

and the minimum required margin will be 5% of the underlying component value.

The Exchange has agreed to a system for periodic review to ensure the adequacy of the proposed margin requirements and for increasing the requirements on an expedited basis if necessary. The NYSE's monitoring plan will consist of the following:

- Semi-annual reviews of the seven-day price<sup>9</sup> movements will be done. These volatility reviews will cover both the last six months and the last three years.

- The semi-annual review must indicate a 97.5% confidence level (*i.e.*, the required margin level is adequate for seven-day price movements 97.5% of the time).

- For each option category, reports must be done by two member organizations using their own pricing data or by one member organization using an independent pricing source acceptable to the Exchange. These reports must be submitted to the Exchange.

- If one semi-annual review indicates the margin level is inadequate for an option category, the Exchange will increase the margin requirements by filing a proposal pursuant to Section 19(b)(3)(A) under the Act for immediate effectiveness.

- In order to lower the margin requirements, two consecutive six-month reviews must demonstrate that the lower requirement meets the 97.5% confidence level. Amendments to lower the requirement will be made by filing a proposed rule change pursuant to Section 19(b)(2) under the Act.

- In addition, before lowering the margin requirements, the Exchange will take into consideration other relevant factors, such as current market conditions, member organization views, and margin levels implied from other options products (where similar OCC-issued options exist).

#### (b) Basis

The NYSE believes that the proposed rule change is consistent with the requirements of the Act and, in particular, furthers the objectives of Section 6(b)(5), which provides that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public. The NYSE believes that the proposed rule change is also consistent with the rules and regulations of the

Board of Governors of the Federal Reserve System for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) under the Act.

#### (B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should

refer to the file number in the caption above and should be submitted by April 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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[Rel. No. IC-20981; File No. 812-9360]

### American Skandia Life Assurance Corporation, et al.

March 31, 1995.

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

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

**APPLICANTS:** American Skandia Life Assurance Corporation ("Skandia Life"); American Skandia Life Assurance Corporation Variable Account B (Class 3 Sub-Accounts) (the "Account"); and Skandia Life Equity Sales Corporation ("SLESCO").

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) for exemption from Sections 26(a)(2)(C) and 27(c)(2) of the Act.

**SUMMARY OF APPLICATION:** Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Account with respect to certain flexible premium deferred variable annuity contracts ("Contracts") and contracts offered in the future that are substantially similar in all material respects to the Contracts ("Future Contracts") that are issued through the Account or any other Accounts established in the future by Skandia Life ("Future Accounts"). Applicants also request that the exemptive relief granted to SLESCO extend to any other National Association of Securities Dealers member broker-dealer controlling, controlled by, or under common control with Skandia Life ("Skandia Life Broker-Dealers"), that may serve in the future as distributor and/or principal underwriter for the Contracts or Future Contracts.

**FILING DATE:** The application was filed on December 13, 1994 and amended on February 27, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be

<sup>9</sup> Because the Exchange will submit data covering seven-day price movements, the Exchange agreed to delete references to seven-day price/yield movements in order to clarify the proposal. March 22 conversation, *supra* note 2.

<sup>10</sup> 17 CFR 200.30-3(a)(12) (1994).

issued unless the Commission orders a hearing. Interested persons may request a hearing on this application, or ask to be notified if a hearing is ordered, by writing to the Commission's Secretary and serving the Applicants with a copy of the request, either personally or by mail. Hearing requests must be received by the SEC by 5:30 pm., on April 25, 1995 and should be accompanied by proof of service on the Applicants, either by affidavit, or, for lawyers, by certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o American Skandia Life Assurance Corporation, One Corporate Drive, P.O. Box 883, Shelton, Connecticut 06484-9932, Attention: Jeffrey M. Ulness, Esq.

**FOR FURTHER INFORMATION CONTACT:** Joyce Merrick Pickholz, Senior Counsel, or Wendy Finck Friedlander, Deputy Chief, 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 SEC's Public Reference Branch.

#### Applicants' Representations

1. Skandia Life is a stock life insurance company incorporated under the laws of Connecticut. It is wholly owned by American Skandia Investment Holding Corporation ("AHIHC") which in turn is ultimately wholly owned by Skandia Insurance Company Ltd., a Swedish Corporation.

2. The Account was established by Skandia Life as a unitized separate account under the laws of Connecticut and is registered with the Commission under the Act as a unit investment trust.

3. SLESCO, a wholly owned subsidiary of AHIHC, will serve as the distributor and principal underwriter of the Contracts. SLESCO is registered under the Securities Exchange Act of 1934 and with the National Association of Securities Dealers, Inc. as a broker-dealer.

4. The Contracts are flexible premium deferred variable annuities. Contract owners may allocate premium payments or account value to one or more sub-accounts of the Account which will invest in shares of corresponding investment portfolios of American Skandia Trust or such other investment company as may be made available in the future.

5. During the accumulation phase, a death benefit is generally payable upon the death of the first Contract owner to die (if the Contract is held by one or more natural persons) or upon the death of the annuitant. If death occurs prior to the 70th birthday of the individual upon whose death the benefit is payable, the death benefit is the greater of a Contract's Account Value or the minimum death benefit (which is the sum of all Purchase Payments less the sum of all withdrawals). If death occurs on or after the 70th birthday of the individual on whose death the benefit is payable, the death benefit is the Account Value.

6. Prior to the annuity date and upon surrender, Skandia Life will deduct a maintenance fee of the lesser of 2% of Account Value or \$35 per annuity year from the sub-account holdings attributable to any particular Contract in the same proportion that each sub-account holding bears to the Account Value of such Contract. Skandia Life states that this fee for maintaining the Contracts will not be greater than the anticipated costs. Also, during the accumulation period, Skandia Life will deduct from the Account, on a daily basis, an administration fee at the rate of 0.15% per annum of the average daily total value of assets of the Account. Applicants assert<sup>1</sup> that a relationship does not necessarily exist between the administration charge and maintenance fee upon a particular Contract and the expenses attributable to that particular Contract, however, the total administrative charge assessed against the Account will not be greater than the total anticipated cost of services to be provided over the life of the Contract(s) in accordance with the applicable standards in Rule 26a-1 under the 1940 Act. The administration and maintenance fees can be increased only for contracts issued subsequent to the effective date of any such change. In addition, Skandia Life deducts an amount equal to any premium taxes due either prior to allocation to the sub-accounts or upon annuitization. A charge of \$10 is assessable for each transfer in excess of four transfers in each annuity year. Finally, a \$10 charge is assessed for each transfer after the fourth in each annuity year and for each withdrawal after the first in each annuity year except for transfers from the fixed account, a death benefit, surrender medically-related surrender or annuity payment.

7. No deduction or charge will be made from Purchase Payments for sales

or distribution expenses. However, a contingent deferred sales charge ("CDSC") may be assessed on surrender or withdrawal. The Contract offers a free withdrawal privilege that, under certain circumstance, permits a Contract owner to withdraw funds without any CDSC being imposed. For purposes of the CDSC, amounts withdrawn as a free withdrawal are not considered a liquidation of purchase payments. For withdrawals of unliquidated new premiums that exceed the free withdrawal amount, the CDSC under the Contracts begins at 6% and declines to 0% in year eight in accordance with a schedule set forth in the application. However, Applicants represent that in no event will the total CDSC for a particular Contract or Future Contract exceed 9% of purchase payments under the Contract or Future Contract. CDSC's will be used to compensate Skandia Life for sales commissions and other promotional or distribution expenses incurred by Skandia Life which are associated with the marketing of the Contracts. Skandia Life does not anticipate that the CDSC will be sufficient to permit it to recoup all its sales and distribution expenses. To the extent the CDSC is not sufficient, Skandia Life will pay these expenses from its general assets which may include proceeds (if available) from the mortality and expense risk charges.

8. A mortality and expense risk charge will be deducted daily from the net asset value of the Account attributable to the Contracts at a rate of 0.85% per annum of the daily net assets in the Account. Of that amount, approximately 0.55% is allocable to Skandia Life's assumption of mortality risks and 0.30% is allocable to Skandia Life's assumption of administration and expense risks. The annuity rates incorporated in any issued Contracts cannot be changed. Skandia Life's assumption of mortality risks guarantees that the variable annuity payments made to Contract owners will not be affected by the mortality experience of persons receiving such payments or of the general population. Skandia Life assumes this risk by virtue of the annuity rates incorporated in the Contracts which cannot be changed. Additional mortality risks are assumed when the sub-accounts decline in the value resulting in losses to Skandia Life on paying death benefits. The expense risk undertaken by Skandia Life is that the administration and maintenance fees, which are guaranteed for current Contract owners, may be insufficient to cover the actual costs of maintaining the Contracts and the Account.

<sup>1</sup> An amendment will be filed during the notice period to confirm this representation.

9. If the charges for the mortality and expense risks prove insufficient to cover mortality, administration and maintenance costs, then the excess of the expenses over the charges made for these expenses will result in a loss, and such loss will be borne by Skandia Life. Conversely, if the charges prove more than sufficient to cover such costs, the excess will result in a profit to Skandia Life.

#### Applicants' Legal Analysis

1. Applicants request exemptive relief, pursuant to Section 6(c) of the 1940 Act from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act to permit the deduction of a mortality and expense risk charge from the assets of the Account or Future Accounts with respect to the Contracts and Future Contracts that are substantially similar in all material respects to the Contracts. Applicants also request that the exemptive relief granted to SLESCO extend to any other National Association of Securities Dealers member broker-dealer controlling, controlled by, or under common control with Skandia Life that may serve in the future as principal underwriter for the Contracts or Future Contracts.

2. Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for a registered unit investment trust shall be allowed the trustee or custodian as an expense except compensation, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the trustee or custodian. Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1), and are held by such trustee or custodian under an agreement containing substantially the provisions required by Sections 26(a)(2)(C) and 26(a)(3) of the 1940 Act. Applicants request exemption from those provisions to the extent necessary to permit the assessment of the charge for mortality and expense risks under the Contracts and Future Contracts.

3. Applicants submit that their request for an order that applies to Future Contracts, Future Accounts and Skandia Life Broker-Dealers is necessary and appropriate in the public interest. Applicants assert that the issuance of

the requested order on a prospective basis would promote competitiveness in the variable annuity contract market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses, maximizing the efficient use of Skandia Life's resources, and enabling Skandia Life to take advantage of business opportunities as they arise. Further, if Skandia Life were required repeatedly to seek exemptive relief with respect to the same issues addressed in this Application, investors would not receive any benefit or additional protection thereby.

4. Applicants submit that Skandia Life is entitled to reasonable compensation for its assumptions of mortality and expense risks and that the charge provided for in the Contracts is a reasonable and proper insurance charge. Skandia Life further represents that the charge of 1.25% for mortality and expense risks assumed by Skandia Life is within the range of industry practice with respect to comparable annuity products. This representation is based on Skandia Life's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. Skandia Life will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

5. Similarly, prior to making available any Future Contracts through the Account, or through other Future Accounts, Applicants will represent that the mortality and expense risk charge under any such Future Contracts will be within the range of industry practice for comparable contracts. Applicants represent that Skandia Life will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey. Further, such mortality and expense risk charge would not exceed 1.25% of the daily net assets of the Account or Future Accounts.

6. Applicants acknowledge that the CDSC may be insufficient to cover all costs relating to the distribution of the Contracts and that if a profit is realized from the mortality and expense risk charge all or a portion of such profit may be viewed as being offset by distribution expenses. Nevertheless, Skandia Life has concluded that the

proposed distribution financing arrangements will benefit the Account and the Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by Skandia Life at its administrative offices and will be available to the Commission. Skandia Life also will maintain and make available to the Commission memoranda setting forth the basis for the same representation with respect to Future Contracts offered by the Account or Future Accounts.

7. Skandia Life represents that the Account, and all Future Accounts, shall invest only in management investment companies which undertake to have a Board of Directors, the majority of whom are not "interested persons" of such company as that term is used under Section 2(a)(19) of the Act, formulate and approve any plan adopted under Rule 12b-1 of the 1940 Act.<sup>2</sup>

#### Conclusion

Applicants submit that the exemptive relief requested 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.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

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#### American Skandia Life Assurance Corporation, et al.

March 31, 1995.

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

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

**APPLICANTS:** American Skandia Life Assurance Corporation ("Skandia Life"); American Skandia Life Assurance Corporation Variable Account B (Class 1 Sub-Accounts) (the "Account"); and Skandia Life Equity Sales Corporation ("SLESCO").

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) for

<sup>2</sup> An amendment will be filed during the notice period to confirm that the Board of Directors will formulate and approve any plan adopted under rule 12b-1.