

[Docket No. 50-298]

**Nebraska Public Power District,
Cooper Nuclear Station Notice of
Withdrawal of Application for
Amendment to Facility Operating
License**

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Nebraska Public Power District, (the licensee) to withdraw its August 31, 1993, application for proposed amendment to Facility Operating License No. DPR-46 for the Cooper Nuclear Station, located in Nemaha County, Nebraska.

The proposed amendment would have modified the facility technical specifications pertaining to the standby gas treatment system, secondary containment, and primary containment isolation valves.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 13, 1993 (58 FR 52988). Subsequently, the licensee informed the staff that the amendment is no longer required. Thus, the amendment application is considered to be withdrawn by the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 31, 1993, and (2) the staff's letters dated September 19, 1995, and October 2, 1995.

The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 2nd day of October 1995.

For the Nuclear Regulatory Commission.

James R. Hall,

Senior Project Manager, Project Directorate IV-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95-25147 Filed 10-10-95; 8:45 am]

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**SECURITIES AND EXCHANGE
COMMISSION**

[Rel. No. IC-21388; No. 812-8884]

**Alexander Hamilton Life Insurance
Company of America, et al.**

October 3, 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: Alexander Hamilton Life Insurance Company of America ("Alexander Hamilton"), Alexander Hamilton Variable Annuity Separate Account ("Separate Account"), and FMG Distributors, Inc. ("FMG").

RELEVANT 1940 ACT SECTION: Order requested under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of mortality and expense risk charges from the assets of the Separate Account in connection with the offering of a variable annuity contract ("Contract"). Exemptions also are requested for any broker-dealers who may, in the future, act as principal underwriters of the Contract.

FILING DATE: The application was filed on March 10, 1994 and declared inactive on May 1, 1995. The application was amended and reactivated on May 8, 1995, and further amended on September 7, 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 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 October 30, 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, NW., Washington, DC 20549. Applicants, c/o Paul Shay, Esq., General Counsel, Alexander Hamilton Life Insurance Company of America, 33045 Hamilton Court, Farmington Hills, Michigan 48334-3358.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942-0670.

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 Commission.

Applicants' Representation

1. Alexander Hamilton is a stock life insurance company licensed to do business in Canada, the District of Columbia and all states except New York. Alexander Hamilton is a wholly-owned subsidiary of Household Group, Inc., which is an indirect wholly-owned subsidiary of Household International, Inc., a diversified financial services holding company.

2. Alexander Hamilton established the Separate Account under the laws of Michigan. A registration statement to register the Separate Account under the 1940 Act as a unit investment trust has been filed with the Commission (File No. 33-75714).¹

The Separate Account presently has nine sub-accounts ("Sub-Accounts") investing exclusively in shares of a corresponding portfolio of: (a) Alexander Hamilton Variable Insurance Trust ("Trust"); and (b) the Prime Money Fund ("Prime Fund"), part of Federated Investors Insurance Management Series ("Federated"), which is a management investment company. (The Trust and Prime Fund together referred to as "Funds.") Other sub-accounts may be established in the future to invest in other portfolios of the Funds or in portfolios of other affiliated or unaffiliated investment companies or unit investment trusts.

3. FMG will serve as distributor and principal underwriter of the Contract. FMG is not otherwise affiliated with the other Applicants. FMG is registered under the Securities Exchange Act of 1934 ("1934 Act") as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. ("NASD"). Other broker-dealers that are registered under the 1934 Act as broker-dealers and that are members of the NASD also may serve as distributors and principal underwriters of the Contract.

4. The Trust and Federated each are registered under the 1940 Act as an open-end management investment company of the series type as defined by Rule 18f-2 under the 1940 Act. Investment options offered under the Contract include eight Trust portfolios and Federated's Prime Fund. Alexander Hamilton Capital Management, Inc. and Federated Advisers, each a registered investment adviser under the Investment Advisers Act of 1940, are the investment advisers for the Trust and for the Prime Fund, respectively. A separate class of shares of beneficial interest, which have been registered as securities under the 1933 Act on Form

¹ Applicants incorporate by reference the registration statement for the Separate Account.

N-1A, is issued in connection with each investment portfolio offered under the Contract.

5. The Contract is a flexible premium deferred multi-funded variable annuity which can be purchased on a non-tax qualified basis or in connection with certain retirement plans that qualify for special federal tax treatment under Sections 401, 403(b), 408 or 457 of the Internal Revenue Code of 1986, as amended. The Contract provides for a minimum initial premium payment and for optional subsequent premium payments. Under the Contract, premium payments may be allocated to: (a) The Sub-Accounts; (b) one or more "Interest Rate Guarantee Periods" of the Capital Developer Account;² or (c) a combination of up to ten of these options. The Contract value of the Contract will be: (a) The sum of the value of all accumulation units in the Separate Account, which will vary in accordance with the investment performance of the Sub-Account(s) selected by the Contract owner; and (b) the amounts in the Capital Developer Account, which will be guaranteed as to principal and interest, although a Market Value Adjustment ("MVA") may apply.

6. The Contract also provides for: (a) A death benefit, which is selected by the Contract owner or beneficiary from among several payment options; and (b) a periodic fixed and/or variable or other annuity payment option plan of payment offered by Alexander Hamilton before the maturity date of a Contract. The death benefit for a Contract owner who dies at age 75 or less is equal to the greatest of: (a) all premium payments, less "adjusted partial withdrawals,"³ with interest compounded at 4% per year; (b) Contract value as of the most recent Contract anniversary before age 75 that is a multiple of five Contract years, plus premium payments and less any adjusted partial withdrawals made since that Contract anniversary;⁴ and (c) Contract value as of the date Alexander Hamilton receives satisfactory proof of death and election of an annuity payment option. The death benefit for a

² Applicants represent that the Capital Developer Account option under the Contract is not being registered under the 1933 Act in reliance upon Section 3(a)(8) thereof.

³ The "adjusted partial withdrawal" for each partial withdrawal is the product of (a) times (b) where: (a) is the ratio of the amount of the partial withdrawal to the Contract value on the date of, but prior to, the partial withdrawal; and (b) is the death benefit on the date of, but prior to, the partial withdrawal.

⁴ For purposes of (a) and (b), above, the Death Benefit will be calculated as of the date of the owner's death and never will be greater than 200% of all premium payments, less withdrawals.

Contract owner who dies at an age greater than 75 is equal to the Contract value on the date Alexander Hamilton receives satisfactory proof of death, election of a payment option and return of a Contract.

7. The following fees and charges are deducted under a Contract.

a. Annual Administrative Charge

An annual charge of the lesser of \$30 or 2% of Separate Account value is deducted from Separate Account value on the first day of each Contract year and upon full surrender of a Contract, but not after the maturity date, to compensate Alexander Hamilton for the administrative services provided to Contract owners. Alexander Hamilton does not anticipate any profit from this charge, which is guaranteed not to increase for the duration of the Contract. Applicants intend to rely on Rule 26a-1 under the 1940 Act to deduct this charge.

b. Contingent Deferred Sales Charge ("CDSC")

No sales charge currently is deducted from premium payments. A declining CDSC of up to 7% will be imposed as a percentage of Contract value withdrawn or surrendered during the first eight Contract years, or annuitized during the first Contract year, to pay Contract distribution expenses. The CDSC as a percentage of each premium payment is determined as follows:

Surrender charge (as a % of the premium payment being withdrawn)	Complete years since receipt of premium
7	0-1
7	2
6	3
5	4
4	5
3	6
2	7
1	8
0	9 and above

In no event will the CDSC exceed 8.5% of total premium payments. Additionally, during the first eight Contract years, up to 10% Contract value surrendered or withdrawn or annuitized during that Contract year will be exempt from any CDSC (but not from any MVA).

c. Market Value Adjustment

An MVA may be imposed on the partial withdrawal, full surrender or transfer to the Separate Account of any amount from the Capital Developer Account during an Interest Rate

Guarantee Period.⁵ The MVA will never reduce Capital Development Account Value to an amount less than amounts allocated to that Account accumulated at an annual interest rate of 3%. No MVA will be applied during the last 30 days of an Interest Rate Guarantee Period.

d. Mortality and Expense Risk Charge

A daily mortality and expense risk charge will be deducted at an annual rate of 1.25% (of which 0.50% is allocable to mortality risks and 0.75% to expense risks) of the value of the net assets in the Separate Account. The mortality and expense risk charge may be a source of profit for Alexander Hamilton and the excess may be used for, among other things, the payment of distribution expenses.

This charge is imposed to compensate Alexander Hamilton for bearing certain mortality and expense risks under the Contract. Alexander Hamilton will assume two mortality risks under the Contract: (a) That the annuity rates under the Contract cannot be changed to the detriment of Contract owners even if annuitants live longer than projected; and (b) that Alexander Hamilton may be obligated to pay a death benefit claim in excess of a Contract's value at the time of payment. The expense risk assumed by Alexander Hamilton is the risk that its actual administration costs will exceed the amount recovered through the administrative charges.

e. Administrative Expense Charge

A daily administrative charge is deducted from the assets of the Separate Account at an annual rate of 0.15% to compensate Alexander Hamilton for certain expenses it incurs in administration of the Contract and the Separate Account. Applicants represent that the charge will reimburse Alexander Hamilton only for administrative costs expected to be incurred over the life of the Contract. Alexander Hamilton does not anticipate any profit from this charge, which is guaranteed not to increase for the duration of the Contract. Applicants represent that this charge will be deducted in reliance on Rule 26a-1 under the 1940 Act.

f. Transfer Charge

Currently, Alexander Hamilton has no plans to impose a transfer charge. However, Alexander Hamilton reserves

⁵ The MVA will reflect the relationship between: (a) the Treasury Rate for the Interest Rate Guarantee Period; and (b) the guaranteed interest rate applicable to the Interest Rate Guarantee Period from which the partial withdrawal, surrender or transfer is made at the time of the transaction.

the right to impose a \$10 charge for each transfer in excess of fifteen during any Contract year.⁶

g. Premium Taxes

A premium tax charge ranging from 0% to 3.5% of premiums or Contract value will be deducted under the Contract if Alexander Hamilton is required to pay premium taxes to various states and local jurisdictions. The deduction will be made when Alexander Hamilton is required to pay the premium tax and may be made from premium payments, upon surrender or at annuitization.

h. Deductions for Other Taxes

No charge currently is imposed for federal, state or local income taxes attributable to the Separate Account, other than premium taxes. Alexander Hamilton may make such deductions for such taxes or the economic burden thereof in the future, subject to necessary regulatory approvals.

i. Expenses of the Trust and Fund

Net assets of the Separate Account will reflect the investment advisory fee and other expenses incurred by the Trust and Funds, respectively.

Applicants' Legal Analysis

1. Applicants request an order under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof to permit the assessment of charges for mortality and expense risks under the Contract. Applicants also seek exemptive relief for broker-dealers who, in the future, may act as principal underwriters of the Contract.

2. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the 1940 Act and the rules thereunder, 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 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 arrangement 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 an order is 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. Applicants further submit that the terms of the relief requested with respect to future underwriters issuing the Contract are consistent with the standards of Section 6(c) of the 1940 Act. Applicants assert that, without the requested relief, Alexander Hamilton would have to request and obtain exemptive relief for each new principal underwriter that distributes the Contract. Applicants represent that such additional requests for exemptive relief would present no issues under the 1940 Act that have not already been addressed in this application.

5. Applicants further state that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable annuity market by eliminating the need for Alexander Hamilton to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. Investors would not receive any benefit or additional protection by requiring Alexander Hamilton to seek exemptive relief repeatedly with respect to the same issues addressed in this Application. Applicants assert that the delay and expense involved would impair Alexander Hamilton's ability to take effective advantage of business opportunities as they arise and would disadvantage investors as a result of Alexander Hamilton's increased overhead expenses.

6. Applicants submit that the mortality and expense risk charges are reasonable and proper insurance charges. Alexander Hamilton guarantees certain risks in return for these charges. The mortality and expense risk charge is a reasonable charge to compensate Alexander Hamilton for: the risk that annuitants under the Contract will live longer than has been anticipated in setting the annuity rates guaranteed in the Contract; the risk that the death benefit will be greater than the Contract value; the risk created by the inapplicability of a CDSC to amounts paid as a death benefit; and the risk that administrative expenses will be greater than amounts derived from both the

Administrative Expense Charge and the Annual Administrative Fee.

7. Applicants represent that the charge of 1.25% for mortality and expense risks is within the range of industry practice for comparable variable annuity contracts. The representation is based upon Alexander Hamilton'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. Alexander Hamilton will maintain at its administrative offices, and make available to the Commission upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and result of, its comparative survey.

8. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge under the Contract, all or a portion of such profit may be available to pay distribution expenses not reimbursed by the CDSC. Alexander Hamilton has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Separate Account and Contract owners. Alexander Hamilton will keep at its administrative offices and make available to the Commission, upon request, a memorandum setting forth the basis for this representation.

9. Applicants represent that the Separate Account will invest only in management investment companies which undertake, in the event any such company adopts a plan under Rule 12b-1 to finance distribution expenses, to have a board of directors, a majority of whom are not interested persons of any such investment company, as defined in the 1940 Act, formulate and approve any plan under Rule 12b-1 under the 1940 Act to finance distribution expenses.

Conclusion

Applicants assert that for the reasons and based upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct a mortality and expense risk charge under the Contract offered by the Separate Account are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

⁶The registration statement, which Applicants have incorporated by reference, provides information about the transfer charge.

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

Jonathon G. Katz,

Secretary.

[FR Doc. 95-25164 Filed 10-10-95; 8:45 am]

BILLING CODE 8010-01-M

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Administration (SSA).

ACTION: New routine use.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a(e)(4) and (11)), we are notifying the public of our intent to add a routine use statement to the systems notices for the following systems of records:

- Black Lung Payment System, 09-60-0045;
- Master Files of Social Security Number (SSN) Holders and SSN Applications, 09-60-0058;
- Earnings Recording and Self-Employment Income System, 09-60-0059;
- Master Beneficiary Record, 09-60-0090;
- Supplemental Security Income Record, 09-60-0103.

We last published a notice in the **Federal Register** pertaining to system 09-60-0045 at 59 FR 46439, September 8, 1994; pertaining to 09-60-0058 at 60 FR 16155, March 29, 1995; pertaining to 09-60-0059 at 59 FR 66551, December 27, 1994; pertaining to 09-60-0090 and 09-60-0103 at 60 FR 2144, January 6, 1995.

The proposed routine use will permit SSA to disclose information about individuals without their consent to parties conducting epidemiological and similar research when those disclosures are required by section 1106(d) of the Social Security Act (42 U.S.C. 1306(d)), which was added by section 311 of the Social Security Independence and Program Improvements Act of 1994, Pub. L. No. 103-296 (SSIPIA), and amended by section 108(b) of the SSIPIA.

We invite public comments on this publication.

DATES: We filed a report of an altered system of records with the Senate Committee on Governmental Affairs, the House Committee on Government Reform and Oversight, and the Office of Management and Budget, Office of Information and Regulatory Affairs, on September 29, 1995. The proposed routine use will become effective as

proposed, without further notice, on November 20, 1995, unless we receive comments on or before that date which would warrant our preventing the alteration from taking effect.

ADDRESSES: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer. The mailing address is 3-A-6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235; telephone 410-965-1736. Comments may be faxed to 410-966-0869. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Benson, Office of Disclosure Policy, 6401 Security Boulevard, Baltimore, Maryland 21235; telephone 410-965-1736.

SUPPLEMENTARY INFORMATION:

A. Background of the Proposed Routine Use

SSA previously disclosed information about vital status and verified SSNs for epidemiological and similar research, under the Freedom of Information Act (FOIA, 5 U.S.C. 552). We applied a balancing test to determine whether such information was exempt from disclosure under 5 U.S.C. 552(b)(6), under which we weighed the public interest in disclosure against individual privacy interests. Using this test, we determined that disclosures for epidemiological research were required under the FOIA.

However, the Supreme Court, in *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), determined that the only public interest in disclosure that could be considered under the balancing test of exemption (b)(6) of the FOIA was whether the disclosure would inform the public of how the Federal government carries out its statutory obligations. As a result of this ruling, we discontinued making disclosures for epidemiological research under the FOIA, because those disclosures do not serve the public interest identified in the Reporters Committee ruling.

Section 311 of the SSIPIA, enacted in 1994, added a new subsection (d) to section 1106 of the Social Security Act. The new section 1106(d), as further amended by section 108(b) of the SSIPIA, requires SSA to disclose upon request "information regarding whether an individual is shown on the records of [SSA] as being alive or deceased * * * for purposes of epidemiological or similar research * * *" when certain conditions are met:

- SSA, in consultation with the Department of Health and Human Services, finds that the research involved "may reasonably be expected to contribute to a national health interest;"

- The requesting party agrees to reimburse SSA for the cost of providing the information; and

- The requesting party agrees to comply with safeguards and limitations specified by SSA on rerelease and redisclosure of such information.

SSA may not disclose under section 1106(d) of the Social Security Act (42 U.S.C. 1306(d)) information concerning an individual's death if such disclosure would violate a contract between SSA and the State which furnished such information under section 205(r) of the Social Security Act (42 U.S.C. 405(r)).

Hence, SSA now proposes to resume disclosing, for epidemiological and similar research, information as to whether SSA's records indicate that a person is alive or dead. SSA will not release death information in violation of any contract entered into pursuant to section 205(r) of the Social Security Act.

When a person is not a beneficiary and SSA has no record of death or of recent earnings, the requester will be informed that SSA has no information about the person's vital status.

Specifically, we propose to add the following routine use to the above listed systems:

"Information as to whether an individual is alive or deceased may be disclosed pursuant to section 1106(d) of the Social Security Act (42 U.S.C. 1306(d)), upon request, for purposes of an epidemiological or similar research project, provided that:

(a) SSA determines, in consultation with the Department of Health and Human Services, that the research may reasonably be expected to contribute to a national health interest;

(b) The requester agrees to reimburse SSA for the costs of providing the information; and

(c) The requester agrees to comply with any safeguards and limitations specified by SSA regarding rerelease or redisclosure of the information."

B. Compatibility of the Proposed Routine Use

The Privacy Act and SSA's disclosure regulation (20 CFR 401.310) permit us to disclose information about individuals without their consent for a routine use, i.e., a use that serves a purpose that is compatible with the purpose for which we collected the information. SSA's regulations also state that SSA will disclose when required by law (20 CFR 401.205).