Dated: October 23, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–27156 Filed 10–26–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Form 3, OMB Control No. 3235–0104, SEC File No. 270–125

Form 4, OMB Control No. 3235–0287, SEC File No. 270–126

Form 5, OMB Control No. 3235–0362, SEC File No. 270–323

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) The Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Forms 3, 4, and 5 are filed by insiders of public companies that have a class of securities registered under section 12 of the Securities Exchange Act of 1934 (''Exchange Act''). Form 3 is an initial statement of beneficial ownership of securities, Form 4 is a statement of changes in beneficial ownership of securities and Form 5 is an annual statement of beneficial ownership of securities. Approximately 29,000 issuers file form 3 for a total of 14,500 annual burden hours. Approximately 70,204 issuers file Form 4 annually for a total of 34,102 annual burden hours. Approximately 43,500 issuers file Form 5 annually for a total of 43,500 annual burden hours.

Form 3, Form 4, and Form 5 information collections are mandatory and available to the public upon request. Finally, persons who respond to these collections are not required to respond unless the collections of information display a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 19, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27126 Filed 10–26–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–14609]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC (Excel Legacy Corporation, 9.0% Convertible Redeemable Subordinated Debentures (due 2004) and 10.0% Senior Redeemable Notes (due 2004))

October 24, 2001.

Excel Legacy corporation, a Delaware Corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its 9.0% Convertible Redeemable Subordinated Debentures (due 2004) and 10.0% Senior Redeemable Notes (due 2004) (''Securities''), from listing and registration on the American Stock Exchange LLC (''Amex'').

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The issuer's application relates solely to the Securities' withdrawal from listing and registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

On September 28, 2001, the Issuer merged with Price Legacy Corporation, formerly known as Price Enterprises, Inc. On October 9, 2001, the Board of Directors of the Issuer approved resolutions to withdraw the Issuer's Securities from listing on the Amex. In making the decision to withdraw the Securities from listing on the Exchange, the Issuer considered the limited principal amount of Securities outstanding, the limited number of shareholders, and the additional expense of listing on the Amex.

Any interested person may, on or before November 13, 2001, submit by letter to the Secretary of the Securities and Exchange commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27192 Filed 10–24–01; 4:39 pm]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25220; 812–11632]

PIMCO Funds, et al.; Notice of Application

October 22, 2001.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (''Act'') for an exemption from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, under section 6(c) of the Act for an exemption from sections 18(f) and 21(b) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain registered management investment companies to invest uninvested cash in affiliated money market funds and to participate in a joint lending and borrowing facility. The order would supersede a prior order (''Prior Order'').[1]

[5] 17 CFR 200.30–3(a)(1).

[1] Cash Accumulation Trust, Investment Company Act Release Nos. 22894 (Nov. 18, 1997) (notice) and 22842 (Dec. 16, 1997) (order).

APPLICANTS: PIMCO Funds (d/b/a PIMCO Funds: Pacific Investment Management Series), PIMCO Variable Insurance Trust, and PIMCO Funds: Multi-Manager Series (collectively, the ''Existing Funds'') (each Existing Fund on its own behalf and behalf of all existing series); PIMCO Advisors L.P. (''PIMCO Advisors'') and Pacific Investment Management Company LLC (''PIMCO''), and any person controlling, controlled by, or under common control with PIMCO Advisors or PIMCO that serves as an investment adviser to a Fund (as defined below) (individually, ''Adviser'' and collectively, the ''Advisers''); and any future open-end registered management investment company and its series for which an Adviser serves as an investment adviser (''Future Funds,'' and together with the Existing Funds, the ''Funds'').

FILING DATES: The application was filed on May 28, 1999, and amended on October 2, 2000 and July 23, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 16, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants' 840 Newport Center Drive, Suite 300, Newport Beach, California 92660.

FOR FURTHER INFORMATION CONTACT: Nadya B. Roytblat, Assistant Director (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each Existing Fund is registered under the Act as an open-end management investment company and is organized either as a Delaware or Massachusetts business trust.[2] The Money Market Fund, a series of PIMCO Funds, holds itself out to the public as a money market fund and is subject to the requirements of rule 2a–7 under the Act. The Money Market Fund and any other open-end Fund that in the future is subject to the requirements of rule 2a–7 under the Act, holds itself out to the public as a money market fund, and relies on the order, are referred to in this notice as the ''Money Market Funds''. The Short-Term Fund, a series of PIMCO Funds, is a short-term bond fund that invests in money market instruments and short maturity fixed income securities. The Short-Term Fund and any other open-end Fund that in the future holds itself out to the public as a short-term bond fund and relies upon the order requested herein, and the Money Market Funds, are referred to in this notice collectively as the ''Central Funds''. Any Fund that is not a Central Fund is referred to herein individually as a ''Mon-Money Market Fund.''

2. The Advisers are registered under the Investment Advisers Act of 1940 and serve as investments advisers to the Funds. PIMCO is a subsidiary of PIMCO Advisors.

A. Investment of Cash Balances in the Central Funds

1. Each Non-Money Market Fund has, or may be expected to have, cash reserves that have not been invested in portfolio securities (''Uninvested Cash'') held by its custodian. Uninvested Cash may result from a wide variety of sources, including dividends or interest received or portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions and dividend payments, and new monies received from investors.

2. Applicants request an order to permit: (a) each of the Non-Money Market Funds to use their Uninvested Cash to purchase shares of the Central Funds (each Non-Money Market Fund that purchases shares of the Central Funds, an ''Investing Fund''); (b) each of the Investing Funds to utilize cash collateral received from borrowers in connection with its securities lending activities (''Cash Collateral'' and, together with Uninvested Cash, ''Cash Balances'') to purchase shares of one or more Central Fund; and (c) the Central Funds to sell their shares to, and redeem their shares from the Investing Funds. The Prior Order permits certain of the Non-Money Market Funds to use their Cash Balances to purchase shares of the Central Funds (and certain other money market fund and/or short-term bond fund series), so long as the aggregate investment by a Non-Money Market Fund does not exceed 25% of its total net assets. Applicants seek an order that would supersede the Prior Order and permit an Investing Fund's aggregate investment of Cash Balances in the Central Funds not to exceed the greater of 25% of the Investing Fund's total assets or $10 million. Any such investment will be in accordance with the Investing Fund's organizational documents and investment policies and will be described in its Statement of Additional Information (''SAI'') and other appropriate disclosure documents.

B. Interfund Lending Program

1. Under current arrangements, each Central Fund may lend money to banks, brokers, or other entities by entering into repurchase agreements or purchasing other short-term instruments. In addition, the Non-Money Market Funds may borrow money from the same or other banks for temporary or emergency purposes to satisfy redemption requests or to cover unanticipated cash shortfalls, such as when cash payments for a portfolio security sold by a Non-Money Market Fund has been delayed. Currently, the Non-Money Market Funds have credit arrangements with their custodian under which the custodian may, but is not obligated to, lend money to the Non-Money Market Funds to meet the Non-Money Market Funds' temporary or emergency cash needs. The Non-Money Market Funds may also borrow money from banks, brokers, and other entities by entering into reverse repurchase agreements and economically similar transactions.

2. If the Non-Money Market Funds borrow money from any bank under their current arrangements or under other credit arrangements, the Non-Money Market Funds will pay interest on the borrowed cash at a significantly higher rate that the rate that would be earned by the Central Funds on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants believe this differential

[2] All existing Funds that currently intend to rely on the order have been named as applicants, and any other Fund that subsequently may rely on the order will comply with the terms and conditions in the application.

represents the bank's profit for serving as a middleman between a borrower and lender. Other bank loan arrangements, such as committed lines of credit, requires the Non-Money Market Funds to pay substantial commitment fees in addition to the interest rate to be paid by the Non-Money Market Funds.

3. Applicants request an order that would permit the Funds to enter into lending agreements (''Interfund Lending Agreements'') under which the Non-Money Market Funds would borrow money from the Central Funds for temporary and emergency purposes (''Interfund Loans''). Applicants believe that the proposed credit facility will substantially reduce the Non-Money Market Funds' potential borrowing costs and enhance the ability of the Central Funds to earn higher rates of interest on short-term lendings. The Non-Money Market Funds will be free to maintain any existing line of credit or other borrowing arrangement currently provided by their custodian or establish committed lines of credit or other borrowing arrangements with banks.

4. Applicants anticipate that the credit facility will provide a Non-Money Market Fund with significant savings when the cash position of the Non-Money Market Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and the Non-Money Market Funds have insufficient cash on hand to satisfy such redemptions. When the Non-Money Market Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility will provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

5. Applicants also propose arranging Interfund Loans when a sale of securities fails due to circumstances such as a delay in the delivery of cash to the Non-Money Market Fund's custodian or improper delivery instructions by the broker effecting the transaction (a ''sales fail''). In such circumstances, a cash shortfall could result if the Non-Money Market Fund has undertaken to purchase a security within the proceeds from securities sold. When a Non-Money Market fund experiences a cash shortfall, the custodian typically extends temporary credit to cover the shortfall and the Non-Money Market Fund incurs overdraft charges. Alternatively, the Non-Money Market Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Non-Money Market Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the credit facility under these circumstances will enable the Non-Money Market Funds to have access to immediate, short-term liquidity without incurring custodian overdraft or other charges.

6. While borrowing arrangements with banks will continue to be available to cover sales fails and other cash shortfalls, under the proposed credit facility a Non-Money Market Fund would pay lower interest rates than those offered by banks on short-term loans. In addition, by making short-term cash loans directly to Non-Money Market Funds, the Central Funds will earn interest at a rate higher than they otherwise could obtain from investments on repurchase agreements or other short-term instruments. Thus, Applicants assert that the proposed credit facility would benefit both the Central Funds and the Non-Money Market Funds.

7. The interest rate charged to the Non-Money Market Funds on any Interfund Loan (the ''Interfund Loan Rate'') will be the average of the ''Repo Rate'' and the ''Bank Loan Rate'' (both as defined below). The Repo Rate for any day will be the highest rate available to the Central Funds from investments in overnight repurchase agreements. The Bank Loan Rate for any day will be calculated by PIMCO each day an Interfund Loan is made according to a formula established by each Non-Money Market Fund's board of trustees or directors (''Board'') designed to approximate the lowest interest rate at which bank short-term loans would be available to the Non-Money Market Funds. The formula would be based on the publicly available rate and would vary with this rate to reflect changing bank loan rates. Each Non-Money Market Fund's Board periodically will review the continuing appropriateness of using the publicly available rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Non-Money Market Funds. The initial formula and any subsequent modifications will be subject to the approval of each Non-Money Market Fund's Board.

8. The Interfund Loans would be administered by PIMCO. Under the Interfund Lending Agreements, the portfolio managers for each participating Fund may provide standing instructions to participate daily as a borrower or lender. On each business day, PIMCO will collect data on the Cash Balances and borrowing requirements of all participating Funds from the Fund's customers. Once it determines the aggregate amount of cash available for loans and borrowing demand, PIMCO will allocate loans from the Central Funds among the Non-Money Market Funds without any further communication from portfolio managers. Applicants expect that there will be more available Cash Balances each day than borrowing demand. After PIMCO has allocated cash for Interfund Loans, it will invest any remaining cash in accordance with standing instructions from each Central Fund's portfolio manager or return remaining amounts for investment directly by the portfolio manager of each Central Fund. The Central Funds typically will not participate as borrowers because they rarely need to borrow cash to meet redemptions. The Central Funds typically will not participate as borrowers because they rarely need to borrow cash to meet redemptions.

9. PIMCO will allocate borrowing demand and cash available for lending among the Funds on what PIMCO believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Fund's Board, including a majority of the directors or trustees who are not ''interested person'' of the Fund, as defined in section 2(a)(19) of the Act (''Independent Trustees''), to ensure that both Non-Money Market Funds and Central Funds participate in such transactions on an equitable basis.

10. PIMCO will: (a) Monitor the interest rates charged and the other terms and conditions of the Interfund Loans, (b) in consultation with a Fund's Adviser, limit to borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (c) ensure equitable treatment of each Fund, and (d) prepare quarterly reports to each Fund's Board concerning any Interfund Loans in which the Funds participate and the interest rates charged.

11. PIMCO will administer the Interfund Loans as part of its duties under its existing management or

advisory and service contract arrangements with each Fund and will receive no additional fee as compensation for its services.

12. Each Fund's participation in the proposed Interfund Loans will be consistent with its organizational documents and its investment policies and limitations, as disclosed in its registration statement. If required by law, each of the Non-Money Market Funds and the Central Funds will obtain shareholder approval to amend its fundamental investment policies to permit it to engage in Interfund Loans. If the requested order is granted, each Fund will disclose all material facts about its intended participation in Interfund Loans in its SAI and any other appropriate disclosure document.

13. In connection with the Interfund Loans, applicants request an order of exemption pursuant to Sections 12(d)(1)(J), 6(c), and 17(b) of the Act, and an order pursuant to Rule 17d–1 thereunder, subject to certain conditions and limitations, permitting: (a) Each of the Investing Funds to purchase and redeem shares of the Central Funds; (b) the Central Funds to sell their shares to, and to redeem their shares from, each of the Investing Funds; and (c) the Central Funds to lend money to the Non-Money Market Funds.

Applicants' Legal Analysis

A. Investment of Cash Balances in the Central Funds

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company representing more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or, together with the securities of other investment companies, more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt any person, security, or transaction, or class or classes of persons, securities or transactions from any provision of section 12(d)(1) if and to the extent that the exemption is consistent with the public interest and the protection of investors.

3. Applicants request relief under section 12(d)(1)(J) to permit each Investing Fund to use Cash Balances to acquire shares of the Central Funds in excess of the percentage limits in section 12(d)(1)(A) of the Act. Applicants state that each Investing Fund's aggregate investment of Cash Balances in shares of the Central Funds will not exceed the greater of 25% of the Investing Fund's total assets or $10 million. Applicants' proposal also would permit the Central Funds to sell their securities to the Investing Funds in excess of the percentage limitations in section 12(d)(1)(B) of the Act. Applicants represent that, other than to effect the Interfund Lending Agreements, the Central Funds will not acquire shares of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Applicants state that none of the abuses meant to be addressed by section 12(d)(1)(A) is created by the proposed investment of Cash Balances in the Central Funds. Applicants state that the proposed arrangement will not result in an inappropriate layering of either sales charges or investment advisory fees. Shares of the Central Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD'')). In addition, in connection with approving any advisory contract, the Board of each Investing Fund, including a majority of the Independent Trustees, will consider to what extent, if any, the advisory fees charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing fund by the Adviser as a result of Cash Balances being invested in the Central Funds.

5. Applicants also state that there is no threat of redemption to gain undue influence over the Investing funds. The Advisers will serve as investment advisers to each of the Investing Funds and the Central Funds. Applicants also state that due to the highly liquid nature of the Central Funds' portfolios, there will be no need to maintain any special reserve or balances to meet redemptions by the Investing Funds.

6. Sections 17(a)(1) and 17(a)(2) of the Act make it unlawful for an affiliated person of a registered investment company, or any affiliated person of the affiliated person (''Second Tier Affiliate''), acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; any person directly or indirectly controlling, controlled by, or under common control with the other person; and in the case of an investment company, its investment adviser.

7. Applicants state that, as members of the same complex of funds, with a common investment adviser or advisers that are under common control, the Funds may be deemed to be under common control and, thus, the Funds may be deemed to be affiliated persons. Applicants also state that because an Investing Fund may own more than 5% of a Central Fund's outstanding voting securities, the Investing Fund and the Central Fund may be deemed to be affiliated persons and the Investing Fund a Second Tier Affiliate of other Investing Funds that own more than 5% of the Central Fund's shares. As a result, the sale of shares of the Central Funds to the Investing Funds and the redemption of the shares would be prohibited under section 17(a) of the Act.

8. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

9. Section 6(c) of the Act authorizes the SEC to exempt any person or transaction from any provision of the Act if 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 provision of the Act.

10. Applicants maintain that their request for relief to permit the purchase and redemption of shares of the Central Funds by the Investing Funds satisfies the standards in sections 6(c) and 17(b). Applicants note that shares of the Central Funds will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. In addition, applicants state that the Investing Funds will retain their ability to invest Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies if

they believe they can obtain a higher rate of return or for any other reason. Each Central Fund reserves the right to discontinue selling shares to any of the Investing Funds if its Board determines that the sale will adversely affect its portfolio management and operations.

11. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, 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. Applicants state that each Investing Funds, by purchasing shares of the Central Funds, each Adviser, by managing the assets of the Investing Funds invested in the Central Funds, and the Central Funds, by selling shares to and redeeming shares from the Investing Funds, could be deemed to be participants in a joint arrangement within the meaning of section 17(d) and rule 17d–1.

12. Rule 17d–1 under the Act permits the SEC to approve a joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the SEC considers whether the investment company's participation in the joint enterprise 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. Applicants submit that the Funds will participate in the proposed transactions on the same basis and will be indistinguishable from any other shareholder account maintained by the Central Funds and that the transactions will be consistent with the Act. Thus, Applicants submit that the proposed transactions meet the standards for relief under rule 17d–1.

B. Interfund Lending Program

1. Section 17(a)(3) of the act generally prohibits any affiliated person or Second Tier Affiliate of a registered investment company from borrowing money or other property from the company. Section 21(b) of the Act generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. As noted above, applicants state that the Funds may be under common control by virtue of having the Advisers as their common investment advisers, and may be affiliated persons also because the Non-Money Market Funds may hold more than 5% of the shares of the Central Funds. As a result, the Central Funds would be prohibited from lending to the Non-Money Market Funds under sections 17(a)(3) and 21(b) of the Act. Applicants request relief under sections 6(c) and 17(b) of the Act from sections 17(a)(3) and 21(b).

2. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a person with potential adverse interests to and influence over the investment decisions of a registered investment company form causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed Interfund Loans do not raise these concerns because: (a) PIMCO will administer the program as a disinterested fiduciary; (b) all Interfund Loans will consist only of uninvested cash reserves that the Central Funds otherwise would invest in short-term instruments consistent with their investment objectives and policies; (c) the Interfund Loans would not expose the Non-Money Market Funds or the Central Funds to greater risk than other similar investments; (d) the Central Funds will receive interest at a rate higher than they could obtain through other similar investments; and (e) the Non-Money Market Funds would pay interest at a rate lower than otherwise available to them and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants submit that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

3. As noted above, section 17(a)(1) generally prohibits an affiliated person or a Second their Affiliate of a registered investment company from selling any securities or other property to the company. Also as discussed above, section 12(d)(1)(A) of the Act generally makes it unlawful for a registered investment company except in accordance with the limitations set forth in that section. Applicants state that the obligation of a Non-Money Market Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b) and 12(d)(1)(J) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

4. Applicants state that section 12(d)(1)(A) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants note that there would be no duplicative costs or fees to the Funds or their shareholders, and that PIMCO would receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the credit facility is to same money for all participating Funds by reducing the costs paid by Non-Money Market Funds and increasing returns for the Central Funds.

5. Section 18(f)(1) prohibits registered open-end investment companies from issuing any senior security, except that a company is permitted to borrow from any bank, if immediately after the borrowing, there is an asset coverage of at least 300% for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) of the Act to the limited extent necessary to implement the Interfund Loans (because the Central Funds are not banks).

6. Applicants submit that granting relief under section 6(c) is appropriate because the Non-Money Market Funds will remain subject to the requirement of section 18(f)(1) that all borrowings of each Non-Money Market Fund, including combined interfund and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Non-Money Market Funds to borrow from the Central Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

7. As noted above, section 17(d) of the Act and rule 17d–1 thereunder generally prohibit any affiliated person or Second Tier Affiliate of a registered investment company, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon applications for exemptive relief from section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is

on a basis different from or less advantageous than that of other participants. Applicants request an order under rule 17d–1 with respect to the proposed credit facility. Applicants submit that the proposed transactions meet these standards for the reasons discussed below.

8. Applicants maintain that the Interfund Loans are consistent with the provisions, policies and purposes of the Act in that they offer both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the Interfund Loans will be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

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

Investment of Cash Balances in the Central Funds

1. The shares of the Central Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with Rule 12b–1 under the Act, or service fee (as defined in Rule 2830(b)(9) of the National Association of Securities Dealers' Conduct Rules).

2. No Central Fund will acquire securities of any other investment company in excess of the limits contained in Section 12(d)(1)(A) of the Act, except as permitted by an SEC order governing interfund loans.

3. Before the next meeting of the Board of an Investing Fund that invests in the Central Funds is held for the purpose of reviewing, voting on, and renewing an investment advisory contract of the Investing Fund, the Adviser of the Investing Fund, as part of its presentation to the Board pursuant to Section 15(c) of the Act, will provide the Board with specific information regarding the approximate cost to the Adviser of, or the portion of the investment advisory fee under the existing investment advisory agreement attributable to, managing the Uninvested Cash of the Investing Fund that may be invested in the Central Funds. Before approving any investment advisory contract for an Investing Fund, the Board of the Investing Fund, including a majority of the Independent Trustees, shall consider to what extent, if any, the investment advisory fees charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in the Central Funds. The minute books of the Investing Fund will record fully the Board's consideration in approving the investment advisory contract, including the consideration relating to the fees referred to above.

4. An Investing Fund may invest Uninvested Cash in, and hold shares of, the Central Funds only to the extent that the Investing Fund's aggregate investment of Uninvested Cash in the Central Funds does not exceed the greater of 25% of the Investing Fund's total assets or $10 million. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

5. Each Investing Fund and Central Fund shall be advised by an Adviser.

6. Investment of Cash Balances by an Investing Fund in shares of the Central Funds will be consistent with each Investing Fund's respective investment restrictions and policies as set forth in its prospectus and SAI.

7. Before an Investing Fund may participate in a securities lending program, a majority of the Board, including a majority of the Independent Trustees, will approve the Investing Fund's participation in the securities lending program. Such Trustees also will evaluate the securities lending program and its results no less frequently than annually and determine that any investment of Cash Collateral in the Central Funds is in the best interest of the shareholders of the Investing Fund.

Interfund Lending Agreements

1. The interest rate to be charged to the Non-Money Market Funds under the Interfund Lending Agreements will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, PIMCO will compare the Interfund Loan Rate with the Bank Loan Rate and the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is more favorable to the Central Funds than the Repo Rate and more favorable to the Non-Money Market Fund than the Bank Loan Rate.

3. If a Non-Money Market Fund has outstanding borrowings, any Interfund Loans to the Non-Money Market (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan values as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in any event not over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Non-Money Market Fund, that event of default will automatically (without need for action or notice by the lending Central Funds) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Central Funds to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the Non-Money Market Fund.

4. A Non-Money Market Fund may make an unsecured borrowing through an Interfund Lending Agreement if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets; provided that if the Non-Money Market Fund has a secured loan outstanding from any other lender, including but not limited to the Central Funds, the Non-Money Market Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Non-Money Market Fund's total outstanding borrowings immediately after the interfund borrowing will be greater than 10% of its total assets, the Fund may borrow on a secured basis only. A Non-Money Market Fund may not borrow through the credit facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would exceed the limits imposed by Section 18 of the Act.

5. Before any Non-Money Market Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Non-Money Market Fund much first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value equal to at least 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Non-Money Market Fund with outstanding Interfund Loans exceed 10% of its assets for any other reason (such as decline in net asset value or because of shareholder redemptions), the Non-Money Market Fund will within one business day thereafter: (a) Repay all its outstanding Interfund

Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value equal to at least 102% of the outstanding principal value of the loan until the Non-Money Market Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Non-Money Market Fund's total outstanding borrowings exceeds 10% is repaid or the Non-Money Market Fund's total outstanding borrowings exceed 10% of its total assets, Non-Money Market Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan to at least 102% of the outstanding principal value of the loan.

6. A Central Fund may not lend to a Non-Money Market Fund if the loan will cause the Central Fund's aggregate outstanding loans through the credit facility to exceed 15% of its net assets at the time of the loan.

7. A Central Fund's Interfund Loans to any one Non-Money Market Fund shall not exceed 5% of the Central Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold to cover either shareholder redemptions or ''sales fails,'' but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Non-Money Market Fund's borrowings through Interfund Loans, as measured on the day the most recent loan was made, will not exceed the greater of 125% of the Non-Money Market Fund's total net cash redemptions and 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by the Central Fund and may be repair on any day by the Non-Money Market Fund.

11. A Fund's participation in the Interfund Loans must be consistent with its investment policies and limitations and organizational documents.

12. PIMCO will calculate total Fund borrowing and lending demand, and allocate loans on an equitable basis among the Non-Money Market Funds without intervention of the portfolio manager of the Funds. PIMCO will not solicit cash for Interfund Loans from the Central Funds or prospectively publish or disseminate loan demand data to portfolio managers. PIMCO will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from the Central Funds' portfolio managers or return remaining amounts for investment directly by the portfolio manager of each Central Fund.

13. PIMCO will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to each Fund's Board concerning the participation of the Fund in the Interfund Loans and the terms and other conditions of any extensions of credit thereunder.

14. The Board of each Fund, including a majority of the Independent Trustees: (a) Will review no less frequently than quarterly the Fund's participation in the Interfund Loans during the preceding quarter for compliance with the conditions of any order permitting such transactions; (b) will establish the formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the Interfund Loans.

15. In the event an Interfund Loan is not paid according to its terms and such default is not cured within two business days from its maturity or from the time the Central Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, PIMCO will promptly refer such loan for arbitration to an independent arbitrator selected by the Board of any Fund involved in the loan, who will serve as arbitrator of any disputes concerning Interfund Loans. The arbitrator will resolve any problem promptly, and the abritrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Board setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute. If the dispute involves Funds with separate Boards, the Board of each Fund will select an independent arbitrator that is satisfactory to each Fund.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any Interfund Loans occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, and such other information presented to the Fund's Board in connection with the review required by conditions 13 and 14.

17. PIMCO will prepare and submit to each Fund's Board for review an initial report describing the operations of the Interfund Loans and the procedures to be implemented to ensure that all Funds are treated fairly. After the Interfund Loans commence, PIMCO will report on the operations of the Interfund Loans at the Board's quarterly meetings.

In addition, for two years following the commencement of the Interfund Loans, the independent public accountant for each Fund shall prepare an annual report that evaluates PIMCO's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statement on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board of each Fund; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate available on any third party borrowings of the Fund at the time of the Interfund Loan.

After the final report is filed, the Funds' external auditors, in connection with their Fund audit examinations, will continue to review the Interfund Loans for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the Interfund Loans unless it has fully disclosed in its SAI and any other appropriate disclosure document all material facts about its intended participation.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27078 Filed 10–26–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25222; File No. 812–12606]

Hartford Life Insurance Company, et al., Notice of Application

October 23, 2001.

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

ACTION: Notice of an application for an order pursuant to section 11(a) of the Investment Company Act of 1940 (the ''Act'') approving the terms of an offer of a longevity reward rider (the ''LRR'') to owners of certain variable annuity contracts (the ''Contracts'').

SUMMARY OF APPLICATION: Hartford Life Insurance Company (''Hartford Life''), Hartford Life and Annuity Insurance Company (''Hartford Life and Annuity,'' together with Hartford Life, ''Hartford''), Hartford Life Insurance Company Separate Account Three (''HL Account Three''), Hartford Life and Annuity Insurance Company Separate Account Three (''HLA Account Three,'' together with the HL Account Three, the ''Separate Accounts''), and Hartford Securities Distribution Company, Inc. (''HSD'') seek an order approving the terms of a proposed offer of a rider for certain existing variable annuity contract (the ''Contracts'') issued by Hartford Life and Hartford Life and Annuity that reduces or waives certain charges and imposes a new Contingent Deferred Sales Charge (''CDSC'') on premium payments made before or after the rider's issue date (the ''Rider Date'').

APPLICANTS: Hartford Life, Hartford Life and Annuity, HL Account Three, HLA Account Three, and HSD (collectively, ''Applicants'').

FILING DATE: This application was filed on August 21, 2001.

HEARING OR NOTIFICATION 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 must be received by the Commission by 5:30 p.m. on November 14, 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 by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC, 20549–0609. Applicants, Michael Stobart, Esq., Hartford Life Insurance Company, Inc., 200 Hopmeadow Street, Simsbury, CT 06089.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Marquigny, Senior Counsel, or Lorna MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

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 (telephone (202) 942–8090).

Applicants' Representations

1. Hartford Life is a stock life insurance company originally incorporated under the laws of Massachusetts on June 5, 1902, and subsequently re-domiciled to Connecticut. Hartford life is engaged in the business of writing individual and group life insurance and annuity contracts in the District of Columbia and all states. Hartford Life is a subsidiary of Hartford Fire Insurance Company. Hartford Life is ultimately controlled by The Hartford Financial Services Group, Inc., a Delaware corporation whose stock is traded on the New York Stock Exchange. For purposes of the Act, Hartford Life is the depositor and sponsor of the HL Account Three, as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

2. Hartford Life and Annuity is a stock life insurance company originally incorporated under the laws of Wisconsin on January 9, 1956, and subsequently redomiciled to Connecticut. Hartford Life and Annuity is engaged in the business of writing individual and group life insurance and annuity contracts in Puerto Rico, the District of Columbia and all states but New York. Hartford Life and Annuity is a subsidiary of Hartford Fire Insurance Company. Hartford Life and Annuity is ultimately controlled by The Hartford Financial Services Group, Inc., a Delaware corporation whose stock is traded on the New York Stock Exchange. For purposes of the Act, Hartford Life and Annuity is the depositor and sponsor of the HLA Account Three, as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

3. Hartford Life established the HL Account Three on June 22, 1994, and Hartford Life and Annuity established the HLA Account Three on June 22, 1994, as segregated investment accounts under Connecticut law. Under Connecticut law, the assets of the HL Account Three attributable to the Contracts, through which interests in HL Account Three are issued, are owned by Hartford Life, but are held separately from all other assets of Hartford Life for the benefit of the owners of, and the persons entitled to payment under, Contracts. Similarly, the assets of the HLA Account Three attributable to the Contracts, through which interests in the HLA Account Three are issued, are owned by Hartford Life and Annuity, but are held separately from all other assets of Hartford Life and Annuity for the benefit of the owners of, and the persons entitled to payment under, those Contracts. Consequently, such assets in each Separate Account are not chargeable with liabilities arising out of any other business that Hartford Life and Hartford Life and Annuity may conduct. Income, gains and losses, realized and unrealized, from the assets of each of these Separate Accounts are credited to or charged against that Separate Account without regard to the income, gains or loses arising out of any other business that Hartford Life and Hartford Life and Annuity may conduct. Each Separate Account is a ''separate account'' as defined by Rule 0–1(e) under the Act, and is registered with the Commission as a unit investment trust.

4. The assets of the HL Account Three support variable annuity Contracts, and interests in the HL Account Three offered through such Contracts have been registered under the Securities Act of 1933 (the ''1933 Act'') on Form N–4. The assets of the HLA Account Three support variable annuity Contracts, and interests in the HLA Account Three offered through such Contracts have been registered under the 1933 Act on Form N–4.

5. HSD is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. HSD is the principal underwriter for the Contracts and for other Hartford variable insurance products. HSD is an affiliate