

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.

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[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.

BP as of December 31, 1994, were approximately \$12 million. The AAP seeks to provide a high total return with low volatility by allocating investments among equity securities, long- and mid-term debt securities and money market instruments. The AAP pays its investment adviser an annual fee of .75% of average daily net assets as compensation for its services. The total assets of the AAP as of December 31, 1994, were approximately \$23.3 million.

4. On July 20, 1995, the Board of Trustees of the Trust ("Board") approved both changing the name and the investment policies of the AAP. The changes will cause the AAP to operate more as a balanced fund in that it would invest in a combination of equity securities, investment grade debt obligations and money market instruments. The AAP name will be changed to the "Balanced Portfolio."

5. Also on July 20, 1995, the Board determined that it was in the best interest of the shareholders of the BP to terminate the sale of shares of that Portfolio, effective July 21, 1995. The Board based its decision on (a) the minimal assets of BP after almost three years of operations; (b) disproportionately high expenses; (c) the investment adviser's indication that the small size of the Portfolio, partially the result of the Portfolio being offered to only one separate account, makes it difficult to make appropriate investment decisions and comply with the diversification requirements applicable to variable insurance products under section 817(h) of the Internal Revenue Code ("Code"); and (d) PaineWebber Life's assertion that because the investment objectives and policies of the BP and the AAP, as recently changed by the Board, are substantially similar, the two Portfolios basically compete for the same investment goals of Contract purchasers. PaineWebber Life was notified of the Board's determination and discontinued accepting premium payments in the Balanced Division.

6. PaineWebber Life proposes that shares of the AAP be substituted for the shares of the BP now held by the Account's Balanced Division. The substitution would be effected at net asset value so that the dollar value of the amount invested in shares of the BP would be the same as the amount invested in shares of the AAP after the substitution. Contract owners will be able to direct their interests in the BP among the remaining eight Portfolios of the Trust ("Remaining Portfolios") if they do not want to move their interests to the AAP.

7. On the date of the substitution, the per share values of each of the Portfolios will be determined in the normal course of business. The shares underlying the contract values in the BP will be redeemed by PaineWebber Life and the net asset values applied to purchase shares of the AAP at net asset value. The investment securities held by the BP will be disposed of and any expense incurred in disposing of the investment securities and effecting substitution will be shared by PaineWebber Life and Mitchell Hutchins. There will be no change in the amount of the Contract owner's cash value as a result of the substitution.

8. The Contracts reserve to PaineWebber Life the right to replace the shares of the Trust held by the Separate Account with shares of another series or another registered investment company, subject to Commission approval. Contract owners were notified that shares of the BP were no longer available as an investment option for purchase or transfer under the Contracts and that PaineWebber Life intended to file this application with the SEC seeking an Order permitting it to effectuate the proposed substitution. Contract owners with allocation instructions on file with PaineWebber Life that currently direct net premiums to the BP have been notified of the discontinuance of the BP as an investment option.

9. Upon receipt of SEC approval of the proposed substitution, Contract owners with Contract values in the BP will be provided a form with which they can elect to transfer their Contract values to one or more of the Remaining Portfolios. Contract owners will be advised that the AAP has an investment objective most similar to the BP in which the Contract owner has values invested. If no instructions are received within 30 days after notice of the request to elect, Contract values in the BP will be transferred automatically to the AAP.

10. The Contracts provide Contract owners the right to transfer part or all of the Contract value from one allocation option to one or more of the remaining options. The Contracts also provide that each transfer in excess of 12 in a calendar year is subject to a \$10 charge, which has been waived by PaineWebber Life until further notice. The substitution of the shares of one or more of the Remaining Portfolios for shares of the BP will not be considered a "transfer" for the purpose of the above limitation. Contract owners will not be subject to any charges or costs for the substitution.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act prohibits the depositor or trustee of a registered unit investment trust holding the security of a single issuer from substituting another security for such security unless the Commission has approved the substitution. Section 26(b) provides that the Commission will approve a substitution if it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Contract owners will not be subject to any additional fees or charges as a result of the substitution. The substitution will not affect any benefits, rights or Contract values under the Contracts nor will it affect the purchase payment dates under the Contracts used in determining the early withdrawal charge. Contract owners will be given notice of the substitution and an opportunity to allocate existing Contract values among the eight Remaining Portfolios as they wish.

3. Since the Account can no longer purchase shares of the BP, with normal redemptions the BP is expected to shrink rapidly. Applicants state that because of the relatively minor amount of total net assets in the BP, the fact that only one separate account had been investing in the BP when the sale of shares was terminated, and the resulting expense level and investment limitations, PaineWebber Life believes investment in the BP is no longer appropriate. Applicants contend that combining the assets of the BP and AAP, and the investment in the Portfolio by three separate accounts, should enhance its asset growth abilities.

4. Applicants state that the diminishing amount of assets in the BP makes it difficult for the investment adviser to make appropriate investments for the Portfolio that will meet the Code's requirement for diversification. Failure to meet the diversification requirement could result in the entire Contract being currently taxable, not just that portion of the Contract that is invested in the non-complying Portfolio. Applicants state that it was determined that it was more important to the interests and the benefit of Contract owners to preserve the tax status enjoyed by Contract owners than to maintain the Portfolio which is no longer available for additional purchase. Applicants also contend that the minimal amount of total net assets available for investment and the termination of the sale of shares diminishes investment opportunities and handicaps Mitchell Hutchins in its

ability to invest in potentially advantageous securities.

5. Applicants state that expenses incurred by the BP have remained relatively high, and a large portion of the BP's expenses is fixed. Applicants represent that the lack of substantial assets in the BP results in high operating expenses that are borne by the Contract owners. The BP's 1994 actual expenses of 1.56% of average total net assets were higher than expenses of 1.03% of average total net assets for the AAP. Applicants contend that in comparing the expenses of the BP and AAP, the asset base of the BP and the increasing asset base of the AAP is a relevant consideration. Applicants assert that the increase in total assets of the AAP resulting from the substitution should result in a lessening of its overall expenses.

6. Applicants state that the AAP offers Contract owners investments compatible with the objectives of Contract owners investing in the BP. Applicants state that management of PaineWebber Life, in consultation with Mitchell Hutchins, studied the investment objectives, policies and restrictions of each of the Remaining Portfolios to form an opinion as to which of the Remaining Portfolios appeared most closely identified with the investment intent of a Contract owner invested in the BP. It was concluded that a Contract owner who had Contract values invested in the BP was primarily interested in a Portfolios with an objective of a stable return while preserving capital. The investment objective of the AAP is to seek a high total return with low volatility, and the recent revision of the investment policies of the BP led to the conclusion that the AAP most closely suits the investment intent of the Contract owner who now has Contract values invested in the BP.

Applicants' Conclusion

For the reasons discussed above, applicants submit that the proposed substitution of shares of the AAP for shares of the BP is 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.

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[Rel. No IC-21562; File No. 812-9794]

Stagecoach Funds, Inc., et al.; Notice of Application

December 1, 1995.

AGENCY: Securities and Exchange Commission ("SEC")

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

APPLICANTS: Stagecoach Funds, Inc. ("Stagecoach Funds"), Stagecoach Inc., Stagecoach Trust, Overland Express Funds, Inc. ("Overland"), Life & Annuity Trust ("Annuity Trust"), Master Investment Portfolio ("MIP"), Master Investment Trust ("MIT"), Managed Series Investment Trust ("MSIT") (collectively, the "Companies"), Wells Fargo Bank, N.A. ("Wells Fargo"), and The Nikko Building Co., Ltd. ("Nikko Building").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 15(f)(1)(A).

SUMMARY OF APPLICATION: Applicants request an exemption from section 15(f)(1)(A) to permit Wells Fargo and Nikko Building to sell their interests in Wells Fargo Nikko Investment Advisors ("WFNIA"), the sub-adviser to certain of the series offered by the Companies, to Barclays Bank PLC ("Barclays"). Without the requested exemption, the Companies would have to reconstitute their boards of directors to meet the 75 percent non-interested director requirement of section 15(f)(1)(A) in order to comply with the safe harbor provisions of section 15(f).

FILING DATES: The application was filed on October 4, 1995, and amended on December 1, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC 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 December 22, 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 writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants: Companies, 111 Center Street, Little Rock, Arkansas 72201; Wells Fargo, 420 Montgomery Street,

San Francisco, California 94105; Nikko Building, 3-1 Marunouchi, 3-Chrome, Chiyoda-Ku, Tokyo 100, Japan.

FOR FURTHER INFORMATION CONTACT:

Courtney S. Thornton, Senior Counsel, at (202) 942-0583, 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 from the SEC's Public Reference Branch.

Applicants' Representations

1. The Companies are open-end management investment companies registered under the Act, each of which currently offers several series.¹ Wells Fargo, a wholly-owned subsidiary of Wells Fargo & Co., currently serves as investment adviser to each series of the Companies (including the master portfolios in which feeder funds invest, but not the feeder funds themselves).

2. WFNIA is a California general partnership owned 50 percent by Wells Fargo Investment Advisors ("WF Advisors"), a wholly-owned subsidiary of Wells Fargo, and 50 percent by The Nikko Building U.S.A., Inc., a wholly-owned subsidiary of Nikko Building. WFNIA currently serves as sub-adviser to 15 of the 40 active series (the "Sub-Advised Series") offered by the Companies. As of June 30, 1995, the Sub-Advised Series had approximately \$3 billion in assets under management, which represented less than 27% of the aggregate assets under management in all active series of the Companies, and approximately 1.6% of the approximately \$183 billion in assets that WFNIA had under management.

3. On June 21, 1995, Wells Fargo, Nikko Building, and certain of their affiliates entered into a purchase and assumption agreement (the "Agreement") with Barclays to sell their interests in WFNIA for an aggregate price of approximately \$443 million, subject to various adjustments at the time of closing (the "Transaction"). As part of the purchase price, the Agreement also provides for Barclays to make monthly payments to Wells Fargo and its affiliated sellers of .15 percent of the aggregate value of the interests held by retail shareholders of Stagecoach Trust in the LifePath Master Portfolios

¹ Certain series of Stagecoach Inc., Stagecoach Trust and Overland are feeder funds in a master/feeder structure and currently invest substantially all of their assets in corresponding master portfolios of MIP, MIT or MSIT.