

been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers which are in effect at the time such offer is made." Section 11(c) provides that, irrespective of the basis of exchange, subsection (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust, or to any offer of exchange of any security of a registered unit investment trust for the securities of any other investment company. Although all the proposed exchanges would be at net asset value, the involvement of any registered unit investment trust (such as a Separate Account) requires a prior order of approval of the Commission.

2. The legislative history of Section 11 indicates that the purpose of the provision is to provide the Commission with an opportunity to review the terms of certain offers of exchange to ensure that a proposed offer is not being made "solely for the purpose of exacting additional selling charges." H. Rep. No. 2639, 76th Cong., 2d Sess. 8 (1940). One of the practices Congress sought to prevent through Section 11 was the practice of inducing investors to switch securities so that the promoter could charge investors another sales load. Applicants assert that the proposed offers of exchange involve no possibility of such abuse.

3. Applicants assert that, because the proposed exchange offers for which approval is sought will be based on the relative net asset values or unit values of the interests being exchanged, there is no possibility of the abuse to which Section 11 was directed. Nevertheless, because each of the proposed exchange offers involves a unit investment trust, Section 11(c) makes Section 11(a) inapplicable irrespective of the basis of the exchange. Applicants state that exemptive relief is necessary for Applicants to offer the proposed exchange feature.

4. Applicants note that previous applications under Section 11(a) and orders granting those applications appropriately have focused on sales loads or sales load differentials and administrative fees to be imposed for effecting a proposed exchange. Rule 11a-2, adopted under Section 11 of the 1940 Act, provides blanket Commission approval of certain types of offers of exchange of one variable annuity contract for another, or of one variable life insurance contract for another. Applicants state that adoption of Rule 11a-3 represents the most recent Commission action under Section 11 of

the 1940 Act. As with Rule 11a-2, the focus of the Rule is primarily on sales and administrative charges that would be incurred by investors for effecting exchanges. Applicants submit that the terms of the proposed offer are consistent with Rule 11a-3 because no sales or administrative charge will be incurred as a result of the exchange. Because one investment company involved in the proposed exchange offer is organized as a unit investment trust rather than as a management investment company, Applicants believe that they may not rely upon Rule 11a-3.

Class Relief

1. Applicants request that the Order extend to all similarly situated current and affiliated entities, defined previously as Insurance Companies, Separate Accounts and Distributors. Applicants also request that the Order extend to all variable annuity contracts issued by an Insurance Company that are substantially similar to the Contracts and to any share class of any Prudential Mutual Fund for which there are no front-end sales charges or deferred sales charges.

2. Applicants submit that providing class relief is appropriate. Applicants assert that because no front-end or deferred sales charges are applicable and all exchanges will be at relative net asset value, there will be no possibility of the abuses Congress sought to prevent through Section 11. Furthermore, without such exemptive relief, before Participants could be given any additional exchange options, Applicants would have to apply for and obtain additional approval orders. Applicants believe that such additional applications would present no new issues under the 1940 Act not already addressed in the application.

Conclusion

For the reasons and upon the facts summarized above, Applicants submit that the proposed exchange offers at net asset value do not involve any of the abuses that Section 11 is designed to prevent and provide a benefit to Participants by expanding exchange privileges under Programs designed to provide a mix of investment options and annuity benefits for retirement savings.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-10705 Filed 5-13-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Federal Register Citation of Previous Announcement: [To be published].

STATUS: Open Meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: May 14, 2008 at 10 a.m.

CHANGE IN THE MEETING: Additional Item Date Change.

The following matter will be considered during the 10 a.m. Open Meeting scheduled for Wednesday, May 21, 2008, at 10 a.m., in the Auditorium, Room L-002:

The Commission will consider whether to propose amendments to provide for mutual fund risk/return summary information to be filed with the Commission in interactive data format.

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) 942-7070.

Dated: May 8, 2008.

Nancy M. Morris,
Secretary.

[FR Doc. E8-10720 Filed 5-13-08; 8:45 am]

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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 May 15, 2008 at 10 a.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)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (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.