

and (C) below, of the most significant aspects of such statements.<sup>4</sup>

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

In 1994, the Commission adopted amendments to rule 10b-10.<sup>5</sup> Subsequently, the Division of Market Regulation issued a no-action letter to the Public Securities Association ("PSA") on behalf of its members and all other brokers and dealers temporarily exempting them from certain disclosure requirements of paragraphs (a)(7), (a)(8), and (a)(9) of Rule 10b-10 until November 1, 1995.<sup>6</sup>

The purpose of this proposed rule change is to enable broker-dealers that use DTC's ID system for generating confirmations for their customer transactions to comply with the following three disclosure requirements upon the expiration of the temporary exemption.

(1) Amended Rule 10b-10 requires broker-dealers that are not members of the Securities Investor Protection Corporation ("SIPC") to disclose that fact in trade confirmations. A broker-dealer using the ID system to send confirmations can disclose that fact by including a statement such as "[Name of broker-dealer] is not a member of SIPC" in the Special Instructions field of trade data submitted to the ID System. A broker-dealer can enter up to 256 characters of free-form text in the Special Instructions field to be included in the confirmation.

(2) Amended Rule 10b-10 requires broker-dealers to disclose in the case of a debt security other than a government security that the security is not rated by a nationally recognized statistical rating organization if that is the case. A broker-dealer using the ID system can disclose that fact by entering "Not Rated" or "N/R" in the Special Instructions field. The proposed rule change adds a statement that defines the codes "Not Rated" or "N/R" in DTC's Procedures for the ID system in the material describing the Special Instructions field.

(3) Amended Rule 10b-10 requires broker-dealers to disclose in confirmations for asset-backed securities that are continuously subject to prepayment that the yield of the

security depends on the rate of prepayments and that certain information concerning the factors that affect yield will be furnished upon written request. By using one of several acronyms, a broker-dealer using the ID system can enter data in the Security Type field to identify the security as one of several types of securities that meet the Rule 10b-10 definition of asset-backed securities. The proposed rule change adds a provision to DTC's Procedures for the ID System in the material setting forth the provisions deemed to be part of a confirmation stating that when one of several designated acronyms appears in the Security Type field of the ID confirmation, the required disclosure is deemed to be a part of the ID confirmation for that transaction.

DTC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F)<sup>7</sup> of the Act and the rules and regulations thereunder applicable to DTC because the proposed rule change will facilitate the confirmation of transactions through the use of DTC's ID system. DTC states that the proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible because the proposed rule change relates to DTC's existing ID system.

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

DTC perceives no impact on competition by reason of the proposed rule change.

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

The proposed rule change was developed through discussions with the PSA, acting on behalf of its members, and several participants. Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

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

Section 17A(b)(3)(F) of the Act requires the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes the proposed

rule change is consistent with these requirements because it should facilitate the prompt and accurate clearance and settlement of securities transactions by enabling DTC participants to continue to confirm and affirm institutional transactions through the ID system in compliance with the additional disclosure requirements of amended Rule 10b-10.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for so approving because accelerated approval will allow DTC participants to begin utilizing the ID system to comply with the disclosure requirements of Rule 10b-10 before the expiration of the temporary exemption on November 1, 1995.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 5th Street NW., Washington, DC 20549. Copies of such filings will also be available at the principal office DTC. All submissions should refer to File No. SR-DTC-95-19 and should be submitted by November 15, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-95-19) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority:<sup>8</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 95-26430 Filed 10-24-95; 8:45 am]

**BILLING CODE 8010-01-M**

<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>5</sup> For a complete discussion of the amendments, refer to Securities Exchange Act Release No. 34962 (November 10, 1994), 59 FR 59612.

<sup>6</sup> Letter from Catherine McGuire, Chief Counsel, Division of Market Regulation, Commission, to George P. Miller, Esq., Vice President and Associate General Counsel, PSA (September 29, 1995).

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F) (1988).

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1994).

[Release No. 34-36377; File No. SR-PTC-95-06]

**Self-Regulatory Organizations; Participants Trust Company; Notice of Filing of Proposed Rule Change Modifying Processing System**

October 16, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 15, 1995, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-PTC-95-06) as described in Items I, II, and III below, which Items have been prepared primarily by PTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change will amend PTC's rules to reflect changes to its processing system that will cause both the deliver and receive sides in a securities transaction to simultaneously receive debits and credits to their respective securities and cash positions.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.<sup>2</sup>

**A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**

The purpose of the proposed rule change is to amend PTC's rules to reflect changes to its processing system which are intended to satisfy a commitment ("Commitment No. 3") made by PTC to the Commission and to the Board of Governors of the Federal Reserve System ("Board of Governors") when PTC was established. Commitment No. 3 stated that PTC would "make the necessary technical changes (including

Rules changes) for Delivering Participants to: (i) Be immediately notified, or able to ascertain, that securities debited from a Delivering Participant's Account or associated Transfer Account have not been credited to the Receiving Participant's Account or associated Transfer Account; and (ii) be able to retrieve such undelivered securities and to redeliver, pledge or hold such securities."<sup>3</sup> The proposed rule change eliminates the optional matching process currently available under PTC's rules between delivery and receipt of securities transfers which creates an intermediate status characterized as the "abeyance account." The proposed rule change deletes the abeyance account, amends the receipt mode provisions, and provides for simultaneous credits and debits of an account transfer to both the receiving and delivering participants or limited purpose participants.<sup>4</sup> PTC believes that Commitment No. 3 is satisfied through the elimination of the situation where a delivering participant's securities account has been debited and cash account credited when the receiving participant's securities account has not been credited and cash account debited.

These amendments are proposed to take effect on or about November 6, 1995, concurrent with the implementation of a new software release, SPEED Release 5.6, which will make the corresponding changes to PTC's SPEED transaction processing system.

**1. Delivery of Securities Subject to an Account Transfer Under Current Processing System**

A delivering participant or limited purpose participant initiates a transfer of securities to another participant or limited purpose participant by instructing an account transfer of securities from its account or associated transfer account. If the account from which the transfer is requested satisfies the conditions set forth in PTC's rules,<sup>5</sup>

<sup>3</sup> Securities Exchange Act Release No. 26671 (March 28, 1989), 54 FR 13266 (approving PTC's application for registration as a clearing agency under Section 17A of the Act) and letter from the Board of Governors approving PTC's application for stock in the Federal Reserve Bank of New York (March 27, 1989).

<sup>4</sup> The abeyance account and the receipt mode provisions are discussed in detail later in this notice.

<sup>5</sup> PTC Rules, Article II, Rule 13, Section 1(b) generally requires sufficient securities and Net Free Equity ("NFE") with respect to the account of the delivering participant or limited purpose participant. NFE measures the value of the collateral which is available to secure liquidity for payment of the account debit balance associated with the transaction. PTC Rules, Article II, Rule 9.

then PTC debits the securities from the account or associated transfer account of the delivering participant or limited purpose participant and, if the transfer is versus payment, credits the related cash balance.

**2. Receipt of Securities Subject of an Account Transfer Under Current Processing System**

Under PTC's rules,<sup>6</sup> prior to crediting securities to the account of the receiving participant or limited purpose participant or in an account transfer versus payment its associated transfer account, the receipt of the securities must comply with the receipt mode selected by the receiving participant or limited purpose participant. Furthermore, if the transfer is versus payment, the receiving participant must have sufficient NFE, and the resulting debit to the account cash balance must not cause the receiving participant's net debit balance to exceed its Net Debit Monitoring Level ("NDML").<sup>7</sup>

**3. Receipt Modes**

Generally, a participant or limited purpose participant currently may choose one of the following receipt modes for receiving securities to its account or its associated transfer account in an account transfer versus payment: Auto Buy-In Mode, authorizing the receipt of all transactions; Auto-Match Mode, authorizing the receipt of all previously designated transactions either listed with specificity or by designating specified dollar tolerances; or Manual Match Mode, in which no transactions are preauthorized.<sup>8</sup>

Securities deliveries for which the receipt is not preauthorized are posted to the await match list associated with the receiving account and recorded in an abeyance account and are credited to the receiving account or associated transfer account only after the receiving participant or limited purpose participant approves the transfer. Any securities remaining on the await match list that are not approved or rejected prior to the close of daily processing are deemed approved by the receiving

PTC will not process an account transfer if, as a result of such transfer, the required NFE is not available in the account at the time delivery is attempted.

<sup>6</sup> PTC Rules, Article II, Rule 13, Section 1(c).

<sup>7</sup> PTC will not process transactions that increase a participant's net debit balance to a level greater than its NDML. When the NDML is reached or exceeded, PTC is entitled to require either confirmation of the participant's ability to pay its debit balance or prefunding of such debit balance. PTC Rules, Article II, Rule 2, Section 4.

<sup>8</sup> PTC Rules, Article II, Rule 11. These provisions are eliminated by the present rule change.

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> The Commission has modified the text of the summaries prepared by PTC.

participant or limited purpose participant.<sup>9</sup>

#### 4. Abeyance Account

Securities that are debited from the delivering participant's or limited purpose participant's account but not simultaneously credited to the account of the receiving participant or limited purpose participant because the receipt is not authorized by the receipt mode utilized by the receiving participant or limited purpose participant are recorded in the abeyance account until the transfer can be completed. In the current processing system, the delivering participant or limited purpose participant has no means of ascertaining whether the transfer has been completed to the account or associated transfer account of the receiving participant or limited purpose participant or whether the securities remain recorded in the abeyance account and placed on the await match list associated with the account of the receiving participant or limited purpose participant. Recording the securities delivery in the abeyance account is not deemed to effect any transfer of the securities or create or extinguish any interest in the securities held by PTC prior to such recording.<sup>10</sup>

#### 5. Policy Considerations Behind Commitment No. 3

A main policy consideration leading to Commitment No. 3 was the concern that in the case of an uncompleted account transfer versus payment the unexpected return to the delivering participant of the unmatched securities in the abeyance account and the corresponding elimination of the credit to the account cash balance of the delivering participant could place liquidity pressures on the delivering participant. Such liquidity pressure could occur at the end of the processing day just prior to settlement when there is little time for a participant to fund an unanticipated debit.

#### 6. Summary of Proposed Systems and Rules Modifications

Since 1989, PTC has considered various proposals to address the concerns behind Commitment No. 3 including an inquiry facility for delivering participants or limited purpose participants to ascertain if their deliveries had been received into the receiving participant's or limited purpose participant's account or associated transfer account in the case of an account transfer versus payment to

the account of a receiving participant. The present rule change proposes to satisfy Commitment No. 3 by modifying the processing system to debit and credit simultaneously the accounts of delivering and receiving participants with securities and cash irrespective of the receipt mode chosen by the receiver. PTC believes this modification resolves Commitment No. 3 because there will no longer be a situation where the delivering participant has received a cash balance credit before the receiving participant has received a cash balance debit.

The functionality of the PTC match receipt modes will be maintained only as a transaction monitoring tool to designate the status of securities in the account or associated transfer account of the receiving participant or limited purpose participant after the transfer has been credited to the account. because debits to the cash balance of the account of the receiving participant will be immediate, it is anticipated that receiving participants will monitor their account on a timely basis.

#### 7. Proposed Securities Transfer Processing Sequence

Processing changes also will be made in SPEED Release 5.6,<sup>11</sup> altering the sequence of transaction processing. The credit of securities will be posted to the account or associated transfer account of the receiving participant or limited purpose participant regardless of the receipt mode applied to the account. Similarly, in the case of an account transfer versus payment, the associated debit of cash will be posted to the account of the receiving participant or limited purpose participant regardless of the receipt mode applied to the account.

The delivering participant's or limited purpose participant's accounts or associated transfer accounts also will be posted simultaneously with the appropriate entries for securities debits and cash credits when the delivery has satisfied all conditions necessary to complete the transfer (*i.e.*, the delivering account has sufficient available securities and sufficient NFE; in the case of an account transfer versus payment, the receiving account has sufficient NFE and the receiving participant's NDML will not be exceeded; or in the case of account transfers of securities to a pledgee account by use of the Collateral Loan Facility, the receipt is approved by the

receiving participant or limited purpose participant).<sup>12</sup>

SPEED Release 5.6 is currently being tested and is anticipated to be operational in early November 1995. The earliest scheduled implementation date is November 6, 1995, based upon full participant tests on October 14 and 28, 1995, and assuming no coding or other changes are required as a result of these and other quality assurance testing procedures. PTC intends to implement the proposed rule changes upon implementation of SPEED Release 5.6.

#### 8. Effect on NFE and NDML of Receiving Participant or Limited Purpose Participant

The change in the sequence of transaction processing to produce simultaneous debiting and crediting of cash requires that the cash balance of the receiving participant's account in an account transfer versus payment be debited even though the delivery has not been approved by the receiving participant. Match functionality no longer will operate to defer the debit to the cash balance of the receiving participant or limited purpose participant until the delivery is approved. Because unmatched deliveries of account transfers versus payment no longer will generate a credit to the cash balance of the delivering participant or limited purpose participant without the corresponding debit to the receiving participant, it is anticipated that the implementation of SPEED Release 5.6 may result in increased incidences of failed deliveries due to NDML and NFE violations.

PTC has monitored potential credit fails in anticipation of SPEED Release 5.6 by calculating and monitoring participants' NFE and NDML usage periodically throughout the processing day based on the hypothetical immediate posting of both matched and unmatched transactions to the receiving participant's account. Under the monitoring program, potential NDML violations have been minimal, but potential NFE violations have been noted. Participants have been advised of the hypothetical NFE and NDML violations and of the amount of the credit deficiency that would have occurred if SPEED Release 5.6 was operational. PTC has worked with participants extensively to prepare them

<sup>12</sup> Currently, the requirement that a receiving participant or limited purpose participant must approve a transfer of securities to a pledgee account is specified in PTC's Participant Operating Guide description of the Collateral Loan Facility but not in PTC's rules. As a result of the proposed rule change, this requirement now will be specified in PTC's rules.

<sup>9</sup> PTC Rules, Article II, Rule 11.

<sup>10</sup> PTC Rules, Article II, Rule 3, Section 1 and Rule 13, Sections 1(c)(i)(B) and 1(c)(ii)(B).

<sup>11</sup> SPEED Release 5.6 is the latest upgrade in PTC's transaction processing system.

for the changes in their procedures that will be required to ensure a smooth transition to the new transaction processing sequence. Furthermore, SPEED Release 5.6 also includes an auto-retry facility that automatically will recycle transactions that fail to complete due to credit deficiencies. Under the auto-retry facility, transactions will be resubmitted for the delivery process at set intervals throughout the day. If it is determined that both the deliverer and receiver pass the credit checks, the item then will be processed and debits and credits will be posted to the appropriate accounts.

#### 9. Proposed Changes to PTC's Rules Implementing the Systems Modifications

The proposed amendments to PTC's rules delete references throughout the rules to the abeyance account and to the use of a receipt mode as a condition to completion of an account transfer. PTC also will make corresponding changes to its Participant Operating Guide that are consistent with the systems changes of SPEED Release 5.6 and the proposed rule amendments.

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>13</sup> and the rules and regulations thereunder because it facilitates the prompt and accurate clearance and settlement of securities transactions and provides for the safeguarding of securities and funds in PTC's custody or control or for which PTC is responsible.

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

PTC does not believe that the proposed rule change will impose any burden on competition.

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

PTC developed the SPEED Release 5.6 systems modifications in consultation with its participants and solicited their comments by Administrative Bulletins dated July 28, 1994; October 28, 1994; and March 20, 1995. PTC also solicited participant responses to the proposal informally and at meetings of PTC's Operations Committee of which participant representatives are members.

Participant comments on the proposed rule change expressed two main concerns with the original proposal. One concern was from participants that use the match functionality. These participants were

concerned that the immediate debit to the cash balance of a receiving participant's account for deliveries not yet approved by the receiving participant would adversely affect the participant's NFE or NDML. The second concern was a need to include an auto-retry facility for any such transactions that fail to complete because of credit deficiencies. The first concern did not result in any change to the original proposal because the requirement for the simultaneous debiting and crediting of cash requires that the receiver's cash balance be debited even though the delivery has not been approved by the receiver. In response to the second concern of participants that there be an auto-retry mechanism, PTC has incorporated a facility into Release 5.6 that will automatically recycle transactions which fail to complete because of credit deficiencies.

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

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

- (A) By order approve such proposed rule change or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

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

office of PTC. All submissions should refer to file number SR-PTC-95-06 and should be submitted by November 15, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 95-26429 Filed 10-24-95; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21428; File No. 812-9626]

#### Annuity Investors Life Insurance Company, et al.

October 19, 1995.

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

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

**APPLICANTS:** Annuity Investors Life Insurance Company (the "Company"), Annuity Investors Variable Account A ("Separate Account"), and AAG Securities, Inc. ("AAG Securities").

**RELVEANT 1940 ACT SECTIONS:** Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 22(d), 26(a)(2)(C) and 27(c)(2) thereof.

**SUMMARY OF APPLICATION:** Applicants seek an order to permit the Company: (1) To deduct a mortality and expense risk charge under certain variable annuity contracts ("Contracts"), and other variable annuity contracts issued by the Company in the future that are materially similar to the Contracts ("Future Contracts"), from the assets of the Separate Account or any separate account established in the future by the Company to support Future Contracts, and (2) to waive the contingent deferred sales charge when certain specified contingencies trigger the right to a complete or partial surrender.

**FILING DATE:** The application was filed on June 9, 1995, and amended and restated on October 10, 1995.

Applicants represent that an amendment to the application will be filed during the notice period.

**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 SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on November 13, 1995, and should be accompanied

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(F) (1988).

<sup>14</sup> 17 CFR 200.30-3(a)(12) (1994).