

mailing that the individual or organization for whom the mailing was made has submitted a check for nonsufficient funds. New routine use No. 8 permits such disclosure.

The proposed routine use is compatible with the purpose for collecting the information, that is, facilitating debt collection and preventing the future acceptance of bad checks from repeat offenders. Because the disclosures allowed by this routine use will enable the Postal Service to protect itself from bad-check writers, the routine use is clearly compatible with the purpose of USPS Privacy Act system 050.005.

The categories of individuals segment of the system notice formerly included the language "customers whose checks are returned by the bank." That language, intended to cover records that include existing local lists of such customers, was removed in an administrative error. This notice restores the language.

All records within USPS Privacy Act system 050.005 continue to be kept in a secured environment, with automated data processing (ADP) physical and administrative security and technical software applied to data on computer media. Paper records are kept in a secured area of the post office and are made available internally on an official need-to-know basis. Contractors who maintain data collected by USPS Privacy Act system 050.005 are subject to subsection (m) of the Privacy Act and are required to apply appropriate protections subject to the audit and inspection of the Postal Inspection Service.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed system has been sent to Congress and to the Office of Management and Budget for their evaluation.

USPS Privacy Act system 050.005 was last published in its entirety in the Federal Register on October 26, 1989 (54 FR 43666-43667) and was amended in the Federal Register on December 22, 1994 (59 FR 66061-66062). The Postal Service proposes amending USPS Privacy Act system 050.005 as shown below.

USPS 050.005

SYSTEM NAME:

Finance Records—Accounts Receivable Files, 050.005.

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CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

[CHANGE TO READ] Postal Service debtors such as the following: Contractors who fail either to provide equipment, supplies, or services to the Postal Service as agreed or to purchase property from the Postal Service as agreed; customers who have written checks returned by the bank; payees of money orders who make an erroneous payment, improper payment, or overpayment; employees or former employees who make an erroneous payment, improper payment, or overpayment; employees, former employees, or private parties who lose or damage Postal Service property through carelessness, negligence, or malice.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

[CHANGE TO READ] Routine use statements a, b, c, d, e, f, g, h, j, k, l, and m listed in the prefatory statement at the beginning of the Postal Service's published system notices apply to this system. Other routine uses are as follows:

* * * * *

[ADD THE FOLLOWING]

8. Disclosure of information about postal customers who write nonsufficient funds checks for postal services may be made to the permit holder or presenter of a mailing being made on the customer's behalf. Disclosure is limited to the identity of the customer, the date of the mailing, and the date and amount of the check. Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 95-29756 Filed 12-6-95; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-21560; File No. 812-9660]

Connecticut General Life Insurance Company, et al.

November 30, 1995.

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

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

APPLICANTS: Connecticut General Life Insurance Company ("CG Life"), CG Variable Life Insurance Separate Account A ("Separate Account"), and CIGNA Financial Advisors, Inc. ("CFA").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e-3(T)(c)(4) thereunder.

SUMMARY OF APPLICATION: Applicants request an order permitting the Separate Account and any separate accounts established in the future by CG Life to support certain group variable universal life insurance contracts to deduct from premium payments received an amount that is reasonably related to the increased federal tax burden of CG Life resulting from the application of Section 848 of the Internal Revenue Code of 1986, as amended.

FILING DATE: The application was filed on July 12, 1995. An amended and restated application was filed on October 13, 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 on this application 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 26, 1995, and should be accompanied by proof of service on 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 a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, c/o Michael Berenson, Esq., Jordan Burt Berenson & Johnson LLP, 1025 Thomas Jefferson Street, N.W., Suite 400 East, Washington, DC 20007-0805.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Senior Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management) at (202) 272-0670.

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

Applicants' Representations

1. CG Life, a stock life insurance company organized in Connecticut, is an indirect wholly-owned subsidiary of CIGNA Corporation ("CIGNA").

2. The Separate Account was established by CG Life under the laws of the state of Connecticut, and is registered as a unit investment trust

under the 1940 Act. The assets of the Separate Account are owned by CG Life, but are held separately from the other assets of CG Life and are not chargeable with liabilities incurred in any other business operation of CG Life. The income, capital gains and capital losses incurred on the assets of the Separate Account are credited to or charged against the assets of the Separate Account, without regard to the income, capital gains or capital losses arising out of any other business CG Life may conduct.

3. The Separate Account consists of a number of subaccounts, each of which invests exclusively in the shares of one of seven investment portfolios of four investment companies (the "Funds") registered under the 1940 Act. The number and identity of available Funds and investment portfolios may change from time to time.

4. In the future, the Board of Directors of CG Life may establish additional separate accounts (the "Future Accounts") which may serve as funding vehicles for group variable universal life insurance contracts issued by CG Life. The Future Accounts will be organized as unit investment trusts and will file registration statements under the Securities Act of 1933 and under the 1940 Act.

5. CFA will serve as the distributor and principal underwriter of certain group variable universal life insurance contracts (the "Contracts") and any group variable universal life insurance contracts made available in the future (the "Future Contracts") through the Separate Account or Future Accounts. CFA is a wholly-owned subsidiary of CG Life. CFA is registered under the Securities Exchange Act of 1934 as a broker-dealer, and under the Investment Advisers Act of 1940 as an investment adviser. CFA is a member of the National Association of Securities Dealers.

6. In the Omnibus Budget Reconciliation Act of 1990, Congress amended the Internal Revenue Code of 1986 (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 generally is determined with reference to premiums for certain categories of life insurance and other contracts ("specified contracts"). More

specifically, an amount of expenses equal to a percentage of the current year's net premiums (*i.e.*, gross premiums minus return premiums and reinsurance premiums) must be capitalized and amortized for each specified contract. The percentage varies, depending on the type of specified contract in question, in accordance with a schedule set forth in Section 848.

8. The effect of Section 858 is to accelerate the realization of income from insurance contracts covered by that Section and, accordingly, the payment of taxes on the income generated by those contracts.

9. The Contracts and any Future Contracts to which a charge for the federal tax burden related to deferred acquisition costs (the "tax burden charge") will be applied are/will be among the specified contracts. They fall/will fall into the category of life insurance contracts under Section 848 for which 2.05% of the net premiums received must be capitalized and amortized.

10. The increased tax burden resulting from the application of Section 848 may be quantified as follows. For each \$10,000 of net premiums received by CG Life under the Contracts in a given year, CG Life may capitalize \$2.05 (*i.e.*, 205% of \$10,000). \$10.25 of that \$205 may be deducted in the current year, leaving \$194.75 (*i.e.*, \$205 minus \$10.25) subject to taxation at the corporate tax rate of 35 percent. This works out to an increase in tax for the current year of \$68.16 (*i.e.*, 0.35 x \$194.75). This increased federal income tax burden will be partially offset by deductions allowed during the next ten years as a result of amortizing the remainder of the \$205—\$20.50 in each of the following nine years, and \$10.25 in year ten.

11. To the extent the capital must be used by CG Life to satisfy its increased tax burden under Section 848, such profits are not available to CG Life for investment. CG Life submits that the cost of capital used to satisfy its increased federal income tax burden under Section 848 is, in essence, its after tax rate of return on capital. Because CG Life seeks an after tax rate of return of 15% on its invested capital,¹

¹ In determining the after tax rate of return used in arriving at this discount rate, CG Life considered a number of factors including: the cost of capital incurred by its parent, CIGNA; market interest rates; inflation; and the market's perception of how well CIGNA is doing.

As of December 31, 1994, 81% of the capital of CIGNA consisted of equity, with the remainder long-term debt. CIGNA's cost of capital can be determined using the proportions of financing components (*i.e.*, debt and equity) to calculate a weighted average cost of capital. As of August 1995,

CG Life submits that a discount rate of 15% is appropriate for use in calculating the present value of its future tax deductions resulting from the amortization described above.

12. Using a corporate tax rate of 35 percent, and assuming a discount rate of 15 percent, the present value of the federal income tax effect of the increased deductions allowable in the following ten years is \$35.12. Because this amount partially offsets the increased tax burden, Section 848 imposes an increased tax burden on CG Life equal to a present value of \$33.04 (*i.e.*, \$68.16 minus \$35.12) for each \$10,000 of net premiums received under the Contracts.

13. CG Life does not incur incremental federal income tax when it passes on state premium taxes to contract owners because state premium taxes are deductible when computing federal income taxes. In contrast, federal income taxes are *not* tax-deductible when computing an insurer's federal income taxes. Therefore, to offset fully the impact of Section 848, CG Life must impose an additional charge that would make it whole not only for the \$33.04 additional federal income tax burden attributable to section 848, but also for the tax on the additional \$33.04 itself. This additional charge can be computed by dividing \$33.04 by the complement of the 35% federal corporate income tax rate (*i.e.*, 65%), resulting in an additional charge of \$50.83 for each \$10,000 of net premiums, or 0.51% of net premiums.

14. Based on its prior experience, CG Life expects that all of its current and future deductions will be fully taken. CG Life submits that a charge of 0.5% of net premium payments would reimburse it for the impact of Section 848 (as currently written) on its federal tax liabilities. CG Life represents that a 0.5% charge is reasonably related to its increased tax burden under Section 848, taking into account the benefit to CG Life of the amortization permitted by

the average current yield to maturity of CIGNA's outstanding long-term debt issues was 7.67 percent. Using a corporate tax rate of 35 percent, the after tax cost of debt for CG Life is 4.98 percent. An estimate for the cost of equity capital for CIGNA—computed by using the Capital Asset Pricing Model—is 15.8 percent. Using these component costs of capital and their related proportions, the weighted average cost of capital for CIGNA is 13.7% (*i.e.*, [(0.19 x 0.0498) + (0.81 x 0.158)]).

The remaining factors (*e.g.*, interest rates, inflation, and the market's perception of how well CIGNA is doing) are unpredictable and can fluctuate widely over long periods of time, causing the cost of capital to vary at any given time. Taking these factors into account, as well as the analysis above, CG Life has concluded that the 15% cost of capital is appropriate and reasonable to use in calculating the tax burden charge.

Section 848 and the use by CG Life of a discount rate of 15% (which is equivalent to its cost of capital) in computing the future deductions resulting from such amortization.

15. CG Life asserts that it may choose to increase the 0.5% charge if future changes in, or interpretations of, Section 848 or any successor or related provisions result in a further increased tax burden resulting from the receipt of premiums. Such an increase could result from, among other things, a change in the federal corporate income tax rate, a change in the 2.05% figure, or a change in the amortization period.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act provides, in pertinent 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) exempting them from the provisions of section 27(c)(2) of the 1940 Act and Rule 6e-3(T)(c)(4)(v) thereunder to permit Applicants to deduct form premium pavements received in connection with the Contracts and Future Contracts an amount that is reasonable in relation to CG Life's increased federal income tax burden related to the receipt of such premiums. Applicants further request an exemption from Rule 6e-3(T)(c)(4)(v) of the 1940 Act to permit the proposed deductions to be treated as other than "sale load" for the purposes of Section 27 of th3 1940 Act and the exemptions from various provisions of that Section found in Rule 6e-3(T)(b)(13).

3. Section 27(c)(2) of the 1940 Act prohibits the sale of periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sales load) are held under an indenture or agreement containing in substance the provisions required by Sections 26(a)(2) and 26(a)(3) of the 1940 Act. Sections 27(a)(1) and 27(h)(1), in effect, limit sales load on periodic payment plan certificates to 9% of total payments.

4. Certain provisions of Rule 6e-3(T) provide a range of exemptive relief for the offering of flexible premium variable life insurance policies such as the Contracts and any Future Contracts. For example, subject to certain conditions,

Rule 6e-3(T)(b)(13)(iii) provides exemptions from Section 27(c)(2) that include permitting the payment of certain administrative fees and expenses, the deduction of a charge for certain mortality and expense risks, and the "deduction of premium taxes imposed by any state or other governmental entity."

5. Rule 6e-(T)(c)(4)(v) defines "sales load" charged during a contract period as the excess of any payment made during the period over the sum of certain specified charges and adjustments, including "[a] deduction for and approximately equal to state premium taxes." Applicants submit that the proposed tax burden charge is akin to a state premium tax charge in that it is an appropriate charge related to CG Life's federal tax burden attributable to premiums received under the Contracts and any Future Contracts.

6. Applicants represent that the requested exemptions from Rule 6e-3(T)(c)(4)(v) are necessary in connection with Applicants' reliance on certain provisions of Rule 6e-(T)(b)(13), particularly on subparagraph (b)(13)(i), which provides exemptions from Sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates may rely on Rule 6e-3(T)(b)(13)(i) if they meet the Rule's alternative limitations on "sales load," as defined in Rule 6e-3(T)(c)(4). Depending on the load structure of a particular contract, these alternative limitations may not be met if the deduction for the increase in an issuer's federal tax burden is included in sales load. Applicants acknowledge that a deduction for an insurance company's increased federal tax burden does not fall squarely within any of the specified charges or adjustments which are excluded from the definition of "sales load" in Rule 6e-3(T)(c)(4). Nevertheless, Applicants submit that there is no public policy reason for treating such increased federal tax burden as "sales load."

7. Applicants assert that the public policy which underlies Rule 6e-3(T)(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 submit that the treatment of a federal income tax charge attributable to premium payments a sales load would in no way further this legislative purpose because such a deduction has no relation to the payment of sales commissions or other distribution expenses. Applicants assert that the Commission has concurred in this conclusion by excluding deductions for

state premium taxes from the Rule 6e-3(T)(c)(4) definition of "sales load."

8. Applicants assert that the genesis of Rule 6e-3(T)(c)(4) supports this analysis. In this regard, Applicants note that Section 2(a)(35) of the 1940 Act provides a scale against which the percent limits of Sections 27(a)(1) and 27(h)(1) thereof may be measured. Applicants submit that the Commission's intent in adopting Rule 6e-3(T)(c)(4) was to tailor the general terms of Section 2(a)(35) of the 1940 Act to variable life insurance contracts in order, among other things, to facilitate verification by the Commission of compliance with the sales load limits set forth in Rule 6e-3(T)(b)(13)(i). Applicants submit that Rule 6e-3(T)(c)(4) does not depart, in principal, from Section 2(a)(35).

9. Applicants assert that the language of Section 2(a)(35) suggests that the only charges or deductions intended to fall within the definition of "sales load" are those that are "properly chargeable to sales or promotional activities." Because the proposed tax burden charge will be used to pay costs attributable to CG Life's federal tax liabilities, and such costs are not properly chargeable to sales or promotional activities, Applicants submit that not treating the proposed tax burden charge as sales load is consistent with the purposes intended by the policies of the 1940 Act.

10. Applicants further assert that Section 2(a)(35) excludes from the definition of "sales load" under the 1940 Act deductions from premiums for "issue taxes." Applicants submit that the exclusion of charges for expenses attributable to federal taxes from sales load (as defined in Section 2(a)(35)) is consistent with the policies of the 1940 Act. By extension, Applicants submit, it is equally consistent to exclude such charges, including the proposed tax burden charge, from the definition of "sales load" in Rule 6e-3(T)(c)(4).

11. For these reasons, Applicants assert that deducting a charge from variable life insurance contract premium payments for an insurer's tax burdens attributable to its receipt of such payments, and excluding that charge from sales load, is consistent with the policies of the 1940 Act. Applicants submit that this is because such a deduction is an appropriate charge related to the insurer's tax burden attributable to the premium payments received.

12. Applicants seek the relief requested with respect to Contracts and Future Contracts which may be issued by CG Life. Without the requested relief, CG Life would have to request and obtain exemptive relief for each Future

Contract to be issued. Such additional requests for exemptive relief would present no issues under the 1940 Act not already addressed in this request for exemptive relief.

13. Applicants assert that the standards of Section 6(c) of the 1940 Act are satisfied because the requested relief is appropriate in the public interest and consistent with the purposes of the 1940 Act and the protection of investors. Applicants submit that the requested relief would promote competitiveness in the variable life insurance market by eliminating the need for CG Life to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing efficient use of its resources. Applicants further submit that the delay and expense involved in having to seek exemptive relief repeatedly would impair the ability of CG Life to take full advantage of business opportunities as they arise. Moreover, if CG Life were required to seek exemptive relief repeatedly with respect to the issues addressed in this application, investors would not receive any benefit or additional protection thereby, and might be disadvantaged as a result of increased overhead expenses for CG Life.

Conditions for Relief

Applicants agree to comply with the following conditions for relief.

- CG Life will monitor the tax burden imposed on it, and undertakes to reduce the tax burden charge to the extent of any significant decrease in tax burden.
- The registration statement for any Contracts and Future Contracts under which a tax burden charge is deducted will: (i) disclose the charge; (ii) explain the purpose of the charge; and (iii) state that the charge is reasonable in relation to CG Life's increase federal income tax burden under Section 848 of the Code resulting from the receipt of premiums.
- The registration statement for any Contracts and Future Contracts under which a tax burden charge is deducted will contain as an exhibit an actuarial opinion as to: (i) the reasonableness of the charge in relation to CG Life's increased federal income tax burden under Section 848 resulting from the receipt of premiums; (ii) the reasonableness of the after tax rate of return used in calculating such charge, and the relationship of that charge to CG Life's cost of capital; and (iii) the appropriateness of the factors taken into account by CG Life in determining the after tax rate of return.

Conclusion

For the reasons and upon the facts set forth above, Applicants submit that the requested exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e-3(T)(c)(4)(v) thereunder—to permit the deduction of 0.5% of premium payments under the Contracts and any

Future Contracts—would be 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, by delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-29830 Filed 12-6-95; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21559; File No. 812-9706]

PaineWebber Life Insurance Company, et al.

November 30, 1995.

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

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

APPLICANTS: PaineWebber Life Insurance Company ("PaineWebber Life"), and PaineWebber Variable Annuity Account (the "Account").

RELEVANT 1940 ACT SECTIONS: Approval requested under Section 26(b) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order pursuant to Section 26(b) of the 1940 Act approving the substitution of shares of the Balanced Portfolio ("BP") of the PaineWebber Series Trust ("Trust") for the shares of the Asset Allocation Portfolio ("AAP") of the Trust.

FILING DATE: The application was filed on August 4, 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 on this application by writing to the Secretary of the SEC 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 26, 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 interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Mr. Richard J. Tucker, PaineWebber Life Insurance Company,

1200 Harbor Boulevard, Weehawken, New Jersey 07087.

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

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. PaineWebber Life is a stock life insurance company organized under California law in 1956. PaineWebber Holdings, Inc., a wholly-owned subsidiary of PaineWebber Group, Inc., owns 100 percent of the stock of PaineWebber Life. The Account, established by PaineWebber Life to fund variable annuity contracts ("Contracts") on December 31, 1992, pursuant to California law, is registered with the Commission as a unit investment trust. The assets of the Account are divided among ten investment divisions ("Divisions"), each of which invests in shares of one of the ten designated portfolios of the Trust, including the BP and AAP, each with its own investment objectives and investment portfolio. The Trust is an open-end diversified management investment company registered under the 1940 Act.¹ Mitchell Hutchins Asset Management, Inc. ("Mitchell Hutchins"), a registered investment adviser under the Investment Advisers Act of 1940, is the investment adviser and administrator for the Trust.

2. PaineWebber Incorporated ("PWI"), a wholly-owned subsidiary of PaineWebber Group, Inc., a broker-dealer registered under the Securities Exchange Act of 1934 and a member of the National Association of Securities Dealers, Inc., acts as principal underwriter for the Contracts.

3. The BP seeks total return while preserving capital by investing in equity securities and by investing no less than 25% of its assets in fixed income securities. The BP pays its investment adviser an annual fee of .75% of average daily net assets. The total assets of the

¹ The Trust was established in November 1986 to function as the underlying investment medium for the separate account of an otherwise unaffiliated insurance company and subsequently of a separate account of an affiliate of that insurance company. Those two separate accounts, together with the Account, are the only separate accounts invested in the Trust. The unaffiliated insurance company separate accounts hold shares in all the Portfolios of the Trust except the BP, Fixed Income and Aggressive Growth Portfolios.