directors in the future. The Company also believes that such options are a necessary adjunct to its directors' fees to provide fair and reasonable compensation for the services and attention devoted by the non-officer directors. Each current non-officer director makes a significant contribution to the management of the Company's business and to analysis and supervision of its loan portfolio. The Company believes that any non-officer directors who are elected initially after issuance of the SEC's order will provide similar services and devote similar time and attention to serving the Company.

3. The projected compensatory value of an automatic, one-time grant to the Company's non-officer directors of a stock option to purchase 10,000 shares at fair market value is well within the range of reasonable director compensation in consideration of the time commitment described above, especially given that realization of such compensation is contingent upon the Company's market performance. Automatic, one-time option grants to current and future non-officer directors permit the Company to devote its cash resources to additional investments and not to increases in directors' fees to retain qualified non-officer directors or to attract replacements. Most importantly, as a method of compensation which is contingent on the Company's stock performance, such stock option awards serve the best interest of the Company's stockholders by reinforcing the alignment of the interests of non-officer directors and stockholders of the Company.

4. For all of these reasons, the Company believes that providing for the automatic, one-time grant of stock options to purchase 10,000 shares to each of the Company's current and future non-officer directors is fair and reasonable and does not involve overreaching of the Company or its stockholders.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29386 Filed 12–1–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21545; No. 812–9668]

National Life Insurance Company, et al.

November 27, 1995.

AGENCY: Securities and Exchange Commission (''Commission'').

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

APPLICANTS: National Life Insurance Company (the ''Company''), National Variable Life Insurance Account (the ''Account''), any other separate account established in the future by the Company (the ''Future Accounts'', collectively, with the Account, the ''Accounts'') to support flexible premium variable life insurance policies (the ''Future Contracts,'' collectively, with the Existing Contracts, the ''Contracts'') and Equity Securities, Inc. (the ''Underwriter'').

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the 1940 Act seeking exemptions from the provisions of Section 27(c)(2) thereof and from Rule 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order permitting them to deduct from premiums received under the Contracts issued by the Company and the Accounts a charge in an amount that is reasonable in relation to the Company's increased federal income tax burden related to the receipt of such premium payments and that results from the application of Section 848 of the Internal Revenue Code of 1986, as amended (the ''Code'').

FILING DATE: The application was filed on July 14, 1995.

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 December 22, 1995, and must 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 Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o D. Russell Morgan, Counsel, National Life Insurance Company, One National Life Drive, Montpelier, Vermont 05604.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Senior Counsel, or Wendy Friedlander, Deputy 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 Commission.

Applicant's Representations

1. The Company, a mutual life insurance company chartered pursuant to the law of the State of Vermont in 1848, is authorized to transact life insurance and annuity business in Vermont and in 50 other jurisdictions. The Company is depositor and sponsor of the Account.

2. The Company established the Account pursuant to Vermont law to support variable life insurance contracts. The Account is registered with the Commission as a unit investment trust and is a ''separate account'' as defined by Rule 0–1(e) under the 1940 Act. The Company anticipates that any Future Account would be registered under the 1940 Act as a unit investment trust and would meet the definition of a separate account in Rule 0–1(e) thereunder.

3. The Account currently has nine sub-accounts, each of which invests in a corresponding portfolio of one of two series-type mutual funds registered with the Commission as open-end, diversified management investment companies: the Market Street Fund and Variable Insurance Products Fund.

4. The Underwriter, an indirect, wholly-owned subsidiary of the Company, is registered as a broker-dealer pursuant to the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

5. The Existing Contracts are flexible premium variable life insurance contracts.

6. In the Omnibus Budget Reconciliation Act of 1990, Congress amended the Code by, among other things, enacting Section 848 thereof. Section 848 changed the federal income taxation of life insurance companies by requiring them to capitalize and amortize over a period of ten years part of their general expenses for the current year. Under prior law, these expenses were deductible in full from the current year's gross income.

7. The amount of expenses that must be capitalized and amortized under Section 848 is generally determined with reference to premium payments for certain categories of life insurance and other contracts (''Specified Contracts''). Thus, for each Specified Contract, an amount of expenses must be capitalized and amortized equal to a percentage of

the current year's net premium payments (*i.e.*, gross premium payments minus return premium payments and reinsurance premium payments) for that contract. The percentage varies, depending on the type of Specified Contract in question, according to a schedule set forth in Section 848(c)(1).

8. Although framed in terms of requiring a portion of a life insurance company's general expenses to be capitalized an amortized, Section 848 in effect accelerates the realization of income from Specified Contracts for federal income tax purposes, and therefore, the payment of taxes on the income generated by those contracts. When the time value of money is taken into account, this has the economic consequence of increasing the tax burden borne by the Company that is attributable to such contracts. Because the amount of general deductions that must be capitalized and amortized is measured by premium payments paid for Specified Contracts, an increased tax burden results from the receipt of those premium payments.

9. The Contracts to which Applicants wish to apply the tax burden charge are among the Specified Contracts. They fall into the category of life insurance contracts for which the percentage of net premium payments that determines the amount of otherwise currently deductible general expenses to be capitalized and amortized with respect to such contracts is 7.7%.

10. The increased tax burden resulting from the applicability of Section 848 to every $10,000 of net premium payments received may be quantified as follows. In the year when the premium payments are received, the Company's general deductions are reduced by $731.50—*i.e.*, an amount equal to (a) 7.7% of $10,000, or $770, minus (b) one-half year's portion of the ten-year amortization, or $38.50. Using a 35% corporate tax rate, this results in an increase in tax for the current year of $256.03. This reduction will be partially offset by increased deductions that will be allowed during the next ten years as a result of amortizing the remainder of the $770—$77 in each of the following nine years and $38.50 in the tenth year.

11. In the Company's business judgment, a discount rate of at least 8% is appropriate for use in calculating the present value of its future tax deductions resulting from the amortization described above. For business relating to participating insurance policies, the Company seeks an after tax rate of return on the investment of its surplus of at least 8%. To the extent that surplus must be used by the Company to satisfy its increased federal tax burden under Section 848 resulting from the receipt of premium payments, such surplus is not available to the Company for investment. Thus, the cost to the Company of ''capital'' used to satisfy its increased federal tax burden under Section 848 is, in essence, the Company's after tax rate of return on surplus, and accordingly, the rate of return on surplus is appropriate for use in this present value calculation.[1]

12. Again using a corporate tax rate of 35% and assuming a discount rate of 8%, the present value of the tax effect of the increased deductions allowable in the following ten years, which (as noted above) partially offsets the increased tax burden, comes to $174.59. The effect of Section 848 on the Company in connection with the Existing Contracts is therefore an increased tax burden with a present value of $81.44 for each $10,000 of net premium payments received, (*i.e.*, $256.03 minus $174.59).

13. State premium taxes are deductible in computing federal income taxes. Thus, the Company does not incur incremental income tax when it passes on state premium taxes to contract owners. In contrast, federal income taxes are *not* tax-deductible in computing the Company's federal income taxes. Therefore, in order to compensate fully for the impact of Section 848, the Company must impose an additional charge that would make it whole not only for the $81.44 additional tax burden attributable to Section 848, but for the tax on the additional $81.44 itself. This additional charge can be determined by dividing $81.44 by the complement of the 35% federal corporate income tax rate (*i.e.*, 65%), resulting in an additional charge of $125.29 for each $10,000 of net premium payments, or approximately 1.25% of net premium payments.

14. Tax deductions are of value to the Company only to the extent that it has sufficient gross income to fully use the deductions. However, based on its prior experience, the Company believes that it can reasonably expect to use virtually all future deductions available. That is, the Company believes that it can reasonably expect to have sufficient taxable income in future years to use all deferred acquisition cost deduction.

15. The Company also represents that the 1.25% charge is reasonably related to the Company's increased tax burden under Section 848 of the Code, taking into account the benefit to the Company of the amortization permitted by Section 848, and the use by the Company of a 8% discount rate in computing the future deductions resulting from such amortization, such rate being the equivalent of the Company's cost of capital.

16. The Company believes that a charge of 1.25% of premium payments would reimburse it for the impact of Section 848 (as currently written) on its federal tax liabilities. The Company believes, however, that it would have to increase this charge if future changes in, or interpretations of, Section 848 or any successor provision result in a further increased tax burden due to the receipt of premium payments. Such an increase could result from a change in the corporate tax rate, a change in the 7.7% figure, or a change in the amortization period. The Contracts will or may reserve the right to increase or decrease the 1.25% charge in response to future changes in, or interpretations of, Section 848 or any successor provision that increase or decrease the Company's tax burden. The Company understands, however, that it would need additional exemptions before increasing the charge above 1.25%.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act provides, in relevant part, that the Commission, by order upon application, may exempt any person, security or transaction (or any class or classes of persons, securities or transactions) from provisions of the 1940 Act or any rules 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.

2. Applicants request an order of the Commission pursuant to Section 6(c) of the 1940 Act, exempting them from the provisions of Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder to the extent necessary to permit Applicants to deduct from premium payments received in connection with the Contracts an amount that is reasonable in relation to the Company's increased federal tax burden related to the receipt of such premium payments and that results from the application of Section 848 of

[1] In determining the cost of capital, the Company considered a number of factors. First, the Company considered its anticipated long-term growth rate. The Company seeks an after-tax rate of return earned on investments that is at least equal to its long-term growth rate. The cost of capital should also represent a fair after-tax rate of return to the Company for investing surplus. This rate can be thought of as consisting of a ''risk-free'' rate of return plus a ''risk premium'' for engaging in this type of business. Other factors taken into consideration were market interest rates and information about the rates of return obtained by other insurance companies. The Company represents that these are appropriate factors to consider in determining its cost of capital.

the Code. The deduction would not be treated as sales load.

Relief From Provisions of Section 27(c)(2) and Rule 6e–3(T)(c)(4)(v)

3. Section 2(a)(35) of the 1940 Act defines ''sales load'' as the difference between the price of a security offered to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer (or in the case of a unit investment trust, by the depositor or trustee), less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities.

4. Section 27(c)(2) of the 1940 Act prohibits a registered investment company or a depositor or underwriter for such company from making any deduction from purchase payments made under periodic payment plan certificates other than a deduction for sales load. Sections 27(a)(1) and 27(h)(1) of the 1940 Act, in effect, limit sales loads on periodic payment plan certificates to 9 percent of total payments.

5. Paragraph (a) of Rule 6e–3(T) requires that a separate account (such as the Accounts) that issues flexible premium variable life insurance contracts, its principal underwriter and its depositor, comply with all provisions of the 1940 Act and rules thereunder applicable to a registered investment company issuing periodic payment plan certificates.

6. Paragraph (b) of Rule 6e–3(T) provides numerous limited conditional exemptions from most such provisions and rules in connection with the offer, sale and administration of flexible premium variable life insurance contracts. For example, Rule 6e–3(T)(b)(13)(iii)(E) provides relief from Section 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of certain charges other than sales load, including ''[t]he deduction of premium or other taxes imposed by any state or other governmental entity.'' Applicants request the relief from Section 27(c)(2) sought in this application only to preclude the possibility that a charge related to the increased burden resulting from Section 848 of the Code is not covered by the exemption provided by Rule 6e–3(T)(b)(13)(iii)(E). Applicants submit that the public policy reasons underlying Rule 6e–3(T)(b)(13)(iii)(E) provide support for the exemption from Section 27(c)(2) requested herein.

7. Paragraph (c)(4) of Rule 63–3(T) defines ''sales load'' (for purposes of the rule) as the excess of any purchase payments over certain itemized charges and adjustments. A tax burden charge, such as the one the Company proposes to deduct, may not fall squarely into any of the itemized categories of charges or adjustments. Consequently, a literal reading of paragraph (c)(4) arguably does not exclude such a charge from sales load. Applicants maintain, however, that there is no public policy reason why a tax burden charge designed to cover the expense of federal taxes should be treated as sales load or otherwise subject to the sales load limits of Rule 6e–3(T). Applicants assert that nothing in the administrative history of the Rule (or in the administrative history of Rule 6e–2, its predecessor) suggests that the Commission intended to treat tax charges as sales load.

8. The exemption requested by Applicants is necessary in order for them and any Future Account to rely on certain provision of Rule 6e–3(T)(b)(13), including sub-paragraph (b)(13)(i) thereof, which provides critical exemptions from Sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates only may rely, however, on sub-paragraph (b)(13)(i) if they meet its alternate limits that apply to sales load as defined in paragraph (c)(4). Applicants and Future Accounts generally could not meet these limits if the tax burden charge is included in sales load.

9. The public policy that underlies sub-paragraph (b)(13)(i), like that which underlies Sections 27(a)(1) and 27(h)(1), is to prevent excessive sales loads from being charged in connection with the sale of periodic payment plan certificates. Applicants assert that the treatment of a tax burden charge attributable to the receipt of purchase payments as sales load would not in any way further this legislative purpose because such a deduction has no relation to the payment of sales commissions or other distribution expenses.

10. Applicants assert that the genesis of Rule 6e–3(T)(c)(4) supports this analysis, and suggest that Section 2(a)(35) provides a scale against which the percentage limits of Sections 27(a)(1) and 27(h)(1) may be measured. Applicants submit that Rule 6e–3(T)(c)(4), is simply a more specific articulation of the requirements of Section 2(a)(35) as applied to flexible premium variable life insurance policies. Section 2(a)(35), like Rule 6e–3(T)(c)(4), defines sales load derivatively, treating as sales load the:

> difference between the price of a security to the public and that portion of the proceeds from its sale which is invested or held for investment . . . less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, *issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities.* (Emphases added.)

Applicants maintain that the Commission's intent in adopting paragraph (c)(4) of Rule 6e–3(T) was to tailor the general terms of Section 2(a)(35) to flexible premium variable life insurance policies in order, among other things, to facilitate verification by the Commission of compliance with the sales load limits set forth in sub-paragraph (b)(13)(i). According to their analysis, paragraph (c)(4) does not depart, in principal, from Section 2(a)(35).

11. Section 2(a)(35) excludes deductions from purchases payments for ''issue taxes'' from the definition of sales load under the 1940 Act. Applicants suggest that this indicates that it is consistent with the protection of investors and the purposes intended by the policies and provisions of the 1940 Act to exclude charges for expenses attributable to federal taxes from sales load. Applicants argue that, by extension, it is equally consistent to exclude such charges, including the tax burden charge described above, from the Rule 6e–3(T)(c)(4) definition of sales load.

12. Applicants argue that the Section 2(a)(35) reference to administrative expenses or fees that are ''not properly chargeable to sales or promotional activities'' (quoted and emphasized above) suggests that the only charges or deductions intended to fall within the definition of sales load are those that *are* properly chargeable to such activities. Because the proposed tax burden charge will be used to pay costs attributable to the Company's federal tax liabilities, which are not properly chargeable to sales or promotional activities, Applicants assert that language is another indication that not treating such deductions as sales load is consistent with the purposes intended by the policies and provisions of the 1940 Act.

13. Applicants note that the Rule 6e–3(T)(c)(4)(v) limitation of the premium tax exclusion from the definition of ''sales load'' to state premium taxes is probably a historical accident, related to the fact that, when Rule 6e–3(T) was initially adopted in 1984 and when it was amended in 1987, the additional Section 848 tax burden attributable to the receipt of premiums did not exist.

14. Applicants represent that, for the reasons summarized above, deducting a

charge from variable life insurance policy premium payments for an insurer's tax burdens attributable to its receipt of such payments, and excluding the charge from sales load, 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 1940 Act. This is because such a charge is, Applicants represent, for a legitimate expense of the insurer and is not designed to cover sales and distribution expenses. Applicants assert that, in adopting Rule 6e–3(T), the Commission considered similar deductions for tax burdens in respect of premium taxes and permitted deductions for such taxes to be made and to be treated as other than sales load. Applicants assert that the propriety of a charge for an insurer's tax burden attributable to premium payments received is the same whether such burden arises under state or federal law.

Request for ''Class Relief''

15. Applicants also request exemptions for any Future Account that the Company may establish to support flexible premium variable life insurance contracts as defined in Rule 6e–3(T)(c)(1). Applicants believe that the terms of any exemption sought for Future Accounts to permit the deduction of a tax burden charge would be substantially identical to those they describe in the application. Applicants assert that any additional requests for exemptive relief for such Future Accounts would present no issues under the 1940 Act that have not already been addressed in the application. Nevertheless, the Company would have to obtain exemptions for each Future Account it establishes unless class relief is granted in response to the application.

16. The requested exemptions are appropriate in the public interest because they would promote competitiveness in the variable life insurance market by eliminating the need for the Company to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. The delay and expense involved in having repeatedly to seek the same exemptions would impair the Company's ability to effectively take advantage of business opportunities as they arise. Likewise, the requested exemptions are consistent with the protection of investors and the purposes intended by the policy and provisions of the 1940 Act for the same reasons. Investors would receive no benefit or additional protection if the Company were required repeatedly to seek Commission orders with respect to the same issues addressed in the application. Indeed, they might be disadvantaged as a result of the Company's increased expenses.

Applicants' Conditions

1. The Company will monitor the reasonableness of the 1.25% charge.

2. The registration statement for the Existing Contracts and any Future Contracts under which the 1.25% charge is deducted will include:

(a) disclosure of the charge;

(b) disclosure explaining the purpose of the charge; and

(c) a statement that the charge is reasonable in relation to the Company's increased tax burden as a result of Section 848 of the Code.

3. The Company also will include as an exhibit to the registration statement for the Existing Contracts and any Future Contracts under which the 1.25% charge is deducted an actuarial opinion as to:

(a) the reasonableness of the charge in relation to the Company's increased tax burden as a result of Section 848 of the Code;

(b) the reasonableness of the after tax rate of return used in calculating the charge; and

(c) the appropriateness of the factors taken into account by the Company in determining the after tax rate of return.

Conclusion

For the reasons summarized above, Applicants represent that the exemptions requested are necessary and 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, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29383 Filed 12–1–95; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

1994–95 Advisory Council on Social Security; Meeting

AGENCY: Social Security Administration.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces a meeting of the 1994–95 Advisory Council on Social Security (the Council).

DATES: Thursday, December 14, 1995, 9 a.m. to 5 p.m.

ADDRESSES: Sheraton City Centre, 1143 New Hampshire Avenue, NW, Washington D.C., 20037, (202) 775–0800.

FOR FURTHER INFORMATION CONTACT: By mail—Nick Curabba, 1994–95 Advisory Council on Social Security, Suite 705, 1825 Connecticut Avenue, NW, Washington, DC 20009; By telephone—(202) 482–7119; By telefax—(202) 482–7123.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every 4 years. The Council examines issues affecting the Social Security Old-Age, Survivors, and Disability Insurance (OASDI) programs, as well as the Medicare program and impacts on the Medicaid program, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- Social Security financing issues, including developing recommendations for improving the long-range financial status of the OASDI programs;
- General program issues such as the relative equity and adequacy of Social Security benefits for persons at various income levels, in various family situations, and various age cohorts, taking into account such factors as the increased labor force participation of women, lower marriage rates, increased likelihood of divorce, and higher poverty rates of aged women.

In addressing these topics, the Secretary suggested that the Council may wish to analyze the relative roles of the public and private sectors in providing retirement income, how policies in both sectors affect retirement decisions and the economic status of the elderly, and how the disability insurance program provisions and the availability of health insurance and health care costs affect such matters.

The Council is composed of 12 members in addition to the chairman: Robert Ball, Joan Bok, Ann Combs, Edith Fierst, Gloria Johnson, Thomas Jones, George Kourpias, Sylvester Schieber, Gerald Shea, Marc Twinney, Fidel Vargas, and Carolyn Weaver. The chairman is Edward Gramlich.

The Council met previously on June 24–25, 1994 (59 FR 30367), July 29, (59 FR 35942), September 29–30 (59 FR 47146), October 21–22 (59 FR 51451), November 18–19 (59 FR 55272), January