

Title and purpose of information collection: Earnings Information Request; OMB 3220-0184.

Under section 2 of the Railroad Retirement Act, an annuity is not payable, or is reduced for any month(s) in which the beneficiary works for a railroad or earns more than prescribed amounts. The provisions relating to the reduction or non-payment of annuities by reason of work are prescribed in 20 CFR 230.

The RRB utilizes form G-19-F, *Earnings Information Request*, to obtain earnings information not previously or erroneously reported by a beneficiary. Completion of the form is required to retain a benefit. One response is requested of each respondent.

The RRB proposes minor non-burden impacting cosmetic and editorial changes to Form G-19-F. The completion time for Form G-19-F is estimated at 8 minutes per response.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,
Clearance Officer.

[FR Doc. 01-9093 Filed 4-11-01; 8:45 am]

BILLING CODE 7905-01-M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of

automated collection techniques or other forms of information technology.

Title and purpose of information collection: Representative Payee Monitoring; OMB 3220-0151.

Under Section 12 of the Railroad Retirement Act (RRA), the RRB may pay annuity benefits to a representative payee when an employee, spouse or survivor annuitant is incompetent or a minor. The RRB is responsible for determining if direct payment to an annuitant or a representative payee would best serve the annuitant's best interest. The accountability requirements authorizing the RRB to conduct periodic monitoring of representative payees, including a written accounting of benefit payments received, are prescribed in 20 CFR 266.7.

The RRB utilizes the following forms to conduct its representative payee monitoring program.

Form G-99a, Representative Payee Report, is used to obtain information needed to determine whether the benefit payments certified to the representative payee have been used for the annuitant's current maintenance and personal needs and whether the representative payee continues to be concerned with the annuitant's welfare. The RRB also includes RRB Form G-99a(Enc), Representative Payee Duties, which includes the Paperwork Reduction Act notice and a list of representative payee duties with each RRB Form G-99a released. RRB Form G-99c, Representative Payee Evaluation Report, is used to obtain more detailed information from a representative payee who fails to complete and return Form G-99a, or in situations when the returned Form G-99a indicates the possible misuse of funds by the representative payee. Form G-99c contains specific questions concerning the representative payee's performance and is used by the RRB to determine whether or not the representative payee should continue in that capacity. Completion of the forms in this collection is required to retain benefits.

The RRB proposes minor non-burden impacting editorial changes to Form G-99a and G-99c. The completion time for Form G-99a is estimated at 18 minutes per response. The completion time for Form G-99c is estimated at between 24 to 31 minutes per response. The RRB estimates that approximately 6,000 Form G-99a's and 535 G-99c's are completed annually.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB

Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,
Clearance Officer.

[FR Doc. 01-9094 Filed 4-11-01; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-24932; File No. 811-5999; 811-2520]

Nationwide Life Insurance Company, et al.

April 6, 2001.

AGENCY: The Securities and Exchange Commission (the "Commission").

ACTION: Notice of application for an order of deregistration pursuant to Section 8(f) of the Investment Company Act of 1940 ("1940 Act").

Summary of Application: Applicants seek an order approving the deregistration pursuant to Section 8(f) of the Investment Company Act of 1940 of NACo Variable Account ("NACo Separate Account") and the Nationwide DC Variable Account ("DCVA Separate Account").

Applicants: Nationwide Life Insurance Company ("Nationwide"), the NACo Separate Account and the DCVA Separate Account (the two separate accounts are referred to collectively as the "Separate Accounts"). The foregoing are referred to collectively as the "Applicants").

Filing Date: The application was filed on February 22, 2001 and amended on March 21, 2001, April 4, 2001, and April 6, 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 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 30, 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 requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a

hearing may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549-0609.

Applicants: Michael Moser or Michael Stobart, Nationwide Life Insurance Company, One Nationwide Plaza, 1-09-V3, Columbus, Ohio 43215.

FOR FURTHER INFORMATION CONTACT: Martha Atkins, Attorney, at (202) 942-0668, or Keith Carpenter, Branch Chief, at (202) 942-0679, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street NW., Washington DC 20549-0102 (tel. (202) 942-8090).

Applicants' Representations

1. The Separate Accounts were established under Ohio law as segregated asset accounts of Nationwide and were registered under the 1940 Act as unit investment trusts.¹ Nationwide maintains and preserves the records of the Applicants as required by Rules 31a-1 and 31a-2 of the 1940 Act and will continue to do so for the period specified in those rules.² The Applicants are not parties to any litigation or administrative proceeding arising out of or in connection with the operations of the Separate Accounts. Currently, 55 different sub-accounts of the DCVA Separate Account and 41 different sub-accounts of the NACo Separate Account represent the investment options within the Separate Accounts. Each sub-account corresponds to a distinct open-end management investment company or series thereof ("mutual fund") registered under the 1940 Act. These are the only investments of the Separate Accounts and the Separate Accounts do not and will not purchase securities issued by any entity purchasing an annuity through the Applicant Separate Accounts, or any company directly or indirectly controlling, controlled by, or under common control with of any such entity. The DCVA Separate Account assets and liabilities both equal approximately \$3.56 billion; the NACo

Separate Account assets and liabilities both equal approximately \$3.36 billion. The Separate Accounts' assets reflect the value of the underlying investment options, while the Separate Accounts' liabilities reflect the reserves held to meet contractual obligations to purchasers of annuities issued through the Separate Accounts.

2. The Separate Accounts were established for the purpose of funding group variable annuity contracts ("Contracts") to be used as funding media for public sector deferred compensation plans governed under Section 457 of the Internal Revenue Code ("the Code"), which satisfy the requirements set forth in Code Section 457(g) that plan assets and income be held for the exclusive benefit of plan participants and beneficiaries ("Section 457 Plans"). Sponsors of such plans include states, the political subdivisions of states, and other non-federal governmental agencies and organizations exempt from taxation under the Code. Section 457 Plans are established by public sector employers for their employees for many of the same purposes and in much the same manner as Section 401(k) plans are established and maintained by private sector employers. Despite some variance in tax treatment under the Code, Section 457 Plans are, for practical purposes, the public sector equivalent of private sector 401(k) plans. While the vast majority of Contracts are issued to Section 457 Plans, they may also be used by governmental employers establishing retirement plans under Code Section 414(d) that qualify for favorable tax treatment. Such contracts are explicitly exempted from registration under the Securities Act of 1933 ("1933 Act") and insurance company separate accounts issuing such contracts are excluded from the definition of "investment company" under the 1940 Act.³

Applicants represent that the assets of the Separate Accounts derive solely from contributions made under

retirement plan arrangements described in the preceding paragraph, which either qualify for favorable tax treatment under Section 414(d) of the Code or are Section 457 Plans. The Separate Accounts do not hold any assets attributable to individual retirement accounts or annuities established pursuant to Code Section 408 or to tax sheltered annuities or custodial accounts established pursuant to Code Section 403(b). The Separate Accounts sell contracts only to governmental entities ("Contract Owners") eligible to sponsor retirement plans qualifying under Section 414(d) ("Qualified Plans") and Section 457 Plans (collectively, the "Plans"). The Separate Accounts will be used for no purpose other than to fund Plans that invest in the Separate Accounts through purchase of the Contracts.

3. In practice, the sale of the Contracts differs markedly from the sale of most variable annuity contracts issued in conjunction with separate accounts registered under the 1940 Act. Typically, Nationwide may be selected as an investment provider to a public sector plan only after participating in extensive bid, proposal, and procurement processes that are normally prescribed by local statute, regulation or ordinance.⁴ Plans are normally represented in this process by legal counsel, benefits consultants, and investment advisers. A typical "request for proposal" from a public sector plan may seek hundreds of pages of documentation regarding Nationwide, the contracts, and services being offered. This elaborate process stands in sharp contrast to the process by which ordinary consumers purchase interests in typical variable annuities or other investment company securities.

4. The Contracts offered in conjunction with the Separate Accounts have been approved by insurance regulators in each of the fifty states.

5. Applicants represent that if the Separate Accounts were established today for the purposes they currently serve, the Separate Accounts would not be registered under the 1940 Act. In addition, Applicants represent that the exclusive benefit requirement imposed on Section 457 Plans by the Small Business Job Protection Act of 1996 ("Job Protection Act") and the subsequent interpretation by the staff of the Commission with respect to registering separate accounts issuing

¹ Pursuant to Ohio Revised Code Section 3907.15, DCVA Separate Account was established on November 2, 1977 (1940 Act File No. 811-2520); and NACo Separate Account was established on September 7, 1988 (1940 Act File No. 811-5999).

² Custodian of Records: John M. Davis, Assistant Vice President, Financial Operations, One Nationwide Plaza, 1-12-G3, Columbus, OH 43215, (614) 249-7892.

³ Securities arising out of a contract issued by an insurance company are exempted from registration under Section 3(a)(2)(C) of the 1933 Act if the security is issued in connection with a governmental plan as defined in Section 414(d) of the Code and such plan has been "established by an employer for the exclusive benefit of its employees * * * if under such plan it is impossible * * * for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees. * * *" In addition, Section 3(c)(11) of the 1940 Act exempts from registration any separate account, the assets of which are derived from contributions under governmental plans in connection with which interests, participations, or securities are exempted from registration under the provisions of Section 5 of the 1933 Act by Section 3(a)(2)(C) of such Act.

⁴ See California Pub. Con. Code (Deering 2000); Del. Code Ann. tit. 29, section 69 (Lexis 2000); Mont. Code Ann. tit. 18 (1999); Nev. Rev. Stat. section 332 and section 333 (1999); Wash. Rev. Code tit. 39 (2000).

contracts to 457 Plans,⁵ as well as the changing requirements of the typical public sector plan over more than the last decade, have created circumstances making continued registered status for the Separate Accounts burdensome to Nationwide and the plans they serve.

For example, when one of Applicants' existing public sector plan clients seeks to add, deselect, or substitute a particular underlying mutual fund, Applicants must either (a) find a way to make such changes applicable (or transparent to) all other public sector plans holding an interest in the Separate Account in question, or (b) deny the specific Contract owner/public sector plan request. Even when such changes can be made, Applicants must modify prospectuses through the post-effective amendment process and disseminate prospectuses (or prospectus supplements) reflecting such changes to all public sector plans/Contract owners with interests in the Separate Account in question. In addition, Nationwide must seek the approval of the Commission under Section 26(b) of the 1940 Act (in the case of a substitution), and otherwise attempt to shoe-horn investment options and other plan-specific attributes into the regulatory format associated with standardized, mass-distributed registered separate account/unit investment trust offerings. These processes create unwarranted administrative burdens, expense, and delays. Applicants' major competitors currently face no such similar requirements, thus creating a competitive disadvantage for the Applicants.

6. Applicants represent that there are significant expenses incurred in connection with the regulatory requirements associated with offering investment media through registered separate accounts/unit investment trusts, such as costs related to printing, postage, professional, and registration fees (at the separate account level) by virtue of the registered status of the Separate Accounts. Applicants represent that, as unregistered entities, the Separate Accounts and Nationwide will be better able to respond to competitive pressures in terms of bids delivered to existing and prospective plan clients and this will serve the interests of Applicants and the plans.

7. Applicants represent that, in response to the demand for flexibility and customization, the Separate Accounts were modified to permit a non-standardized pricing structure. Rather than dictating a price certain,

Applicants apply a ten factor pricing algorithm to determine the fee level for each Contract Owner subject to a cap equal to 0.95% of the net assets of the Separate Accounts. The prospectuses for the Separate Accounts set forth the cap and the mechanism by which actual pricing for a specific plan is formulated. This disclosure cannot identify with particularity the expenses applicable to a given Contract Owner/governmental plan—this specific information is communicated by other means. In contrast, companies offering products other than through registered separate account unit investment trusts are able to deliver unified disclosure documents to plans that incorporate only investor-specific information. This eliminates the need for the often burdensome and potentially confusing exercise of synthesizing multiple sources of information. Applicants represent that, as unregistered entities, the Separate Accounts and Nationwide will be able to deliver less confusing, more plan-specific disclosure that will serve the interests of Applicants and the plans.

8. Applicants represent that the granting of the Order requested in the amended application will in no way impair, abridge, or modify the contractual obligations owed by Nationwide to its existing Plan clients, with one exception. The Contracts offered by Nationwide, and purchased by the Plans pursuant to the bid and procurement processes outlined in section 3 *supra*, provide that Nationwide may change any provision of the Contract, at its discretion, upon 90 days written notice. The only provision of the Contract that will be affected by the deregistration of the Separate Accounts relates to the requirement to obtain the approval of the Commission for the substitution of securities in the Separate Accounts. Applicants have notified all Contract Owners of their efforts to deregister the Separate Accounts and the fact that the aforementioned provision relative to fund substitutions will be eliminated. Aside from this contractual change, no other provisions of any existing Contracts will be modified.

Applicants represent that, within 3 days subsequent to the granting of the Order requested in this Amended Application, they will provide a plain English written notice to each Contract Owner explaining (a) that the Separate Accounts are no longer registered under the 1940 Act; (b) that interests arising out of the Contracts will not in the future be registered under the 1933 Act; (c) the consequences of the deregistration, including how the deregistration affects the legal rights and

responsibilities of the Applicants, Contract Owners, and Plan participants, both as to interests arising out of the Contracts that were issued in the past and interests arising out of the Contracts to be issued in the future, which explanation of the consequences will include, without limitation, any diminution of the legal protections and rights of the Contract Owners and the Plan participants under the 1940 Act, the 1933 Act, and the Securities Exchange Act of 1934 (the "Exchange Act"); and (d) that the Contract Owners may, at any time, surrender their Contracts for any reason without payment of any deferred sales load, surrender charge, or exit penalty of any kind.

Within 75 days of the granting of the Order requested in this Amended Application, Applicants will furnish each Plan participant a plain English written notice which provides all of the information set forth in the preceding paragraph. In lieu of item (d) in the preceding paragraph, the notice to Plan participants shall explain their rights to transfer to other investment options under their Plan (in cases where there are other options) without payment of any deferred sales load, surrender charge, or exit penalty of any kind.

In addition, subsequent to deregistration, Applicants will continue to furnish the Contract Owners and Plan participants with all data and information necessary for informed decision making in connection with participation in the Contract and utilization of the underlying investment options. This includes informational brochures about the Contracts (provided in lieu of variable annuity prospectuses); individual fund data sheets, summaries, and prospectuses; quarterly fund performance updates presented in conformity with National Association of Securities Dealers rules; transaction confirmations (Nationwide will continue to furnish transaction confirmations in the same manner it presently provides such information in accord with Rule 10b-10 under the Exchange Act); as well as informational sheets that detail the phone numbers and websites for obtaining information associated with the Contracts.

9. Applicants represent that all of their Contract Owners and Plan participants using the Separate Accounts as of the date of deregistration will not be subject as of that date, or in the future, to deferred sales loads, surrender charges or exit penalties of any kind.

⁵ Massachusetts Mutual Life Insurance Company (pub. avail. Aug. 10, 1998).

Applicants' Legal Analysis

1. Section 3(c)(11) of the 1940 Act excludes from the definition of investment company "any separate account the assets of which are derived solely from * * * contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of Section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act. * * *" Thus, for purposes of the application, separate accounts seeking an exemption must, under Section 3(c)(11) of the 1940 Act: (1) hold assets derived from governmental plan contributions; and (2) the "interests, participations, or securities" of these plans must be exempted from registration under Section 3(a)(2)(C) of the 1933 Act.

2. Section 3(a)(2)(C) of the 1933 Act exempts "any security arising out of a contract issued by an insurance company, which * * * is issued in connection with * * * a governmental plan as defined in Section 414(d) of [the Internal Revenue] Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries. * * *" Thus, in the context of the application, the second requirement for an exemption under Section 3(c)(11) of the 1940 Act is met by an insurance contract issued to a Code Section 414(d) governmental plan that is established for the "exclusive benefit" of plan participants and their beneficiaries.

3. Prior to the enactment of the Job Protection Act in 1996, the assets of a deferred compensation plan sponsored by a State or local government or instrumentality were required by Code Section 457 to remain the property of the employer and to be subject to the claims of the employer's general creditors. Therefore, in order to be treated as a Section 457 Plan, the plan's assets could not be held for the exclusive benefit of its participants. Accordingly, the specific requirements of Code Section 457 contravened the exclusive benefit requirements of Section 3(a)(2) of the 1933 Act⁶ and the

related investment company exemption of Section 3(c)(11) of the 1940 Act. During this period the staff of the Commission (the "Staff") issued relief on a no-action basis to insurers and banks offering annuity contracts and interests in collective trusts (respectively) to State and local government employers sponsoring deferred compensation plans meeting the eligibility requirements of Code Section 457 based on the representation that plan assets would not be used for any purpose other than for the exclusive benefit of plan participants and their beneficiaries.⁷ However, the Staff indicated that such a representation alone would not provide an adequate basis for relief from registration based on the exemption from registration under Section 3(a)(2) of the 1933 Act without additional specific restrictions being placed on an employer's ability to withdraw assets of the Plan.⁸

4. The Job Protection Act in 1996, however, changed the tax law governing Section 457 Plans by specifically requiring that governmental deferred compensation plans hold plan assets for the exclusive benefit of the plans' participants to the same degree required of Code Section 401 Plans. Thus, Section 457 Plans share the requirement that all assets and income be held for the exclusive benefit of plan participants and beneficiaries.

governmental plans. In 1980, Congress added the Section 3(c)(11) exemption that includes the exemption for governmental plans. Senator Sarbanes, the sponsor of the 1980 Amendments, remarked before the Senate that the purpose of the bill was to "exempt from registration bank and insurance company funding of certain public employee retirement plans without regard to their qualification under Section 401 of the IRS Code." (Emphasis added.) See 126 Cong. Rec. S 27273 (cum. ed. Sept. 25, 1980). The legislative history gave rise to uncertainty as to the applicability of the Section 3(c)(11) exemption for 457 plans. See *Wells Fargo Bank, N.A.* (pub. avail. Sept. 7, 1988). Within this context Separate Account NACo registered in 1990.

⁷ See *The Lincoln National Life Insurance Company* (pub. avail. Oct. 26, 1992); *Hartford Life Insurance Company* (pub. avail. June 24, 1992); *Pan American Life Insurance Company* (pub. avail. Nov. 19, 1991); *Standard Insurance Company* (pub. avail. Sept. 11, 1991); *Aetna Life Insurance and Annuity Company* (pub. avail. Sept. 11, 1991); *Principal Mutual Life Insurance Company* (pub. avail. June 27, 1991); *Metropolitan Life Insurance Company* (pub. avail. June 6, 1991); *Monarch Life Insurance Company* (pub. avail. Apr. 3, 1991); *The Travelers Insurance Company* (pub. avail. Aug. 6, 1990); *Great-West Life Annuity Insurance Co.* (pub. avail. Feb. 1, 1990); *Fidelity Management Trust Company* (pub. avail. Nov. 2, 1989); *Aetna Life Insurance Company* (pub. avail. Oct. 18, 1989); *Nationwide Life Insurance Company* (pub. avail. May 12, 1989); *North Shore Savings and Loan Association* (pub. avail. Dec. 8, 1988); and *Wells Fargo Bank, N.A.* (pub. avail. Sept. 7, 1988).

⁸ See *State Street Bank and Trust Company* (pub. avail. Aug. 1, 1996).

5. This fundamental change in the federal tax law was considered and analyzed in a request for no-action assurance submitted by Massachusetts Mutual Life Insurance Company ("MassMutual").⁹ In *MassMutual*, relief from registration requirements was requested in conjunction with group variable annuity contracts issued through unregistered separate accounts which solely supported not only Code Section 401 and code Section 414(d) Plans, but also Code Section 457 Plans. In *MassMutual*, it was argued that the enactment of Code Section 457(g) (the exclusive benefit rule) under the Job Protection Act should assure the Staff that Section 457 Plans provide exactly the same protections to plan participants and beneficiaries as Qualified Plans and other Section 414(d)¹⁰ Plans for which a statutory exemption from registration exists under Section 3(a)(2) of the 1933 Act. Accordingly, in the wake of *MassMutual*, Applicants maintain that it is well settled that Section 3(a)(2) of the 1933 Act and Section 3(c)(11) of the 1940 Act may be relied upon to exclude separate accounts issuing securities to Section 457 Plans from the definition of investment company.

6. Applicants state that, as in *MassMutual*, the Section 457 Plans to whom Applicants have issued Contracts will satisfy the same conditions as those imposed on Section 414(d) Plans for purposes of the exemption under Section 3(a)(2) of the 1933 Act—namely, that each plan has "been established by the [state or local government] employer for the exclusive benefit of its employees or their beneficiaries for the purposes of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan," and that "under [each] such plan, it [will be] impossible, prior to satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries. * * *" Further, each Contract issued to a Section 457 Plan requires that the assets and income of the plan held under the Contract be used for the exclusive benefit of plan participants and their beneficiaries, and therefore under the

⁹ Massachusetts Mutual Life Insurance Company (pub. avail. Aug. 10, 1998).

¹⁰ Section 414(d) of the Code provides that a "governmental plan" means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing."

⁶ Separate Account DCVA was formed in 1977 prior to any exemption from registration for

terms of the Contract, it is impossible for the employer sponsor of the Section 457 Plan to use the assets invested in the Contract for any other purpose.

7. The Applicants rely on the exclusion from the definition of investment company that is identical to statutory provisions relied on by *MassMutual*, and no other provision of the 1940 Act compels Applicants to register under the 1940 Act. Applicants therefore believe they are entitled to rely on the Staff's position articulated in *MassMutual*, that the exclusion under Section 3(c)(11) is available to the Separate Accounts, and that the Separate Accounts should no longer be considered "investment companies" for purposes of registration under the 1940 Act.

8. Applicants assert that, with the passage of the Job Protection Act and subsequent issuance of the *MassMutual* no-action relief by the Staff, there no longer remains any doubt that Section 3(a)(2) of the 1933 Act and Section 3(c)(11) of the 1940 Act may be relied upon to exclude separate accounts issuing securities to Section 457 Plans from the definition of investment company. Given this change in the law, the needs of the Contract Owners, and the competitive landscape of the government retirement plan market, deregistration of the Separate Accounts is necessary or appropriate in the public interest or for the protection of investors and for the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-9110 Filed 4-11-01; 3:28 pm]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before May 14, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer*, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer*, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: Application for section 504 Loan.

No: 1244.

Frequency: On occasion.

Description of Respondents: Small Business Concern and Development Companies.

Annual Responses: 5,200.

Annual Burden: 11,700.

Jacqueline White,
Chief, Administrative Information Branch.
[FR Doc. 01-9047 Filed 4-11-01; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3327]

State of Texas

Harrison County and the contiguous counties of Gregg, Marion, Panola, Rusk and Upshur in the State of Texas; Caddo County in the State of Louisiana constitute a disaster area as a result of damages caused by flooding that occurred from February 16 through March 10, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on May 29, 2001 and for economic injury until the close of business on December 31, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 332706 for Texas and 332806 for Louisiana.

The number assigned for economic injury is 9L3100 for Texas and 9L3200 for Louisiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: March 28, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01-9067 Filed 4-11-01; 8:45 am]

BILLING CODE 8025-01-U

SMALL BUSINESS ADMINISTRATION

New Markets Venture Capital Program; Extension of Application Deadline

AGENCY: U. S. Small Business Administration.

ACTION: Notice of extension of application deadline.

SUMMARY: SBA invites applications for designation as a New Markets Venture Capital (NMVC) Company and for grant awards available both to participants in the NMVC Program and to Specialized Small Business Investment Companies. SBA extends its deadline for accepting applications from 6:00 p.m. on April 19, 2001 to 4:00 p.m. on May 21, 2001. Refer to Notice of Funds Availability published in the **Federal Register**, 66 FR 7247 (January 22, 2001) for further information about this funding opportunity.

DATES: Applications may be submitted to SBA immediately. The deadline for receipt of an application has been extended to 4:00 p.m. EST on May 21, 2001. Applications received in SBA's offices after that date and time will be rejected and returned to the sender.

ADDRESSES: Applications must be sent to Austin Belton, Director, Office of New Markets Venture Capital,