basis certain solid waste, sewage disposal and/or pollution control facilities (''Facilities'') at any of (i) Unit No. 3 of its Waterford Steam Electric Generating Station in the Parish of St. Charles, Louisiana, (ii) Units Nos. 6 and 7 of the LP&L's Sterlington Gas Generating Station in the Parish of Ouachita, Louisiana, or (iii) Units Nos. 1–5 of LP&L's Ninemile Point Gas Generating Station in the Parish of Jefferson, Louisiana (collectively, ''Parish''). LP&L proposes, from time to time through December 31, 1997, to enter into one or more installment sale agreements and supplements (''Agreement''), pursuant to which the Parish may issue one or more series of tax-exempt revenue bonds (''Revenue Bonds'') in an aggregate principal amount not to exceed $65 million. The net proceeds from the sale of Revenue Bonds will be deposited by the Parish with the trustee (''Trustee'') under one or more indentures (''Indenture'') and will be applied by the Trustee to reimburse the Company for, or to permanently finance on a tax-exempt basis, the costs of the acquisition, construction, installation or equipping of the Facilities.

LP&L further proposes, under the Agreement, to sell the Facilities to the Parish for cash and simultaneously repurchase the Facilities from the Parish for a purchase price, payable on an installment basis over a period or years, sufficient to pay the principal of, purchase price of, the premium, if any, and the interest on Revenue Bonds as the same become due and payable. Under the Agreement, LP&L will also be obligated to pay certain fees incurred in the transactions.

The price to be paid to the Parish for each series of Revenue Bonds and the interest rate applicable thereto will be determined at the time of sale. The Agreement and the Indenture will provide for either a fixed interest rate or an adjustable interest rate for each series of Revenue Bonds. Each series may be subject to optional and mandatory redemption and/or a mandatory cash sinking fund under which stated portions of such series would be retired at stated times.

In order to obtain a more favorable rating and thereby improve the marketability of the Revenue Bonds, LP&L may: (1) Arrange for a letter of credit from a bank (''Bank'') in favor of the Trustee (in connection therewith, LP&L may enter into a Reimbursement Agreement pursuant to which LP&L would agree to reimburse the Bank for amounts drawn under the letter of credit and to pay commitment and/or letter of credit fees); (2) provide an insurance policy for the payment of the principal of and/or interest and/or premium on one or more series of Revenue Bonds; and/or (3) obtain authentication of one or more new series of first mortgage bonds (''Collateral Bonds''), to be issued up to an aggregate principal amount of $75 million, under LP&L's mortgage on the basis of unfunded net property additions and/or previously retired first mortgage bonds and delivered and pledged to the Trustee and/or the Bank to evidence and secure LP&L's obligations under the Agreement and/or the Reimbursement Agreement.

LP&L also proposes to acquire, through tender offers or otherwise, certain of its outstanding securities, including its outstanding first mortgage bonds, its outstanding preferred stock and/or outstanding pollution control revenue bonds and industrial development revenue bonds issued for LP&L's benefit, at any time, prior to December 31, 1997.

National Fuel Gas Company (70–8657)

National Fuel Gas Company (''National''), 10 Lafayette Square, Buffalo, New York 14203, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act.

By order dated December 18, 1990 (HCAR No. 25216) (''Order''), National was authorized, among other things, to issue and sell from time-to-time through October 31, 1995, up to 1 million shares of its authorized but unissued common stock, no par value, to such bank or trust company as National may designate as agent for the participants in National's Customer Stock Purchase Plan (''Plan''). All material aspects of the Plan as authorized by the Order remain unchanged.

From December 18, 1990 to January 15, 1995, National issued and sold 609,156 shares of common stock under the Plan. No shares of common stock have been issued under the Plan since January 15, 1995. Rather, as provided in the Order, cash dividends on all shares of common stock received from, or optional cash payments made by customers participating in the Plan have been reinvested by using open market purchases of National's common stock. From January 16, 1995 to April 15, 1995, 47,522 shares of common stock have been purchased on the open market for distribution under the Plan.

National now proposes to issue and sell, in addition to those shares authorized to be distributed under the Plan by the Order, from time-to-time through October 31, 2000, up to an additional one million shares or its authorized but unissued common stock, $1.00 par value (''Additional Common Stock''), to Chemical Bank, or such other bank or trust company as National may designate, as agent for the participants in the Plan. National also proposes to invest the cash and dividends of shareholders participating in the Plan through open market purchases of National's common stock. National will make such a decision from time-to-time based upon its needs for common stock, and the price and availability of its common stock on the market.

National intends to use the proceeds from the sale of the Additional Common Stock to repay existing short-term and long-term debt, to pay interest and dividends, and for other corporate purposes. In addition, National will, from time-to-time, use the proceeds to make additional capital contributions to its wholly owned subsidiaries.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–19170 Filed 8–3–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21262; No. 812–9462]

Security Equity Life Insurance Company, et al.

July 28, 1995.

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

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

APPLICANTS: Security Equity Life Insurance Company (''Security Equity''), Security Equity Life Insurance Company Separate Account 13 (''Separate Account''), and Walnut Street Securities, Inc. (''Walnut Street'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 27(a)(3) and 27(c)(2) of the 1940 Act and Rules 63–2(c)(4)(v), 6e–3(T)(b)(13)(ii), and 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: This order will permit: (1) The Separate Account to issue certain flexible premium variable life insurance policies (''Policies'') in which the sales charge deducted from premiums up to one target premium paid during any year exceeds the sales charge payable on any excess premium payments made in any prior year; and (2) the Separate Count and any future separate accounts established by Security Equity, to issue Policies, as well as other flexible premium, single premium, or scheduled premium variable life insurance policies, in which a deduction is made from premium payments of an amount that is reasonably related to Security Equity's increased federal tax burden resulting from the receipt of such premium payments pursuant to the application of Section 848 of the Internal Revenue Code of 1986, as amended.

FILING DATE: The application was filed on February 2, 1995, and amended on July 17, 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 by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 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 requestor's 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, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, Juanita M. Thomas, Esq., Security Equity Life Insurance Company, c/o General American Life Insurance Company, 700 Market Street, St. Louis, MO 63101.

FOR FURTHER INFORMATION CONTACT: Pamela K. Ellis, Senior Counsel, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The 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. Security Equity, a New York stock life insurance company, offers life insurance in thirty-eight states and the District of Columbia. Security Equity is a wholly-owned subsidiary of General American Life Insurance Company (''General American'').

2. The Separate Account is a separate account established by Security Equity to fund the Policies. The Separate Account is registered with the Commission under the 1940 Act as a unit investment trust, and interests in the Policies are registered with the Commission as securities under the Securities Act of 1933. The Separate Account presently is comprised of ten sub-accounts (''Sub-Accounts''), which invest exclusively in certain open-end management investment companies or series of such companies (''Funds'').

3. Walnut Street, a wholly-owned subsidiary of General American Holding Company (which, in turn, is a wholly-owned subsidiary of General American), is the distributor for the Policies. Walnut Street is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers, Inc.

4. The Policies are flexible premium variable life insurance contracts that provide for allocation of premium payments to the Sub-Accounts or to a fixed fund. The cash value and the death benefit under the Policies may fluctuate depending on the investment experience of the Sub-Accounts. There are three Death Benefit Options: (a) Face amount; (b) face amount plus account value; or (c) face amount plus a return of premiums. The minimum death benefit is equal to the account value multiplied by a specified percentage, which varies according to certain conditions. The Policies will not lapse if the net cash value is sufficient to cover monthly fees and charges deducted from the account value.[1] The Policies also offer Policy owners the opportunity to obtain a loan.

5. Certain fees and charges are deducted under the Policies. Each Sub-Account is assessed a daily mortality and expense risk charge, as well as monthly administrative charges, cost of insurance charges, charges for optional rider benefits, and charges for special insurance class rating, if any. If the Policy is issued on a medically underwritten basis,[2] a $100 underwriting charge will be deducted from the account value on the issue date, and the first day of the Policy month following a medically underwritten increase in the face amount[3] of the Policy.[4]

6. In addition, applicants propose to deduct from premium payments a premium load charge consists of a distribution charge, a premium tax charge, and a charge equal to 1.0% of each premium payment to cover the estimated cost of the federal income tax treatment under Section 848 of the Code, commonly referred to as the ''DAC Tax.'' Premium load is expressed as a percentage of premium, and depends upon the amount of the premium paid in relation to the target premium,[5] the Policy year in which the premium is paid, and the issue age of the insured.

a. Distribution Charge

Applicants assert that the distribution charge compensates Security Equity for its Policy sales expenses, and is comprised of a premium expense load and a commission charge. The percentage premium expense load deducted from each premium payment will be based on the sum of the initial premiums of all Policies in a case,[6] in accordance with the following table.

Sum of the initial premiums of all policies in a case	Premium expense load (percent)
Less than $250,000	2.00
$250,000–$999,999	1.50
$1 million and more	1.25

The commission charge will be deducted from premiums paid in each Policy year up to a target premium amount. There is no commission charge on any premium amount paid during a Policy year in excess of the target premium (''Excess Premium''). The commission charge on premiums paid in a Policy year up to the target premium amount is based upon the issue age of the insured and the Policy year as follows:

Issue ages	Policy year		
	1 (percent)	2–10 (percent)	11–15 (percent)
20–51	28.00	8.00	6.00
52–59	28.00	6.33	4.00
60–67	28.00	4.66	4.00
68–80	19.00	4.00	4.00
81–85	13.00	4.00	4.00

[1] Net cash value is defined as the account value less any outstanding Policy loan and accrued and unpaid loan interest.

[2] Medically underwritten contracts, for the purposes of this underwriting charge, are all Policies other than those issued on a guaranteed issue or simplified issue basis. Security Equity may reduce or waive the underwriting charge in connection with the purchase of Policies sold by licensed agents of Security Equity that are also registered representatives of selected broker-dealers or banks that have entered into written sales agreements with Walnut Street.

[3] The face amount of the Policy is defined as the amount of insurance under the Policy.

[4] The underwriting charge is modified if the Policy is issued with a joint and last survivor rider.

[5] The target premium is a percentage of the level annual premium payment necessary to provide future benefits under the Policy through maturity.

[6] A case is a grouping of one or more Policies connected by a non-arbitrary factor such as common employer of each insured under the Policy. Every Policy is part of a case.

For all issue ages the commission charge will be 2.0% for Policy years 16 and beyond.

b. State Premium Tax Charge

Security Equity also deducts from each premium a premium tax charge, equal to the taxes that are imposed on Security Equity by the state in which the Policy owner resides or by the state in which the insured resides, and that are based on such premiums received under the Policy.

c. Section 848 ''DAC Tax'' Charge

Applicants state that the 1.0% charge deducted from each Premium Payment is designed to reimburse Security Equity for its increased federal tax burden resulting from the application of Section 848 of the Code to the receipt of those premiums. Section 848, as amended, requires life insurance companies to capitalize and amortize over ten years certain general expenses for the current year rather than deduct these expenses in full from the current year's gross income, as allowed under prior law. Section 848 effectively accelerates the realization of income from specified contracts and, consequently, the payment of taxes on that income. Taking into account the time value of money, Section 848 increases that insurance company's tax burden because the amount of general deductions that must be capitalized and amortized is measured by the premiums received under the Policies.

a. Deductions subject to Section 848 equal a percentage of the current year's net premiums received (*i.e.*, gross premiums minus return premiums and reinsurance premiums) under life insurance or other contracts categorized under this Section. The Policies will be categorized as specific contracts under Section 848 requiring 7.7% of the net premiums received to be capitalized and amortized under the schedule set forth in Section 848(c)(1).

b. The increased tax burden on every $10,000 of net premiums received under the Policies is quantified by applicants as follows. For each $10,000 of net premiums received in a given year, Security Equity's general deductions are reduced by $731.50 *i.e.*, an amount equal to (a) $770 (7.7% of $10,000) minus (b) $38.50 (one-half year's portion of the ten year amortization which may be deducted in the current year). Using a 35% corporate tax rate, applicants assert that Security Equity's taxes would increase for the current year by $256.03. However, the current tax increase will be offset partially by deductions allowed during the next ten years, which result from amortizing the remainder of the $770 ($77 in each of the following nine years and $38.50 in year ten).

c. In calculating the present value of these increased future deductions, Security Equity determined that, in its business judgment, it is appropriate to use a discount rate of 10% for the following reasons. To the extent that capital must be used by Security Equity to pay the increased federal tax burden under Section 848, such surplus will be unavailable for investment. Thus, the cost of capital used to satisfy this increased tax burden under Section 848 is Security Equity's targeted rate of return (*i.e.*, return sought on surplus), which is in excess of 10%. Accordingly, applicants submit that the targeted rate of return on surplus is appropriate for use in this present value calculation.

d. Applicants also submit that, to the extent that the 10% discount rate is lower than Security Equity's actual targeted rate of return on surplus, the calculation of this increased tax burden will continue to be reasonable over time, even if the applicable corporate tax rate is reduced, or Security Equity's targeted rate of return on surplus is lowered.

e. Security Equity has computed its cost of capital as the after tax rate of return that it seeks to earn on its surplus. Security Equity's rate of return is based on a number of factors including market interest rates, the anticipated long-term growth rates for Security Equity and its parent company, General American, acceptable level of risks for both Security Equity and General American, inflation, and available information about the rates of return obtained by other mutual life insurance companies and their subsidiaries. Security Equity represents that these factors are appropriate to consider in determining its cost of capital. Security Equity seeks to maintain a ratio of surplus to assets that is established based on judgment of the risks represented by various components of assets and liabilities.

f. Using a federal corporate tax rate of 35%, and applying a discount rate of 10%, the present value of the tax effect of the increased deductions allowable in the following ten years, which partially offsets the increased tax burden, equals $160.40. The effect of Section 848 on the Policy, therefore, is and increased tax burden with a present value of $95.63 for each $10,000 of net premiums (*i.e.*, $256.03 less $160.40).

g. Applicants state that Security Equity does not incur incremental federal income tax when it passes on state premium taxes to Policy owners because state premium taxes are deductible in computing Security Equity's federal income taxes. Conversely, federal income taxes are not deductible in computing Security Equity's federal income taxes. To compensate Security Equity fully for the impact of Section 848, an additional charge must be imposed to make security Equity whole for the $95.63 additional tax burden attributable to Section 848, as well as the tax on the additional $95.63 itself. This additional charge can be determined by dividing $95.63 by the complement of 35% federal corporate income tax rate (*i.e.*, 65%), resulting in an additional charge of $147.12 for each $10,000 of net premiums, or 1.47%.

h. Based on prior experience, Security Equity reasonably expects to take almost all future deductions. It is the judgment of Security Equity that a charge of 1.0% would reimburse it for the increased federal income tax liabilities under Section 848 of the Code, and will be reasonably related to such increased federal income tax burden. This representation takes into account the benefit to Security Equity of the amortization permitted by Section 848 and the use of a 10% discount rate (which is equivalent to Security Equity's targeted rate of return on surplus) in computing the future deductions resulting from such amortization. Applicants assert that it is appropriate to deduct this charge, and to exclude the deduction of this charge from sales load, because it is a legitimate expense of Security Equity and not for sales and distribution expenses.

Applicants' Legal Analysis

A. Exemptive Relief Under Section 27(a)(3) of the 1940 Act and Rule 6e-3(T)(b)(13)(ii) Thereunder

1. Section 27(a)(3) of the 1940 Act provides that the amount of sales charge deducted from any of the first twelve monthly payments on a periodic payment plan certificate may not exceed proportionately the amount deducted from any other such payment. Section 27(a)(3) further provides that the sales charge deducted from any subsequent payment may not exceed proportionately the amount deducted from any other subsequent payment.

2. Rule 6e-3(T)(b)(13)(ii) provides a partial exception from the prohibitions of Section 27(a)(3). Exemptive relief from the prohibitions of Section 27(a)(3) provided by Rule 6e-3(T)(b)(13)(ii) is available if the proportionate amount of sales charge deducted from any premium payment does not exceed the proportionate amount deducted from any prior premium payment, unless an

increase is caused by reductions in the annual cost of insurance or in sales charge for amount transferred to a variable life insurance contract from another plan of insurance. Rule 6e-3(T)(b)(13)(ii) thus permits a decrease in sales load for any subsequent premium payment but not an increase.

3. Under the Policies' sales load structure, a Policy owner could pay a premium in any given Policy year from which a 2.0% front-end sales load deduction (the premium expense load) is made, because at the time such premium was paid, cumulative premiums paid during the Policy year exceeded the target premium amount. Premiums paid in a subsequent Policy year up to a target premium would be subject to a front-end sales load deduction of more than 2.0% (the applicable commission charge plus the premium expense load). Applicants thus request an exemption from the requirements of Section 27(a)(3) and Rule 6e3(T)(13)(ii) because the Policies' sales load structure would appear to violate the ''stair-step'' provisions in Section 27(a)(3) and because the exemption from Section 27(a)(3) provided by Rule 6e–3(T)(b)(13)(ii) does not seem to apply to the Policies' sales load structure.

4. Applicants state that, had they chosen to impose the higher front-end sales load equally on all premium payments, the Policies would qualify for exemptive relief under Rule 6e–3(T)(b)(13)(ii), subject to the maximum limits permissible under subparagraph (b)(13)(i) or the Rule. Applicants assert, however, that such a front-end charge, would be less favorable to Policy owners than provided under the Policies; under such a sales charge structure, sales load would be recovered by Security Equity earlier than is the case under the Policies' sales load structure. The sales charge structure under the Policies benefits Policy owners by spreading Security Equity's recovery of sales load over a longer period of time, and thereby permitting a greater portion of a Policy owner's excess premiums to be credited to account value.

5. In addition, applicants represent that the sales load structure has been designed based on Security Equity's operating expenses for the sale of the Policies and, thus, reflects in part the lower overall distribution costs that are associated with Excess Premiums paid over the life of a Policy. Applicants submit that it would not be in the best interest of a Policy owner to require the imposition of a higher sales load structure than applicants deem necessary to adequately defray their expenses.

6. Applicants argue that Section 27(a)(3) was designed to address the abuse of periodic payment plan certificates under which large amounts of front-end sales loads were deducted so early in the life of the plan that an investor redeeming in the early periods would recoup little of his or her investment since only a small portion of the investor's early payments were actually invested. Applicants submit that the deduction of a reduced front-end sales load on Excess Premiums paid in any Policy year does not have the detrimental effect that Section 27(a)(3) was designed to prevent because a greater proportion of the Policies' sales loads are deducted later than otherwise would be the case.

7. Applicants state that under the Policy, premiums up to the target premium amount have higher levels of actual sales expenses (*i.e.*, commissions) associated with them than premiums in excess of such target premium amounts. Because the excess premiums have a lower level of sales expenses, applicants argue that it is appropriate to analyze separately the sales load structures for the two types of payments. Applicant submit that, when analyzed separately, both types of sales load comply with Rule 6e–3(T)(b)(13)(ii).

B. Exemptive Request With Respect to Section 27(c)(2) of the 1940 Act and Rules 6e–2(c)(4)(v) and 6e–3(T)(c)(4)(v) Thereunder in Connection With Deduction of a Charge for Code Section 848's Deferred Acquisition Costs

1. Section 27(c)(2) prohibits a registered investment company or its depositor or underwriter from making any deduction from premium payments made under periodic payment plan certificates other than a deduction for sales load. Section 2(a)(35)[7] defines sales load as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment, less amounts deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees that are not properly chargeable to sales load.

2. The Separate Accounts are, and the Future Accounts will be, regulated under the 1940 Act as issuers of periodic payment plan certificates. Accordingly, the Separate Accounts, the Other Accounts, Security Equity (as depositor), and Walnut Street (as principal distributor) are deemed to be subject to Section 27 of the 1940 Act. Applicants thus request an order under Section 6(c) of the 1940 Act granting exemptions from Sections 27(c)(2) of the 1940 Act to allow the deduction of a charge from premium payments to compensate Security Equity for their increased federal tax burden resulting from the receipt of such premium payments under the Policies.

3. Certain provisions of Rules 6e–2 and 6e–3(T) provide exemptive relief from Section 27(c)(2) if the separate account issues variable life insurance contracts, or flexible premium variable life insurance contracts, respectively. Rule 6e–2(b)(13)(iii) provides an exemption from Section 27(c)(2) of the 1940 Act to permit an insurer to deduct certain charges, other than sales load, including administrative expenses. Similarly, Rule 6e–3(T)(b)(13)(iii) provides exemptive relief from Section 27(c)(2) to permit an insurer to make certain deductions, other than sales load, including the insurer's tax liabilities from receipt of premium payments imposed by states or by governmental entity.

Rule 6e–2(b)(1), together with Rule 6e–2(c)(4), provides an exemption from the Section 2(a)(35) definition of sales load by the substitution of a new definition to be used for the purposes of Rule 6e–2. Rule 6e–2(c)(4) defines sales load charged on any payment as the excess of the payment over certain specified charges and adjustments, including a deduction approximately equal to state premium taxes. Rule 6e–3(T)(b)(1), together with Rule 6e–3(T)(c)(4), also provides an exemption from the Section 2(a)(35) definition to be used for the purposes of Rule 6e–3(T). Rule 6e–3(T)(c)(4) defines sales load during a period as the excess of any payments made during that period over certain specified charges and adjustments, including a deduction for and approximately equal to state premium taxes.

4. Applicants request exemptions from Rules 6e–2(c)(4)(v) and 6e–3(T)(c)(4)(v) under the 1940 Act to permit the proposed deduction with respect to Section 848 of the Code to be treated as other than sales load, as defined under Section 2(a)(35) of the 1940 Act, for purposes of Section 27 and the exemptions from various provisions

[7] Sales loads, as defined under Section 2(a)(35), are limited by Sections 27(a)(1) and 27(h)(1) to a maximum of 9% of total payments on periodic payment plan certificates. The proceeds of all payments (except amounts deducted for sales load) must be held by a trustee or custodian having the qualifications established under Section 26(a)(1) for the trustees of unit investment trusts and held under an indenture or agreement that conforms with the provisions of Section 26(a)(2) and Section 26(a)(3) of the 1940 Act.

of that Section found implicitly in Rule 6e–2 and explicitly in Rule 6e–3(T).

5. Applicants assert that the proposed deduction with respect to Section 848 of the Code arguably is covered by Rules 6e–2(b)(13)(iii) and 6e–3(T)(b)(13)(iii) and should be treated as other than sales load. Applicants note, however, that under a literal reading of Rules 6e–2(c)(4) and 6e–3(T)(c)(4), a deduction for an insurer's increased federal tax burden does not fall squarely into those itemized charges or deductions, arguably causing the deduction to be treated as part of sales load.

6. Applicants state that they have found no public policy reason for including a deduction for an insurer's increased federal tax burden in sales load. Applicants assert that the public policy that underlies paragraph (b)(13)(i) of Rules 6e–2 and 6e–3(T), like that which underlies paragraphs (a)(1) and (h)(1) of Section 27, is to prevent excessive sales loads from being charged for the sale of periodic payment plan certificates. Applicants submit that this legislative purpose is not furthered by treating a federal income tax charge based on premium payments as a sales load because the deduction is not related to the payment of sales commissions or other distribution expenses. Applicants assert that the Commission has concurred with this conclusion by excluding deductions for state premium taxes from the definition of sales load in Rules 6e–2(c)(4) and 6e–3(T)(c)(4).

7. Applicants submit that the source for the definition of sales load found in Rules 6e–2(c)(4) and 6e–3(T)(c)(4) supports this analysis. Applicants believe that, in adopting paragraph (c)(4) of the Rules, the Commission intended to tailor the general terms of Section 2(a)(35) to variable life insurance contracts to ease verification by the Commission of compliance with the sales load limits of subparagraph (b)(13)(i) of the Rules.

8. Applicants submit that the exclusion from the definition of sales load under Section 2(a)(35) of deductions from premiums for issue taxes suggests that it is consistent with the policies of the 1940 Act to exclude from the definition of sales load in Rule 6e–2 and 6e–3(T) deductions made to pay an insurer's costs attributable to its federal tax obligations. Additionally, the exclusion of administrative expenses or fees that are ''not properly chargeable to sales or promotional activities'' also suggests that the only deductions intended to fall within the definition of sales load are those that are properly chargeable to sales or promotional activities. Applicants represent that the proposed deductions will be used to compensate Security Equity for its increased federal tax burden attributable to the receipt of premiums and not for sales or promotional activities. Applicants, therefore, believe the language in Section 2(a)(35) further indicates that not treating such deductions as sales load is consistent with the policies of the 1940 Act.

9. Finally, applicants submit that it is probably an historical accident that the exclusion of premium tax in subparagraph (c)(4)(v) of Rules 6e 2 and 6e–3(T) from the definition of sales load is limited to state premium taxes. Applicants note that, when Rules 6e–2 and 6e–3(T) were adopted, and later amended, the additional Section 848 tax burden attributable to the receipt of premiums did not yet exist.

10. Applicants further submit that the terms of the relief requested with respect to Future Policies to be issued through Other Accounts are also consistent with the standards of Section 6(c). Without the requested relief, applicants would have to request and obtain such exemptive relief for each Future Contract to be issued through an Other Account. Such additional requests for exemptive relief would present no issues under the 1940 Act that have not already been addressed in this application.

11. The requested relief is appropriate in the public interest because it would promote competitiveness in the variable life insurance market by eliminating the need for applicants to file redundant exemptive applications regarding the federal tax charge, thereby reducing their administrative expenses and maximizing the efficient use of their resources. Applicants represent that the delay and expense involved in having to repeatedly seek exemptive relief would impair their ability to effectively take advantage of business opportunities as they arise.

12. Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. If applicants were required to repeatedly seek exemptive relief with respect to the same issues regarding the federal tax charge addressed in this application, investors would not receive any benefit or additional protection thereby and might be disadvantaged as a result of applicants' increased overhead expenses.

Conditions for Relief

Applicants agree to the following conditions:

a. Security Equity will monitor the reasonableness of the charge to be deducted pursuant to the requested exemptive relief.

b. The registration statement for each Policy and Future Policy under which the above-referenced federal tax charge is deducted will: (1) disclose the charge; (2) explain the purpose of the charge; and (3) state that the charge is reasonable in relation to Security Equity's increased federal tax burden under Section 848 of the Code resulting from the receipt of premium payments.

c. The registration statement for each Policy and Future Policy under which the above-referenced federal tax charge is deducted will contain as an exhibit an actuarial opinion as to: (1) The reasonableness of the charge in relation to Security Equity's increased federal tax burden under Section 848 of the Code resulting from the receipt of premiums; (2) the reasonableness of the rate of return on surplus that is used in calculating such charge; and (3) the appropriateness of the factors taken into account by Security Equity in determining such rate of return.

Conclusion

1. Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act.

2. For the reasons and upon the facts set forth above, applicants submit that the requested exemptions from Sections 27(a)(3) and 27(c)(2) of the 1940 Act and Rules 6e–2(c)(4)(v), 6e–3(T)(b)(13)(ii), and 6e–3(T)(c)(4)(v) thereunder, are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act. Therefore, the standards set forth in Section 6(c) of the 1940 Act are satisfied.

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

Margaret H. McFarland,

Deputy Secretary.

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