribution expenses not reimbursed by the CDSL. Prior to issuing Other Contracts, NYLIAC will determine that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the relevant separate account and the Other Contract Owners. The basis for that conclusion will be set forth in a memorandum which will be maintained by NYLIAC at

⁴ Applicants undertake to amend the application during the notice period to make this representation.

⁵ Applicants undertake to amend the application during the notice period to make this representation.

⁶ Applicants undertake to amend the application during the notice period to make this representation.

its corporate headquarters⁷ and will be made available to the Commission, upon request.

8. Applicants represent that the Separate Account, and any Other Accounts, will invest only in underlying funds that have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of any such fund, formulate and approve any plan under Rule 12b-1 under the 1940 Act to finance distribution expenses.

Applicants' Conditions

Applicants agree that if the requested order is granted such order will be expressly conditioned on Applicants' compliance with the undertakings set forth above. In addition, Applicants undertake to rely on the exemptive relief requested herein with respect to Other Contracts only if such Other Contracts are substantially similar in all material respects to the Contracts.

Conclusion

Applicants assert 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 deduct the mortality and expense risk charge under the Contracts, or under Other Contracts, offered by the Separate Account or by Other Accounts, meets the standards in Section 6(c) of the 1940 Act. Applicants assert that the exemptions requested are necessary and 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.

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BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying

⁷ Applicants undertake to amend the application during the notice period to make this representation.

the public that the agency has made such a submission.

DATES: Comments should be submitted on or before April 19, 1995. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205-6629

OMB Reviewer: Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

Title: Financing Eligibility Statement
Form No.: SBA Form 1941A, B, and C

Frequency: On Occasion

Description of Respondents: SBA businesses seeking financing from Specialized Small Business Investment Companies (SSBIC)

Annual Responses: 1,000

Annual Burden: 2,000

Dated: March 10, 1995.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 95-6712 Filed 3-17-95; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before April 19, 1995. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit