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Deputy Secretary.
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[Release No. 34-36630; File No. SR-NYSE-95-40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Fees for Terminal Equipment

December 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 30, 1995 the Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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

Beginning January 2, 1996, the Exchange plans to charge a fee of \$3,600 per annum for a package of terminal equipment that its members and member organizations use to operate the Exchange's Broker Booth Support System ("BBSS") from their "upstairs" offices.² Previously, the Exchange has not charged for this terminal equipment, because it was installed and operated on a trial basis.

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

In its filing with the Commission, the self-regulatory organization 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. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange's BBSS is designed for use by its members and member organizations either in their booth spaces on the Trading Floor or in their "upstairs" offices or both.³ The BBSS is an order management system providing order processing capabilities as well as access to other services such as market data, the Exchange's On-Line Comparison System,⁴ and information services. Booth routing, a feature offered through BBSS, enables Exchange members and member organizations to algorithmically route market and limited price orders to their booths or to a specialist based on share size and price parameters, as may be determined by each participant.

The Exchange has charged a fee⁵ for BBSS terminal equipment located in members' and member organizations' floor booth spaces since July 1, 1994, but does not currently charge for terminals located in members' and member organizations' "upstairs" offices because they were installed and operated on a trial basis.⁶

Now, however, the Exchange has concluded its trial, and the number of "upstairs" installations are proliferating.⁷ Commencing on January 2, 1996, the Exchange intends to charge a fee of \$3,600.00 per annum for a package of hardware, consisting of a terminal, keyboard, and printer, that is necessary to operate the BBSS. This charge is in line with the charge for the

³Telephone conversation on December 8, 1995 between George A. Villasana, Attorney, Market Regulation, SEC and Dennis Covelli, Vice President, Post Trade Services, NYSE.

⁴The NYSE's On-Line Comparison System allows NYSE clearing members to submit trade data on certain securities on trade date to NYSE for initial comparison. Compared trades are submitted by the NYSE to a "qualified clearing agency" to complete the clearance and settlement process. See Securities Exchange Act Release No. 34153 (June 3, 1994), 59 FR 30071 (June 10, 1994) (order approving File No. SR-NYSE-94-08).

⁵The NYSE provides its members and member organizations with one BBSS terminal per booth without charge. The exchange charges its members and member organizations \$3,600 per annum for each additional BBSS terminal installed in each booth with access to the BBSS. Telephone conversation on December 13, 1995 between George A. Villasana, Attorney, Market Regulation, SEC and Dennis Covelli, Vice President, Post Trade Services, NYSE.

⁶See Securities Exchange Act Release No. 34395 (July 18, 1994), 59 FR 38007 (July 26, 1994) (order approving File No. SR-NYSE-94-25).

⁷While the number of terminals on the NYSE floor is approximately 400, the number of terminals in the "upstairs" offices is approximately 20. See *supra* note 5.

use of similar equipment located on its Trading Floor,⁸ and will enable the Exchange to recoup part of its development and hardware costs.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁹ in general and furthers the objectives of Section 6(b)(4)¹⁰ in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and subparagraph (e) of Rule 19b-4 thereunder.¹²

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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, N.W., Washington, D.C. 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

⁸ See *supra* note 5.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4.

¹ 15 U.S.C. 78s(b)(1).

² The terminal equipment is necessary to access the BBSS.

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 the inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the New York Stock Exchange, Inc. All submissions should refer to File No. SR-NYSE-95-40 and should be submitted by January 25, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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[Rel. No. IC-21626; File No. 812-9580-01]

Great-West Life & Annuity Insurance Company et al.

December 27, 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").

APPLICANTS: Great-West Life & Annuity Insurance Company ("GWL&A"), Maxim Series Account (the "Separate Account"), and The Great-West Life Assurance Company ("Great-West").

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

SUMMARY OF THE APPLICATION:

Applicants seek an order permitting the deduction of mortality and expense risk charges from: (i) the assets of the Separate Account in connection with the offer and sale of certain flexible premium variable annuity contracts (the "Contracts") issued with a guaranteed death benefit, and of variable annuity contracts established in the future (the "Future Contracts") which are substantially similar in all material respects to the Contracts ("Future Contracts"); and (ii) the assets of separate accounts ("Future Accounts") established in the future by GWL&A—which are substantially similar to the Separate Account—in connection with the offer and sale of Contracts and Future Contracts.

FILING DATE: The application was filed on April 25, 1995. An amended and restated application was filed on October 16, 1995.

HEARING OF NOTIFICATION OF THE HEARING:

An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on January 22, 1996 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate of service. Hearing requests should state the nature of the interest, the reason for the request, and the issues contested. Persons may request notification of the date of the hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W. Washington, D.C. 20549. Applicants: Beverly A. Byrne, Esq., The Great-West Life Assurance Company, 8515 East Orchard Road, Englewood, CO 80111.

FOR FURTHER INFORMATION CONTACT: 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' Representations

1. GWL&A, a stock life insurance company, originally was organized under Kansas law as the National Interterm Association. In 1963, the company's name was changed to Ranger Life Insurance Company, and later was changed to Insuramerica Corporation; in February 1982, the company assumed its current name. In September 1990, GWL&A redomesticated and now is organized under the laws of Colorado. GWL&A is wholly-owned by Great West, which is a subsidiary of Great-West Lifeco Inc., an insurance holding company which, in turn, is a subsidiary of Power Financial Corporation, a financial services company.

2. The Separate Account was established by GWL&A under the laws of Kansas on June 24, 1981, and now exists under the laws of Colorado as a result of the redomestication of GWL&A in 1990. The Separate Account is a unit investment trust registered under the 1940 Act. The Separate Account acts as a funding vehicle for flexible premium

variable annuity contracts—including the Contracts—which have a guaranteed death benefit, as well as for other flexible premium annuity contracts without a guaranteed death benefit ("Standard Death Benefit Contracts").

3. The Separate Account currently has fourteen investment divisions, twelve of which invest solely in corresponding investment portfolios of Maxim Series Fund, Inc. ("Maxim"), and two of which invest solely in corresponding investment portfolios of TCI Portfolios, Inc. ("TCI"). (Maxim and TCI shall be referred to herein collectively as the "Funds.") Each investment division is subdivided into six subaccounts, two of which are used for allocation under the Standard Death Benefit Contracts and the Contracts in connection with retirement plans ("qualified plans") that qualify for favorable federal income tax treatment under Sections 401 and 408 of the Internal Revenue Code as well as retirement plans not receiving such favorable tax treatment ("non-qualified plans"). The remaining four subaccounts are used for allocations under other contracts previously offered by GWL&A—through the Separate Account—in connection with qualified and non-qualified plans. In the future, GWL&A may establish additional divisions within the Separate Account to invest in other portfolios of the Funds or in other investments, and may issue other contracts—including Future Contracts—which may be funded by the Separate Account or by Future Separate Accounts.

4. Each of the Funds is a registered open-end, diversified investment company under the 1940 Act; each consists of one or more investment series or portfolios which pursue different investment objectives and policies and have distinct investment advisers. GWL&A purchases and redeems portfolio shares for the corresponding investment divisions of the Separate account at net asset value. Shares of the Funds also are offered to other affiliated or unaffiliated separate accounts of insurance companies offering variable annuity contracts or variable life insurance policies.

5. The principal underwriter of the Contracts, Great-West, is registered with the Commission under the Securities and Exchange Act of 1934 as a broker-dealer, and is a member of the National Association of Securities Dealers, Inc.

6. The minimum initial purchase payment for a Contract used in connection with a non-qualified plan is \$5,000; the minimum initial purchase payment for a Contract used in connection with a qualified plan is \$2,000. Additional purchase payments

¹³ 17 CFR 200.30-3(a)(12).