person of, any such registered investment adviser.

5. All current members of Brac and the majority of limited partners of Lexington, as well as the general partner, have a net worth exceeding $1,000,000 and thereby satisfy the client eligibility requirements of paragraph (b) of rule 205–3. However, nine trusts which are limited partners of Lexington fail individually to satisfy the net worth requirements of rule 205–3(b) (the ''Non-qualifying Trusts'').[1] Six of the Non-qualifying Trusts have been established on behalf of six of the grandchildren of William Sperry Beinecke, whose ages range form 7 to 17. The seventh Non-qualifying Trust is a grantor trust which was established by a seventh grandchild of William Sperry Beinecke upon reaching the age of majority. Such grandchildren are the ultimate beneficiaries of (a) the four trusts which own Antaeus, a corporation having assets with an estimated market value in excess of $50 million, and (b) the trusts which are qualifying limited partners of Lexington. The eighth Non-qualifying Trust is a testamentary trust beneficially owned by the four adult children of William Sperry Beinecke, each of whom has assets in excess of $1,000,000. The ninth Non-qualifying Trust is beneficially owned by the three adult children of Mr. Bael. Each of the Bael children is expected to be an eventual beneficiary of the estate of his or her parents to the extent of more than $1,000,000. As a result of the limited partnership interests held by the Non-qualifying Trusts, Lexington may not be treated as satisfying the client eligibility requirements in paragraph (b) of rule 205–3.

6. Applicants request that any relief be applicable not only with respect to the Non-qualifying Trusts that are currently limited partners of Lexington, but also with respect to future Beinecke family trusts and custodianships under the Uniform Gift to Minors Act (''UGMA'') having Beinecke family members as trustee or custodian, as applicable, that may become limited partners or members, as the case may be, of applicants in the future. Such future trusts and custodianships will comply with the representations set forth in the application.

Applicants' Legal Analysis.

1. Section 205(a)(1) of the Advisers Act generally prohibits a registered investment adviser from receiving compensation on the basis of a share of capital gains in or capital appreciation of a client's account, or any portion thereof. Section 205(e) of the Advisers Act provides that the SEC may exempt any person or transaction, or any class or classes of persons or transactions from section 205(a)(1) of the Advisers Act if and to the extent that the exemption relates to an investment advisory agreement with any person that the SEC determines does not need the protection of section 205(a)(1), on the basis of such factors as financial sophistication, net worth, knowledge of and experience in financial matters, amount of assets under management, relationship with a registered investment adviser, and such other factors as the SEC determines are consistent with section 205.

2. Rule 205–3 provides an exemption from the prohibition against performance-based compensation in section 205(a)(1) provided the conditions of the rule are satisfied. Paragraph (b)(1) of rule 205–3 requires each client entering into an investment advisory contract that provides for such compensation to be: (a) A natural person or a company who immediately after entering into the contract has at least $500,000 under management of the investment adviser; or (b) a person who the registered investment adviser reasonably believes, prior to entering into the contract, is a natural person or a company whose net worth at the time the contract is entered into exceeds $1,000,000. Paragraph (b)(2) of the rule provides that the term ''company'' does not include private investment companies such as applicants unless each of the equity owners is a natural person or a company, as defined therein, that meets the eligibility requirements of paragraph (b)(1) of the rule. A trust is expressly included in the definition of a ''company.'' Applicants believe that a custodianship should be viewed as a type of trust for this purpose because, under UGMA, a custodian is a fiduciary whose duties and powers are similar to those of a trustee.

3. The client eligibility requirements of rule 205–3 reflect the SEC's recognition that certain high net worth clients have the capacity to bear the additional risks of performance fees, as well as the ability to protect themselves against the potential abuses of performance fees. Applicants are unable to rely on the rule because the Non-qualifying Trusts do not satisfy the $500,000 under management or the $1,000,000 net worth requirement. However, applicants believe that exemptive relief is appropriate under and consistent with the purposes of section 205(a)(1) and complies with the factors specified in section 205(e) of the Advisers Act because: (a) Antaeus, the entity which makes the investment decisions for applicants, satisfies the net worth requirement, is financially sophisticated with very substantial knowledge of and experience in financial matters, and is fully able to assess the potential risks of performance fees; (b) each trustee of the Non-qualifying Trusts is a family member of the beneficiaries thereof who, in addition to possessing a high level of financial sophistication and very substantial knowledge of and experience in financial matters, have substantial personal wealth, entitlements or expectancies invested in applicants, and may reasonably be presumed to be acting in the best interests of the beneficiaries who are their close family members; and (c) the beneficiaries of the Non-qualifying Trusts have the financial means to bear the potential risks of performance fees, because each satisfies the net worth requirement if his or her entitlements and expectancies are aggregated for this purpose, and do not have a relationship with prospective registered investment advisers.

4. Because those executing investment authority for the Non-qualifying Trusts have such strong and intimate familial relationships to the beneficiaries, applicants believe that it is not unreasonable to presume that the commonality of such interest will result in the decision-maker behaving in the best interests of the beneficiaries. Except for the requested exemption for the Non-qualifying Trusts and custodianships, the requirements of rule 205–3 are satisfied in all respects. Thus, applicants believe that granting the requested exemption is appropriate under and consistent with the purposes of section 205(a)(1) and the factors specified in section 205(e).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–6420 Filed 3–13–97; 8:45 am]

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[1] It is unlikely that the alternative requirement of having at least $500,000 under the management of the investment adviser will be satisfied, because applicants invest their assets in multiple private investment companies.

[Rel. No. IC–22549; 812–10328]

Great-West Life & Annuity Insurance Company, et al.

March 10, 1997.

AGENCY: The Securities and Exchange Commission (''Commission'').

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

APPLICANTS: Great-West Life & Annuity Insurance Company (''GWL&A''), FutureFunds Series Account (''Separate Account''), and BenefitsCorp Equities, Inc. (''BCE'').

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Sections 6(c), 17(b), and 26(b).

SUMMARY OF APPLICATION: Applicants request an order pursuant to Section 26(b) of the 1940 Act approving a proposed substitution of securities, and pursuant to Sections 6(c) and 17(b) of the 1940 Act exempting related transactions from Section 17(a) of the 1940 Act.

FILING DATE: The application was filed on September 6, 1996, and amended on January 10, 1997.

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 April 4, 1997, 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 Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549. Applicants, c/o W. Randolf Thompson, Esq., Jorden Burt Berenson & Johnson, LLP, 1025 Thomas Jefferson Street, N.W., Suite 400 East, Washington, D.C. 20007–0805.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Branch Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0672.

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 Colorado stock life insurance company, does business in the District of Columbia, Puerto Rico, and all states of the United States except New York.

2. GWL&A is wholly-owned by The Great-West Life Assurance Company, which is a subsidiary of Great-West Lifeco Inc., an insurance holding company. Great-West Lifeco Inc. is a subsidiary of Power Financial Corporation of Canada, which is controlled by Power Corporation of Canada.

3. The Separate Account, established by GWL&A pursuant to Kansas law, is registered with the Commission as a unit investment trust. The Separate Account acts a funding vehicle for certain group variable flexible premium deferred annuity contracts (''Contracts''). The Separate Account currently has seventeen investment divisions, each of which invests exclusively in one of the corresponding portfolios of three open-end management investment companies.

4. BCE, the principal underwriter of the Contracts, is registered as a broker-dealer pursuant to the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers, Inc.

5. The Contracts expressly reserve the right of GWL&A, both on its own behalf and on behalf of the Separate Account, to eliminate investment divisions, combine two or more investment divisions, or substitute one or more underlying funds for others in which its investment divisions are invested.

6. GWL&A, on its own behalf and on behalf of the Separate Account, proposes to substitute shares of the Maxim Series Fund Maxim INVESCO Balanced Portfolio (''Substituted Portfolio''), for shares of the Maxim Series Fund Total Return Portolio and the TCI Balanced Portfolio (''Eliminated Portfolios'') (the ''Substitution''). Applicants represent that the Substitution will benefit the participants by eliminating two portfolios with below average historical returns and consolidating participants' investments in the Substituted Portfolio, which has investment objectives similar to the Eliminated Portfolios.

7. Participants will be advised that they can transfer their shares in the Eliminated Portfolios to the remaining portfolios of the Separate Account or leave their shares in the Eliminated Portfolios until the date of the Substitution. No Eliminated Portfolio will accept additional premium payments (*i.e.*, new money or transfers) on or after the date of the Substitution. No sales load deductions or transfer charges will be assessed in connection with any transfers among the portfolios because of the Substitution.

8. Applicants represent that the total expenses of the Substituted Portfolio currently are 1.00%, which are greater than those of the Maxim Series Fund Total Return Portfolio, the total expenses of which are .60%, but the same as the total expenses of the TCI Balanced Portfolio.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act. Section 26(b) protects the expectation of investors that the unit investment trust will accumulate shares of a particular issuer and is intended to insure that unnecessary or burdensome sales loads, additional reinvestment costs, other charges will not be incurred due to unapproved substitutions of securities.

2. Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the Substitution. Applicants represent that the purposes, terms, and conditions of the Substitution are consistent with Section 26(b). Applicants believe the Substitution will benefit the participants by eliminating two portfolios with below average historical returns. Applicants represent that the Maxim Series Fund Total Return Portfolio, when compared to funds in its asset class, has performed below average for at least five quarters. In addition, its one, three, and five year returns of 10.62%, 8.65%, and 10.40% have been below average compared to funds within the same asset class. Applicants represent that the same is true of the TCI Balanced Portfolio which, when compared to other balanced funds, has been performing poorly for at least seven quarters. In addition, its one, three, and five year returns of 10.65%, 9.42%, and 9.08% also are below the average of balanced funds. GWL&A proposes to consolidate participants' investments in the Substituted Portfolio, which has similar investment objectives to the Eliminated Portfolios. The Substitution will remove poorly performing portfolios from the Separate Account while the similarity in investment objectives provides a means for Contract owners and/or all participants to continue their current investment goals and risk expectations.

3. Applicants represent that the Substitution will be effected at net asset value in conformity with Section 22(c) and 22(g) of the 1940 Act and Rule 22c–1 thereunder. The Substitution may be effected primarily for cash, but also may involve partial redemptions in-kind of securities (''Related Transactions''). The use of in-kind redemptions in conformity with Section 22(g) of the 1940 Act would alleviate the impact of the brokerage fees and expenses upon GWL&A or the investment adviser or sub-adviser of the Substituted Portfolio, as these entities will bear all expenses related to the Substitution. The Related Transactions will be effected to the extent consistent with the investment objectives and any applicable diversification requirements.

4. GWL&A or the investment adviser of the Substituted Portfolio will assume the transfer and custodial expenses and legal and accounting fees incurred with respect to the Substitution. Participants will not incur any fees or charges as a result of the transfer of account values from any portfolio. Applicants represent that there will be no increase in the Contract or Separate Account fees and charges after the Substitution. Applicants further represent that the Substitution is designed to avoid any adverse federal tax impact to the Contract owners or participants.

5. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security, or transaction for any class or classes of persons, securities, or transactions from the provisions of the 1940 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 purposes fairly intended by the policy and provisions of the 1940 Act.

6. Section 17(a)(1) of the 1940 Act prohibits any affiliated person, or an affiliate of an affiliated person, of a registered investment company, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any affiliated person from purchasing any security or other property from such registered investment company.

7. Section 17(b) of the 1940 Act authorizes the Commission to issue an order exempting a proposed transaction from Section 17(a) if: (a) The terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (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 1940 Act.

8. Applicants request an order pursuant to Sections 6(c) and 17(b) of the 1940 Act exempting the Related Transactions from the provisions of Sections 17(a) of the 1940 Act.

9. Applicants represent that the terms of the Substitution are reasonable and fair and do not involve overreaching on the part of any person concerned. The Substitution will be effected at the net asset value of the securities involved and the interests of Contract owners will not be diluted. In-kind redemptions will alleviate some of the expenses involved with the Substitution and only will be used to the extent they are consistent with the investment objectives and applicable diversification requirements of the affected portfolios.

10. The Applicants represent that the Substitution and the Related Transactions are consistent with the policies of each investment company involved and the general purposes of the 1940 Act, and comply with the requirements of both Section 6(c) and 17(b).

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the Substitution and Related Transactions should be granted.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–6473 Filed 3–13–97; 8:45 am]

BILLING CODE 8010–01–M

Sunshine Act Meeting

Time Change/Agency Meeting

The time for the closed meeting, scheduled for Tuesday, March 11, 1997, at 10:00 a.m., has been changed to 4:00 p.m. (previously announced in 62 FR 10303, March 6, 1997).

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 closed meeting during the week of March 17, 1997.

A closed meeting will be held on Wednesday, March 19, 1997, at 10:00 a.m.

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)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, March 19, 1997, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Opinions.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: March 11, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–6650 Filed 3–12–97; 1:07 pm]

BILLING CODE 8010–01–M

[Release No. 34–38371; File No. SR–CHX–97–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to SEC Transaction Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 18, 1997, the Chicago Stock Exchange, Incorporated (''CHX'' 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 Exchange. The CHX has designated this proposal as one constituting a change to a due, fee, or other charge under Section 19(b)(3)(A) of the Act, which renders the rule effective upon receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to codify in its fee schedule the CHX's collection of SEC transaction fees assessed pursuant