7. Merrill Lynch submits that the fee of $2 per Bond that it has negotiated with independent Introducing Dealers is reasonable compensation for performing these services. Because Bonds can only be sold under limited circumstances specified in the Trust Agreement, a Sponsor could not cause a Trust to sell Bonds merely to generate commissions. Applicants represent that the Trustee and Merrill Lynch will monitor currently prevailing rates of Introducing Dealers to assure that the Trusts are charged no more than the current rates.

8. The requested relief would amend the 1986 Exemption in several respects. First, applicants request that the relief granted in the 1986 Exemption, amended as requested herein, be extended to DAF–MIF. Second, applicants request that the first condition of the 1986 Exemption be deleted. This condition reads as follows:

> Merrill Lynch will not advise the [Merrill Lynch, White Weld Capital Markets] Group or the municipal securities dealer department of any other Sponsor when giving instructions to sell a Municipal Bond.

Since a municipal dealer's trading department (which may make bids to purchase the Bonds) is generally not separate from the personnel who act as Introducing Dealers on wire services transactions, applicants wish to delete this condition. Applicants also request to amend other conditions so as to permit any Sponsor to act as an Introducing Dealer. Applicants represent that the transactions would remain anonymous even if a Sponsor is both the Introducing Dealer and a purchasing dealer since the transaction would be effected through the Clearing Broker, an independent party.

Applicant's Legal Analysis

1. Applicants request an order under sections 6(c) and 17(b) of the Act from section 17(a) to permit a Sponsor to purchase Bonds from the Trustee as an Introducing Dealer. Section 17(a) of the Act generally makes it unlawful for an affiliated person of a registered investment company, acting as principal, knowingly to purchase securities from the company.

2. Section 17(b) permits the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Under section 6(c), the SEC may exempt classes of transactions if and 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 policy and provisions of the Act. Applicants believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b).

3. Applicants state that the regulations to which the Sponsors and the Trusts are subject, the provisions of the Trust Agreement, and the conditions stated below will prevent any overreaching. Because the price received by the Trust upon the sale of a security depends on bids made by purchasing dealers through the wire service, the Sponsor cannot influence the price received by the Trust. The Sponsors are registered as municipal securities dealers, and acknowledge that they are subject to the rules of the Municipal Securities Rulemaking Board (''MSRB''), which require members to deal fairly with all persons and to use reasonable efforts to obtain a fair and reasonable price. Merrill Lynch has agreed, and each Sponsor before acting as Introducing Dealer for any Trust will agree, to make available for ready inspection by the SEC all records required to be kept by applicants relating to the proposed transactions pursuant to the Exchange Act and MSRB rules.

4. Applicants represent that the sales will be consistent with the policy of the selling series, as recited in its registration statement and Trust Agreement.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. The Clearing Broker will in all cases be not affiliated with any Sponsor.

2. Offers will be made through a major wire service in municipal bonds and will be kept open for three hours after initial appearance on the wire, to be reduced to not less than two hours in the discretion of the Clearing Broker in a declining market.

3. A Sponsor's bid will be accepted only if a minimum of three bids are received from persons other than a Sponsor or its affiliates.

4. The Trustee will be instructed not to inquire as to the identity of a bidding dealer, and if it receives such information, will not transmit it to any Sponsor or its agents.

5. Clearing Brokers effecting the sales will be instructed to obtain the best available price and execution and will instruct the wire services not to report any bid from a Sponsor unless it is higher than the best price available from non-affiliated broker-dealers.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–21046 Filed 8–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21313; No. 812–9518]

Minnesota Mutual Life Insurance Company, et al.

August 17, 1995.

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

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

APPLICANTS: The Minnesota Mutual Life Insurance Company (''Minnesota Mutual''), Minnesota Mutual Variable Life Account (''Separate Account''), and MIMLIC Sales Corporation (''MIMLIC'').

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the 1940 Act for exemptions from Sections 27(a)(1) and 27(a)(3) of the 1940 Act and paragraphs (b)(13)(i) and (b)(13)(ii) of Rule 6e–2 thereunder.

SUMMARY OF APPLICATION: Exemptions requested to the extent necessary to permit the issuance and sale of a Policy Enhancement Agreement (''PE Rider'') as a new rider to Minnesota Mutual's Variable Adjustable Life Insurance Contracts (''VAL Contracts''). The PE Rider will provide VAL Contract owners the option of scheduling automatic face amount increases each Contract year in an amount selected by VAL Contract owners at the time of initial purchase of the VAL Contracts.

FILING DATE: The application was filed on March 9, 1995.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on September 11, 1995. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send it to the Secretary of the SEC, with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549.

Applicants, 400 North Robert Street, St. Paul, Minnesota 55101–2098.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Special Counsel, or Wendy 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 SEC's Public Reference Branch.

Applicants' Representations

1. Minnesota Mutual is a mutual life insurance company that is authorized to conduct a life insurance business in the District of Columbia, Canada, Puerto Rico and all states of the United States except New York, where it is an authorized reinsurer.

2. The Separate Account was established by Minnesota Mutual to fund the VAL Contracts. The Separate Account is registered under the 1940 Act as a unit investment trust.

3. MIMLIC, the principal underwriter for the Separate Account, is an indirect wholly-owned subsidiary of Minnesota Mutual. MIMLIC 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 VAL Contracts are scheduled premium variable life insurance contracts that permit Contract owners to make non-scheduled premium payments. Applicants represent that VAL Contracts are offered in reliance upon exemptive relief previously granted by the Commission.[1]

5. Most VAL Contracts are issued with a Cost of Living Agreement Rider (''COL Rider''). The COL Rider permits a VAL Contract owner to increase the face amount of the Contract every three Contract years until age 56, without evidence of insurability.[2] The COL Rider increase, which allows for life insurance coverage that can keep pace with inflation, with be in an amount equal to the percentage increase in the consumer price index during those three years, provided that the VAL Contract owner has not made a face amount adjustment during that time. Absent Minnesota Mutual's consent, the amount of a such an increase is limited to the lesser of $100,000 or 20% of the face amount prior to the increase. A face amount increase effected under the COL Rider increases the scheduled premium by the same percentage. Increases in face amount pursuant to the COL Rider result in a: (a) New first-year sales load deduction of 23% of the incremental scheduled premiums paid in the year following the increase; (b) 7% sales load applicable to all scheduled premiums payments, including the base and incremental premiums in the first year after the increase; and (c) cost-based policy adjustment charge of $25.

6. Minnesota Mutual now proposes to offer the PE Rider as an alternative to the COL Rider. The PE Rider would be offered at the time of initial purchase of the VAL Contract to prospective VAL Contract owners who are age 52 or less. Contract owners electing the PE Rider could commit in advance to annual face amount increases of 3% to 10% with no new evidence of insurability and with the right to cancel that commitment at any time. The maximum automatic increase would be limited to the lesser of $35,000 or 10% of the face amount immediately prior to the increase. Once a VAL Contract's face amount reaches $350,000, the annual increase would be limited to $35,000. The base premium would increase at the same percentage as the increase in face amount. Increases under the PE Rider continue until: (1) Cancelled at any time, in writing, by the Contract owner; (2) cancelled by a Contract owner exercising the free look rights in connection with the incremental coverage; (3) the Contract is surrendered, terminated or continued in force as extended term insurance; or (4) the insured reaches age 59 or dies.

7. The PE Rider would result in the payment of a premium, currently expected to be $25 per year, and a new first-year sales load on incremental scheduled premium payments for the first year after an increase. An increase pursuant to the PE Rider would occur only if: (1) There had been no adjustment (increase or decrease) to the face amount of the VAL Contract during the six-month period preceding the Contract anniversary; (2) an annual base premium of at least $300 had been paid during the immediately preceding Contract year; and (3) the resulting plan of insurance would provide a level face amount of insurance for the minimum time period specified in the VAL Contract.

8. Applicants assert that the ability to increase insurance coverage automatically each year (rather than every three years) in an amount expected to exceed inflation rates without new evidence of insurability could be an important feature to prospective VAL Contract purchasers whose earnings are expected to increase over time. Applicants submit that prospective purchasers currently must either commit to more insurance than they initially can afford or must risk that the insured will continue to remain insurable in the future.

9. Applicants note that, unlike the COL Rider face amount increases, no positive action would be required to effect an increase under the PE Rider. Applicants submit that, when an increase results from taking no action (a ''negative option''), more increases can be expected than if positive action is required. Applicants assert that in either situation an insured who is in bad health would be among those increasing the Contract's face amount. Thus, Applicants submit, the broader base of additional increases from negative options should be expected to come from other, healthier insureds and should reduce somewhat the related mortality risks that ultimately might have to be reflected in increased cost of insurance charges under the VAL Contracts. Accordingly, Applicants assert that the adverse-selection risks to Minnesota Mutual of PE Rider increases would be reduced somewhat by the negative option aspect of their implementation.

10. Applicants note further that PE Rider increases can be expected to involve larger absolute and percentage amounts than COL Rider increases. COL Rider increases can occur only every three years and, thus, there is less compounding of the percentage limits and inflation rates are unlikely to be so high that they will approach the 10% per year increase permitted under the PE Rider. Because larger increases would be possible under the PE Rider than under the COL Rider, Applicants assert that it is important that adverse-selection mortality risks be reduced in the PE Rider by use of a negative option. Absent the negative option, Applicants submit that it is likely that the PE Rider either could not be offered, could only be offered if cost of insurance charges were increased on the incremental coverage added by PE Rider increases, or could only be offered in significantly reduced amounts.

11. Applicants note that PE Rider increases would involve additional sales efforts in connection with the initial sale of the VAL Contract. COL Rider

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[1] *Minnesota Mutual Life Insurance Company,* Investment Co. Act Rel. Nos. 15523 (Jan 7, 1987) (''1987 Order'') and 15466 (Dec. 8, 1986) (Notice); 16942 (Apr. 28, 1989) (Order), and 16902 (Apr. 4, 1989) (Notice); 17253 (Dec. 5, 1989) (Order) and 17203 (Nov. 6, 1989) (Notice).

[2] A VAL Contract owner must specifically accept the increase of the amount of additional coverage offered under the COL Rider by responding in writing to the notification of offer. If the insured is over age 21 and the Contract owner fails to accept an increase, no further COL Rider will be offered. Thereafter, the VAL Contract owner could increase the face amount only with new evidence of insurability.

increases, in comparison, involve no additional sales effort at the initial sale but would require such effort to convince VAL Contract owners to exercise their increase rights under the COL Rider. In either situation, Applicants state that sales representatives would deserve additional commissions at the time the additional premiums began to be paid to Minnesota Mutual, when the increase occurs.

Applicants' Legal Analysis

1. Applicants request exemptive relief under Section 6(c) of the 1940 Act from Sections 27(a)(1) and 27(a)(3) of the 1940 Act and from subparagraphs (b)(13)(i) and (b)(13)(ii) of Rule 6e–2 to the extent necessary to permit the deduction of first-year sales loads under the VAL Contract in connection with the PE Rider face amount increases.

2. Section 6(c) of the 1940 Act, in relevant part, authorizes the Commission, by order and upon application, to conditionally or unconditionally exempt any person, security or transaction or class of such, from any provision of the 1940 Act or rule thereunder, if and 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. Variable life insurance contracts, including the VAL Contract, are regulated under the 1940 Act as periodic payment plan certificates. The Separate Account is regulated under the 1940 Act as if it were an issuer of periodic payment plan certificates. Accordingly, the Separate Account, Minnesota Mutual as the Separate Account's depositor, and MIMLIC Sales as principal underwriter of the VAL Contracts, are deemed to be subject to the provisions of section 27 of the 1940 Act.

Section 27(a)(1) and Rule 6e–2(b)(13)(i)

4. Section 27(a)(1) of the 1940 Act prohibits a registered investment company issuing periodic payment plan certificates, or its depositor or underwriter, from selling such certificates if the sales load exceeds 9% of the total payments to be made on the certificates. Rule 6e–2(b)(13)(i) provides exemptive relief from Section 27(a)(1) of the 1940 Act by requiring compliance with the 9% limit of Section 27(a)(1) over a period of the lesser of twenty years or the anticipated life expectancy of the insured. Therefore, Section 27(a)(1) of the 1940 Act and Rule 6e–2(b)(13)(i) together limit the sales loads to be assessed under the VAL Contracts to 9% of the premiums to be paid over the lesser of 20 years or the anticipated life expectancy of the insured.

5. Applicants assert that the sales load requirements of Section 27(a)(1) are satisfied at the time of issuance of the VAL Contracts. Applicants note, however, that a new first year sales load is assessed upon any Contract adjustment involving an increase in the base premium, which sales load may be in addition to a first year sales load being taken at the time the adjustment is made. Applicants submit that, in that event, it is possible that the 9% sales load limitation could be viewed as being exceeded if the relevant time period for measurement were from the time the VAL Contract was initially issued rather than from the time of the relevant adjustment. Accordingly, Applicants request exemptive relief from Section 27(a)(1) and Rule 6e–2(b)(13)(i) to deduct first-year loads in connection with PE Rider face amount increases.

Section 27(a)(3) and Rule 6e–2(b)(13)(ii)

6. Section 27(a)(3) of the 1940 Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for its depositor or underwriter, to sell such certificates if the amount of sales load deducted from any of the first twelve monthly payments exceeds proportionately that amount deducted from any other such payment. Sale of such certificates similarly is prohibited if the amount of sales load deducted from any subsequent payment exceeds proportionately that amount deducted from any other subsequent payment. Rule 6e–2(b)(13)(ii) provides relief from the ''stair-step'' provisions of Section 27(a)(3) in connection with offerings of scheduled premium variable life insurance contracts, provided that the sales load deducted from any payment is not proportionately greater than that deducted from any prior payment under the contract.

7. Applicants state that the relief from Section 27(a)(3) provided by Rule 6e–2(b)(13)(ii) is not available to the VAL Contracts because the new 23% first-year sales load imposed upon a contract adjustment that involves an increase in base premium normally would be higher than that deducted from earlier payments. Accordingly, Applicants submit that an exemptive order therefore would be required. Accordingly, Applicants request exemptive relief from Section 27(a)(3) and Rule 6e–2(b)(13)(ii) to deduct first year sales loads in connection with the PE Rider face amount increases.

8. Applicants represent that sales efforts are exerted in connection with the proposed PE Rider at the time the VAL Contract is issued and the PE Rider is selected, although no additional sales effort would be required for PE Rider increases at the time of the increase. Applicants note that the PE Rider is an optional feature that is sold by separate rider for an additional premium charge, and that the PE Rider must specifically be selected or rejected by an eligible VAL Contract owner. Thus, sale of the VAL Contract would not necessarily involve sale of the PE Rider.[3] Further, the sales representative would have to exert special effort to make sure that the VAL Contract owner understands the benefits offered by the PE Rider. Moreover, the PE Rider would likely result in sales of more insurance than the COL Rider. Applicants, therefore, assert that these sales efforts would not be minimal but would involve transactions, when made, that increase base premiums.

9. Applicants submit that collection of a new first year sales load upon an automatic adjustment involving an increase in base premium is appropriate and justified in view of the fact that such an adjustment is not expected to occur in typical cases without substantial sales effort for which first-year sales compensation will be required. Moreover, Applicants believe that it would be anomalous for sales representatives to earn less for special efforts required at the time of initial sale of the VAL Contract in connection with the PE Rider than for comparable sales efforts made in connection with effecting a smaller COL Rider increase. Both COL Rider and PE Rider increases can be rejected; once rejected, neither will be re-offered (except that eligibility for COL Rider increases will continue for insureds under age 21 at the time of rejecting an increase). Absent the ability to earn a subsequent first-year commission, Applicants believe that a sales representative would be unlikely to exert any effort to sell the PE Rider.

10. Applicants assert that potential VAL Contract owners will be protected from unwanted increases in insurance through use of the automatic PE Rider increases because the Contract owner must expressly elect the PE Rider at the time of initial purchase of the VAL Contract. Applicants submit that this protection from unwanted sales of insurance is in addition to the VAL Contract owner's ability to cancel the PE

[3] In contrast, sale of the VAL Contract would necessarily involve sale of the COL Rider, whose increases involve a positive option that requires additional sales efforts at the time of exercise.

Rider at any time or to exercise the free look right to reject a PE Rider increase and all subsequent increases.

Conclusion

For the reasons discussed above, Applicants submit that the requested exemptions from Sections 27(a)(1) and 27(a)(3) of the 1940 Act and paragraphs (b)(13)(i) and (b)(13)(ii) of Rule 6e–2 thereunder, 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.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20956 Filed 8–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21311; File No. 812–9460]

New England Variable Life Insurance Company, et al.

August 16, 1995.

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

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

APPLICANTS: New England Variable Life Insurance Company (''NEVLICO''), New England Variable Life Separate Account (''Variable Account'') and New England Securities Corporation (''New England Securities'').

RELEVANT 1940 ACT SECTIONS: Exemption requested under Section 6(c) of the Act from Sections 27(a)(3) and 27(e) of the Act and Rules 6e–3(T)(b)(13)(ii), 6e–3(T)(b)(13)(vii), and 27e–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the offer and sale of certain flexible premium variable life insurance policies (''Policies'') that permit Applicants to (i) waive or reimpose the front-end sales charge imposed on premiums paid after the twentieth Policy year, and (ii) waive notice of refund and withdrawal rights.

FILING DATE: The application was filed on January 27, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 11, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 501 Boylston Street, Boston, Massachusetts 02117.

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: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. NEVLICO, a stock life insurance company organized in 1980 under Delaware law, is a wholly-owned subsidiary of the New England Mutual Life Insurance Company (''The New England''), a mutual life insurance company organized in Massachusetts in 1835. The Variable Account was established as a separate investment account on January 31, 1983, and is registered under the 1940 Act as a unit investment trust. The Variable Account is a separate account within the meaning of Section 2(a)(37) of the 1940 Act.

2. The Variable Account currently consists of twelve investment sub-accounts each of which invests in a different portfolio of the New England Zenith Fund, the Variable Insurance Products Fund or the Variable Insurance Products Fund II (collectively, ''Eligible Funds''). Sub-accounts may be added to or deleted from the Variable Account from time to time.

3. Policies issued through the Variable Account, including the Policies, will be sold through agents who are licensed by state authorities to sell NEVLICO's variable insurance policies and who are also registered representatives of New England Securities, the principle underwriter of the Variable Account. New England Securities is a wholly-owned subsidiary of The New England.

4. The Policy will be issued in reliance on Rule 6e–3(T) under the 1940 Act. The Policy provides for premium flexibility and a death benefit and a surrender value that may increase or decrease daily depending in part on the investment performance of the Eligible Funds. Net premiums under the Policy may be allocated to the sub-accounts of the Variable Account or to a ''Fixed Account''.

5. NEVLICO determines a three-year minimum premium amount based on the Policy's face amount, the insured's age, sex (unless unisex rates apply) and underwriting class, the current level of Policy charges, and any rider benefit selected. Generally, during this three-year period, as long as the minimum premium amount, which is set forth in the Policy, has been timely paid, the Policy is guaranteed not to lapse even if the Policy's net cash value is insufficient to pay the Monthly Deduction (defined in paragraph 20 below) of certain charges under the Policy in any month.

6. NEVLICO also determines a guaranteed minimum death benefit premium (to maturity) (''Death Benefit A Premium''), which, if paid as set forth in the Policy, guarantees that the Policy will mature for the net cash value (equal to the Policy's cash value, less any Policy loan balance, and less any surrender charge that would apply on surrender) at age 100 of the insured. The Death Benefit A Premium, which is set forth in the Policy, is based on the Policy's face amount, the insured's age, sex (unless unisex rates apply) and underwriting class, the death benefit option chosen, the guaranteed level of cost of insurance charges, the current level of other Policy charges, and any rider benefits selected. NEVLICO also determines a guaranteed minimum death benefit premium (''Death Benefit B Premium''), which, if paid as set forth in the Policy, guarantees that the Policy will stay in force until the later of age 80 of the insured, or 20 years after the Policy was issued, but no later than the maturity date of the Policy. The Death Benefit B Premium, which is set forth in the Policy, is based on factors similar to the Death Benefit A Premium, but is based on the guaranteed level of both cost of insurance and other Policy charges, and is actuarially determined to provide guaranteed coverage to the earlier age. This premium will always be less than or equal to the Death Benefit A Premium.

7. The Policy provides for two alternate death benefit options. The Option 1 (Face Amount) death benefit provides a death benefit equal to the face amount of the Policy, subject to increases required by the Internal Revenue Code of 1986, as amended (the ''Code''). The Option 2 (Face Amount Plus Cash Value) death benefit provides