

## OFFICE OF MANAGEMENT AND BUDGET

### Notice of Meeting

**AGENCY:** Office of Management and Budget.

**ACTION:** National Industrial Security Program Policy Advisory Committee (NISPPAC) meeting: Notice of meeting and invitation for public comments.

**SUMMARY:** The National Industrial Security Program Policy Advisory Committee will hold a meeting that shall serve as a forum to discuss National Industrial Security Program (NISPPAC) policy issues in dispute, and to advise the Chairman of these issues. The agenda will include a discussion of the status of the NISP, Executive Order 12958 and its impact on industry, and the introduction of new NISPPAC industry members.

The Information Security Oversight Office (ISOO) will host the meeting. ISOO is part of OMB's Office of Information and Regulatory Affairs.

**DATES:** The meeting will be held on Wednesday, September 27, 1995, at 10:00 a.m., at the Information Security Oversight Office in Washington, DC. The meeting is open to the public; however due to access procedures, the names and telephone numbers of those planning to attend must be submitted to the Information Security Oversight Office no later than Monday, September 24, 1995.

**ADDRESSES:** The meeting will be held at the Information Security Oversight Office, Suite 530, 750 17th Street, NW., Washington, DC 20006.

Written statements may be forwarded by mail to the above address, or faxed to (202) 395-7460.

**FOR FURTHER INFORMATION CONTACT:** For additional information about the meeting or to submit the names of those planning to attend, contact Ms. Dorothy Cephas of the Information Security Oversight Office at (202) 395-7450.

**James B. MacRae, Jr.,**

*Acting Administrator, Office of Information and Regulatory Affairs.*

[FR Doc. 95-20050 Filed 8-14-95; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Request Under Review by Office of Management and Budget

*Agency Clearance Officer:* Michael E. Bartell (202) 942-8800.

*Upon written request copies available from:* Securities and Exchange

Commission, Office of Filings and Information Services, Washington, DC 20549.

*Extension:* Rule 17a-5(c) File No. 270-199.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. §§ 3501 *et seq.*), the Securities and Exchange Commission has submitted to the Office of Management and Budget a request for approval of extension on the following:

Rule 17a-5(c) sets forth the financial statements which must be sent to public customers of broker-dealers. The total number of hours required for all respondents to comply with Rule 17a-5(c) is 50,000 hours annually.

Direct general comments to the Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and the Clearance Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Project Number 3235-0199, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 8, 1995.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-20156 Filed 8-14-95; 8:45 am]

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[Rel. No. IC-21273; No. 812-9398]

### AUSA Life Insurance Company, Inc., et al.

August 8, 1995.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** AUSA Life Insurance Company, Inc. ("AUSA Life"), AUSA Series Annuity Account B (the "Variable Account"), and InterSecurities, Inc.

**RELEVANT 1940 ACT SECTIONS:** Order requested pursuant to Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) thereof.

**SUMMARY OF APPLICATION:** Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of: (a) The Variable

Account in connection with the offer and sale of certain variable annuity contracts ("Existing Contracts"); (b) the Variable Account in connection with the issuance of variable annuity contracts that are substantially similar in all material respects to the Existing Contracts ("Future Contracts," together with existing Contracts, the "Contracts"); and (c) any other separate account established in the future by AUSA Life in connection with the issuance of Contracts.

**FILING DATE:** The application was filed on December 21, 1994, and amended on June 20 and August 2, 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 Secretary of the Commission and serving the 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 September 5, 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 by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, Robert F. Colby, AUSA Life Insurance Company, Inc., 4 Manhattanville Road, Purchase, New York 10577.

**FOR FURTHER INFORMATION CONTACT:** Kevin M. Krichoff, Senior Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

### Applicants' Representations

1. AUSA Life (formerly Dreyfus Life Insurance Company) is a stock life insurance company incorporated under the laws of the State of New York. AUSA Life is a wholly-owned subsidiary of First AUSA Life Insurance Company, a stock life insurance company which is wholly-owned by AEGON, USA, Inc., which is a wholly-owned indirect subsidiary of AEGON, nv, a Netherlands corporation.

2. InterSecurities, Inc., an affiliate of AUSA Life, will serve as distributor and

principal underwriter of the Contracts. InterSecurities, Inc. is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers. InterSecurities, Inc. will receive no commissions for acting as distributor or principal underwriter for the Contracts.

3. The Variable Account was established by AUSA Life as a separate investment account under New York law on October 24, 1994, to act as a funding medium for variable annuity contracts. The Variable Account is registered with the Commission as a unit investment trust under the 1940 Act. Units of interest in the Variable Account under the Existing Contracts are registered under the Securities Act of 1933.

4. The Variable Account presently consists of eight subaccounts (the "Subaccounts"). Each Subaccount will invest solely in the shares of a designated portfolio of the Janus Aspen Series, an open-end "series" management investment company registered under the 1940 Act. Contract owners may invest in any one or more of the Subaccounts, and also may invest in the fixed account, part of the general account of AUSA Life. In the future, other subaccounts may be established by AUSA Life which will invest in specified portfolios of Janus Aspen Series or other investment companies. In the future, AUSA Life may issue, through the Variable Account and through Other Accounts, other variable annuity contracts which are substantially similar in all material respects to the Existing Contracts.

5. The Existing Contracts may be purchased on a non-tax qualified basis or may be purchased and used in connection with retirement plans that qualify for favorable federal income tax treatment.

6. The Existing Contracts provide for minimum initial purchase payments and permit additional minimum purchase payments and periodic payments, subject to certain limitations. The contract owner may allocate net purchase payments to one or more Subaccounts, the fixed account, or to a combination of both.

7. The Existing Contracts also provide for the payment of a death benefit. If the Annuitant dies during the accumulation period and the owner is a natural person other than the Annuitant, the owner will automatically become the new Annuitant. If the Annuitant dies during the accumulation period and the owner is either the same individual as the Annuitant or is not a natural person, AUSA Life will pay the death benefit to

the beneficiary in a lump sum upon receipt of proof of death, unless the beneficiary elects to receive a complete distribution of the death benefit: (i) Within five years of the Annuitant's death; (ii) over the lifetime of the beneficiary; or (iii) over a period that does not exceed the life expectancy of the beneficiary. If the beneficiary is entitled to receive the death benefit and is the spouse of the deceased Annuitant, he or she may instead elect to become the new owner and Annuitant and continue the Existing Contract. The death benefit is equal to the greater of: (i) The annuity value, defined as the sum of the Variable Account value and the fixed account value, or (ii) the excess of (a) the amount of the purchase payments paid, over (b) any partial withdrawals (and less any applicable premium taxes).

8. Various fees and expenses are deducted under the Existing Contracts. AUSA Life will assess an Annual Contract Charge of \$30 on each contract anniversary through the maturity date, and at the time of a full surrender on other than a contract anniversary, for the cost of providing administrative services under the Existing Contracts. Applicants guarantee that this fee will not increase for the life of the Existing Contracts.

9. AUSA Life also will deduct a daily charge from the assets of the Variable Account equal on an annual basis to 0.15% of the average daily net assets of the Variable Account ("Administrative Service Charge"). This charge will be deducted from the Variable Account both during the accumulation period and after the maturity date. This fee is guaranteed not to increase for the duration of the Existing Contracts.

10. The Administrative Service Charge and the Annual Contract Charge are designed to reimburse AUSA Life for the actual administrative costs incurred over the life of an Existing Contract.

11. AUSA Life also reserves the right to impose a \$10 charge for the thirteenth and each subsequent transfer from a Subaccount during a single contract year ("Transfer Charge").

12. AUSA Life does not expect to realize a profit from the Annual Contract Charge, the Administrative Service Charge, and the Transfer Charge (if any). Applicants represent that the Annual Contract Charge, the Administrative Service Charge, and any Transfer Charge will be deducted in reliance upon and in conformity with all of the requirements of Rule 26a-1 under the 1940 Act.

13. If applicable, and if AUSA Life has incurred or reasonably expects to incur expenses with respect to premium

taxes, such taxes will be deducted, as required by law, from: A purchase payment when received; amounts partially withdrawn or surrendered; death benefit proceeds; or the amount applied to an annuity at the time annuity payments commence. AUSA Life intends to deduct any applicable premium taxes when it incurs them, but reserves the right to defer deduction to a later date if such deferral is not detrimental to owners.

14. No charges currently are made for federal, state or local income taxes other than premium taxes. AUSA Life may make such a charge in the future, however, subject to obtaining any necessary regulatory approvals. Charges for any other applicable taxes—including any tax or other economic burden resulting from the application of tax laws that AUSA Life determines to be properly attributable to the Variable Account—also may be made.

15. No sales charges are deducted from purchase payments under the Contracts. No contingent deferred sales charges will be deducted from annuity value if a partial withdrawal or surrender occurs prior to the maturity date. AUSA Life will pay the expected costs of distribution from its general assets, which may include revenue from the mortality and expense risk charge deducted from the Variable Account.

16. A daily charge equal to an effective annual rate of 0.70% of the average daily net assets of the Variable Account will be imposed to compensate AUSA Life for bearing certain mortality and expense risks in connection with the Contracts. The portion of the charge attributable to mortality risk is approximately 0.35% of the average daily net assets of the Variable Account and the portion of the charge attributable to expense risk is approximately 0.35% of the average daily net assets of the Variable Account.

17. AUSA Life will assume two mortality risks under the Contracts: (1) that the annuity rates under the Existing Contracts cannot be changed to the detriment of the contract owners even if Annuitants live longer than projected; and (2) that AUSA Life may be obligated to pay a death benefit claim in excess of the cash value of an Existing Contract.

18. The expense risk borne by AUSA Life is the risk that the charges for administrative expenses, which are guaranteed not to increase for the life of the Contracts, may be insufficient to cover the actual costs of issuing and administering the Contracts.

19. If the mortality and expense risk charge is insufficient to cover actual costs, the loss will be borne by AUSA Life; conversely, if the amount deducted

proves more than sufficient, the excess will be a profit to AUSA Life. The mortality and expense risk charge will be deducted from the Variable Account both during the accumulation period and after the maturity date. The mortality and expense risk charge will not be assessed against the fixed account value or against monies that have been applied to purchase an annuity option under the fixed account annuity payments provisions. AUSA Life expects to earn a profit from the mortality and expense risk charge.

#### **Applicants' Legal Analysis and Conditions**

1. Applicants request an order of the Commission pursuant to Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof to the extent necessary to permit the deduction of a charge of 0.70% for the assumption of mortality and expense risks from the assets of: (a) The Variable Account in connection with the issuance of the Contracts; and (b) any other separate account established in the future by AUSA Life in connection with the issuance of Contracts.

2. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or 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.

3. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

4. Applicants submit that their request for exemptive relief for deduction of the 0.70% mortality and expense risk charge from the assets of the Variable Account or any other separate accounts established in the future by AUSA Life in connection with the issuance of Future Contracts, would promote competitiveness in the variable annuity contract market by eliminating the need for AUSA Life to file redundant exemptive applications, thereby reducing AUSA Life's

administrative expenses and maximizing the efficient use of its resources. Applicants further submit that the delay and expense involved in having repeatedly to seek exemptive relief would impair AUSA Life's ability effectively to take advantage of business opportunities as they arise. Further, if AUSA 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. Thus, Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the 1940 Act.

5. Applicants represent that the 0.70% mortality and expense risk charge under the Existing Contracts is reasonable in relation to the risks assumed by AUSA Life under the Existing Contracts and is within the range of industry practice for comparable annuity contracts. This representation is based upon AUSA Life's analysis of publicly available information about similar industry products, taking into account such factors as current charge levels, existence of charge level guarantees, and guaranteed annuity rates. AUSA Life undertakes to maintain at its principal office, available to the Commission and its staff upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology used in making these determinations.

6. Applicants represent that, prior to offering Future Contracts, they will conclude that the mortality and expense risk charge under such contracts (which cannot exceed in amount the mortality and risk charge under the Existing Contracts) will be reasonable in relation to the risks assumed by AUSA Life under the Contracts and is within the range of industry practice for comparable annuity contracts. AUSA Life will maintain at its principal offices, and make available to the Commission and its staff upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology used in, making that determination.

7. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge under the Contracts, all or a portion of such profit may be available to pay distribution expenses not reimbursed under the Contracts. AUSA Life has concluded that there is a reasonable likelihood that the proposed distribution financing

arrangements will benefit the Variable Account (or future accounts) and the owners of the Existing Contracts (or Future Contracts). The basis for that conclusion is set forth in a memorandum which will be maintained by AUSA Life at its principal office and will be made available to the Commission and its staff upon request.

8. Applicants also represent that the Accounts will invest only in underlying management investment companies which undertake, in the event they should adopt a plan pursuant to Rule 12b-1 under the 1940 Act to finance distribution expenses, to have such plan formulated and approved by a board of directors or trustees, a majority of whom are not "interested persons" of such investment company within the meaning of Section 2(a)(19) of the 1940 Act.

#### **Conclusion**

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and 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.

**Jonathan F. Katz,**  
*Secretary.*

[FR Doc. 95-20047 Filed 8-14-95; 8:45 am]

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[Rel. No. IC-21274; File No. 812-9382]

#### **Landmark VIP Funds, et al.**

August 8, 1995.

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

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** Landmark VIP Funds (the "Trust"), Citibank, N.A. ("Citibank") and certain life insurance companies and their accounts investing now or in the future in the Trust ("Separate Accounts").

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) of the 1940 Act for exemptions from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules (6e-2)(b)(15) and 6e-3(T)(b)(15).

**SUMMARY OF APPLICATION:** Applicants seek an order to the extent necessary to permit shares of any current or future series of the Trust to be sold to and held by separate accounts funding variable