

16 and 19, 2001, letters provided additional clarifying information which did not change the initial proposed no significant hazards consideration determination or expand the amendment beyond the scope of the original notice (Harrisburg, PA, Patriot News, February 18–20, 2001).

*Brief description of amendment:* The amendment allows a one-time exception to the system configuration and maintenance requirements in Technical Specification (TS) 3.3.2 related to the nuclear service river water (NR) system at TMI-1, in order to allow an up to 14-day repair of a leaking underground concrete pipe. The requirements of TS 3.3.1.4 to have two NR pumps OPERABLE are unchanged. During the 14-day repair period, the NR pumps flow will be realigned to pass through a portion of the nonseismic secondary services river water system.

*Date of issuance:* February 23, 2001.

*Effective date:* As of the date of issuance and shall be implemented within 30 days.

*Amendment No.:* 229.

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes.

The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration and requested that any comments on the proposed no significant hazards consideration be provided to the staff by the close of business on February 23, 2001. The notice was published in the Harrisburg, PA, Patriot News, from February 18 through February 20, 2001.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Pennsylvania, and final no significant hazards consideration determination are contained in a Safety Evaluation dated February 23, 2001.

*Attorney for licensee:* Edward J. Cullen, Jr., Esquire, PECO Energy Company, 2301 Market Street (S23-1), Philadelphia, PA 19103.

*NRC Section Chief:* Marsha Gamberoni.

Dated at Rockville, Maryland this 27th day of February 2001.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 94-7

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 94-7, Death Benefit Payment Rollover Election for Federal Employees Retirement System (FERS), provides FERS surviving spouses and former spouses with the means to elect payment of the FERS rollover-eligible benefits directly or to an Individual Retirement Account.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 700 RI 94-7 forms will be completed annually. We estimate it takes approximately 60 minutes to complete the form. The annual estimated burden is 700 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, or E-mail to mbtoomey@opm.gov

**DATES:** Comments on this proposal should be received on or before May 7, 2001.

**ADDRESSES:** Send or deliver comments to: John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415.

#### FOR INFORMATION REGARDING

**ADMINISTRATIVE COORDINATION CONTACT:** Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606-0623.

U.S. Office of Personnel Management.

**Steven R. Cohen,**

*Acting Director.*

[FR Doc. 01-5517 Filed 3-6-01; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-24881; 812-12266]

### ING Pilgrim Investments, LLC, et al.; Notice of Application

February 28, 2001.

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

**ACTION:** Notice of application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 18(c) and 18(i) of the Act, under sections 6(c) and 23(c)(3) of the Act for an exemption from rule 23c-3 under the Act, and pursuant to section 17(d) of the Act and rule 17d-1 under the Act.

**SUMMARY OF APPLICATION:** Applicants request on order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution fees and early withdrawal charges.

**APPLICANTS:** Pilgrim Senior Income Fund ("Fund"), ING Pilgrim Investments, LLC ("Investment Adviser"), and ING Pilgrim Securities, Inc. ("ING Pilgrim Securities").

**FILING DATES:** The application was filed on September 25, 2000 and amended on February 28, 2001.

**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 Commission's Secretary 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 March 26, 2001, 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 Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicants, 7337 East Doubletree Ranch Road, Scottsdale, Arizona, 85258.

**FOR FURTHER INFORMATION CONTACT:**

Keith A. Gregory, Attorney-Adviser, at (202) 942-0611, or Janet M. Grossnickle, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549-0101, (202) 942-8090.

**Applicants' Representations:**

1. The Fund is a closed-end management investment company registered under the Act and organized as a Delaware business trust. The Investment Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and will serve as investment adviser to the Fund. ING Pilgrim Securities, a broker-dealer registered under the Securities Exchange Act of 1934, will distribute the Fund's shares. The Investment Adviser and ING Pilgrim Securities are both indirect, wholly-owned subsidiaries of ING Groep N.V. Applicants request that the order also apply to any other registered closed-end management investment company that may be organized in the future for which the Investment Adviser, or any entity controlling, controlled by, or under common control with the Investment Adviser acts as principal underwriter or investment adviser and which operates as an interval fund pursuant to rule 23c-3 under the Act.<sup>1</sup>

2. The Fund's investment objective is to provide a high level of monthly income. The Fund investment primarily in floating rate secured senior loans made by commercial banks, investment banks, finance companies and other lenders only to corporations or other business entities organized under U.S. laws or located in the U.S. ("Senior Loans"). Under normal circumstances, at least 80% of the Fund's total assets are invested in Senior Loans. The Fund may also invest up to 20% of its total assets in unsecured loans; subordinated loans; corporate debt securities; equity securities; and loans made to, or debt securities issued by, corporations or other business entities organized or located outside the U.S. Under normal circumstances, the Fund may also invest

up to 10% of its total assets in cash and short-term instruments.

3. The Fund intends to continuously offer its shares to the public at net asset value, plus any applicable sales charges. The Fund's shares will not be offered or traded in the secondary market and will not be listed on any exchange or quoted on any quotation medium. The Fund intends to operate as an "interval fund" pursuant to rule 23c-3 under the Act and to make quarterly repurchase offers to its shareholders.

4. The Fund seeks the flexibility to be structured as a multiple-class fund and currently intends to offer four classes of shares. The Fund will offer Class B shares at net asset value without a front-end sales charge, but subject to an early withdrawal charge ("EWC") on shares that are repurchased by the Fund within five years of the date of purchase. The Fund will offer Class C shares at net asset value without a front-end sales charge, but subject to an EWC on shares that are repurchased by the Fund within one year of the date of purchase. The Fund will also offer Class A and Class Q shares at net asset value without a front-end sales charge, and without a distribution fee or an EWC. Class A shares will only be available to investors upon the automatic conversion of Class B shares eight years after date of purchase or through exchange of Class A shares of certain other Pilgrim funds. Class A, Class B, Class C, and Class Q shares will be subject to an annual service fee of up to 0.25% of average daily net assets. Class B and Class C shares will be subject to an annual distribution fee of up to 0.75% of average daily net assets. Applicants represent that these service fees and asset-based distribution fees will comply with the provision of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. ("NASD Sales Charge Rule"). The Fund may in the future offer additional classes of shares with a front-end sales charge, an EWC, and/or asset-based service or distribution fees. Applicants also represent that the Fund will disclose in its prospectus, the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multi-class funds under Form N-1A.

5. All expenses incurred by the Fund will be allocated among the various classes of shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of the Fund allocated to a

particular class of shares will be borne on a pro rata basis by each outstanding share of that class. The Fund may create additional classes of shares in the future that may have different terms from Class A, Class B, Class C and Class Q shares. Applicants state that the Fund will comply with the provisions of rule 18f-3 under the Act as if it were an open-end investment company.

6. The Fund may waive the EWC for certain categories of shareholders or transactions to be established from time to time. With respect to any waiver of, scheduled variation in, or elimination of the EWC, the Fund will comply with rule 22d-1 under the Act as if the Fund were an open-end investment company.

7. The Fund may offer its shareholders an exchange feature under which shareholders of the Fund may, during the Fund's quarterly repurchase periods, exchange their shares for shares of the same class of other registered open-end investment companies or registered closed-end investment companies that comply with rule 23c-3 under the Act and continuously offer their shares at net asset value, and that are in the Pilgrim group of investment companies. Fund shares so exchanged will count as part of the repurchase offer amount as specified in rule 23c-3 under the Act. Any exchange option will comply with rule 11a-3 under the Act as if the Fund were an open-end investment company subject to that rule. In complying with rule 11a-3, the Fund will treat the EWCs as if they were a contingent deferred sales charge ("CDSC").

**Applicants' Legal Analysis***Multiple Classes of Shares*

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Fund may be prohibited by section 18(c).

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Fund may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction from any

<sup>1</sup> Any registered closed-end management investment company relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

provision of the Act, 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 request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Fund to issue multiple classes of shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit the Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that their proposal does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f-3 under the Act. Applicants state that the Fund will comply with the provisions of rule 18f-3 as if it were an open-end investment company.

#### *Early Withdrawal Charges*

5. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company will purchase securities of which it is the issuer, except: (i) On a securities exchange or other open market; (ii) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (iii) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

6. Rule 23c-3 under the Act permits a registered closed-end investment company (an "interval fund") to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c-3(b)(1) under the Act provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is reasonably intended to compensate the fund for expenses directly related to the repurchase.

7. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased. As noted

above, section 6(c) provides that the Commission may exempt any person, security or transaction from any provision of the Act, 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 Act. Applicants request relief under sections 6(c) and 23(c) from rule 23c-3 to permit them to impose EWCs on shares submitted for repurchase that have been held for less than a specified period.

8. Applicants believe that the requested relief meets the standards of sections 6(c) and 23(c)(3). Rule 6c-10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that EWCs are functionally similar to CDSCs imposed by open-end investment companies under rule 6c-10. Applicants state that EWCs may be necessary for the Investment Adviser to recover distribution costs. Applicants will comply with rule 6c-10 as if that rule applied to closed-end investment companies. The Fund also will disclose EWCs in accordance with the requirements of Form N-IA concerning CDSCs. Applicants further state that the Fund will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d-1 under the Act.

#### *Asset-Based Distribution Fees*

9. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d-1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

10. Rule 17d-3 under the Act provides an exemption from section 17(d) and rule 17d-1 to permit open-end investment companies to enter into distribution arrangements pursuant to

rule 12b-1 under the Act. Applicants request an order under section 17(d) and rule 17d-1 under the Act to permit the Fund to impose asset-based distribution fees. Applicants have agreed to comply with rules 12b-1 and 17d-3 as if those rules applied to closed-end investment companies.

#### *Applicants' Condition*

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c-10, 11a-3, 12b-1, 17d-3, 18f-3, and 22d-1 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the NASD Sales Charge Rule, as amended from time to time.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting, Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of March 5, 2001.

A closed meeting will be held on Monday, March 5, 2001, at 2 p.m.

Commissioner Hung, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will be: Institution of an administrative proceeding of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if