

including the consideration to be paid and received, as described in this Application, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Section 17 Applicants also submit that the proposed in-kind purchases by the Separate Accounts are consistent with the policies of Penn Mutual and PIA and the individual Replacement Funds. Finally, the Section 17 Applicants submit that the proposed Substitutions are consistent with the general purposes of the 1940 Act.

9. To the extent that the Separate Accounts' in-kind purchases of Replacement Fund shares are deemed to involve principal transactions between entities which are affiliates of affiliates, the Section 17 Applicants maintain that the terms of the proposed in-kind purchase transactions, including the consideration to be paid and received by each Replacement Fund involved, are reasonable, fair and do not involve overreaching. In addition, although not applicable, the Section 17 Applicants represent that the in-kind transactions will conform with all of the conditions enumerated in Rule 17a-7, except that the consideration paid for the securities being purchased or sold may not be entirely cash.

10. The proposed transactions will take place at relative net asset value in conformity with the requirements of Section 22(c) of the 1940 Act and Rule 22c-1 thereunder with no change in the amount of any Contract Owner's Account Value or death benefit or in the dollar value of his or her investment in any Sub-Account. Contract Owners will not suffer any adverse tax consequences as a result of the Substitutions. The fees and charges under the Contracts will not increase because of the Substitutions.

11. Even though they may not rely on Rule 17a-7, the Section 17 Applicants believe that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching. Nevertheless, the circumstances surrounding the proposed Substitutions will be such as to offer the same degree of protection to each Replacement Fund from overreaching that Rule 17a-7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business. In particular, Penn Mutual and PIA (or any of their affiliates) cannot effect the proposed transactions at a price that is disadvantageous to any of the Replacement Funds. Moreover, although the transactions may not be entirely for

cash, the Section 17 Applicants assert that each will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a-7, and (2) the net asset value per share of each Replacement Fund involved valued in accordance with the procedures disclosed in its registration statement and as required by Rule 22c-1 under the 1940 Act. No brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed transactions.

12. The Section 17 Applicants also argue that the sale of shares of Replacement Funds for investment securities, as contemplated by the proposed in-kind transactions, is consistent with the investment policy and restrictions of the Replacement Funds because (1) the shares are sold at their net asset value, and (2) the portfolio securities are of the type and quality that the Replacement Funds would each have acquired with the proceeds from share sales had the shares been sold for cash. To assure that the second of these conditions is met, the adviser or sub-adviser, as applicable of a Replacement Fund will undertake to examine the portfolio securities being offered to each Replacement Fund and accept only those securities as consideration for shares that it would have acquired for each such fund in a cash transaction.

13. The Section 17 Applicants also assert that the proposed in-kind transactions are consistent with the general purposes of the 1940 Act as stated in the Findings and Declaration of Policy in Section 1 of the 1940 Act and do not present any of the conditions or abuses that the 1940 Act was designed to prevent.

#### **Conclusion:**

For the reasons set forth in the application, the Applicants each respectfully request that the Commission issue an order of approval pursuant to Section 26(c) of the 1940 Act and an order of exemption pursuant to Section 17(b) of the 1940 Act.

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

**Florence E. Harmon,**  
*Acting Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

### **Sunshine Act Meeting**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on July 10, 2008 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting scheduled for July 10, 2008 will be:

- Formal orders of investigation;
- Institution and settlement of injunctive actions;
- Institution and settlement of administrative proceedings of an enforcement nature;
- Amicus consideration; and
- Other matters related to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551-5400.

Dated: July 2, 2008.

**Florence E. Harmon,**

*Acting Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release Nos. 33-8941; 34-58097; File No. 4-560]

### **Roundtable on Fair Value Accounting Standards**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of roundtable discussion; request for comment.