approach used to adjust outstanding options on stocks that have undergone a two-for-one stock split.

The Commission believes that doubling the Index's divisor will not have an adverse market impact or make trading in XOC options susceptible to manipulation. After the split, the Index will continue to be comprised of the same stocks with the same weightings and will be calculated in the same manner (except for the change in the divisor). The Phlx's surveillance procedures will also remain the same.

Lastly, for the reasons discussed below, the Commission also believes that the commenter's criticisms of the rule proposal have been adequately addressed by the Phlx's response. First, issues regarding the appropriate value of an index are business decisions typically left to the discretion of an exchange, particularly in the absence of Commission concerns regarding potential manipulation, investor confusion, or other regulatory concerns. Second, the Commission believes that the Exchange's proposal to adjust the Index in a manner similar to a two-for-one stock split provides a simple, orderly, and efficient means to effect the adjustment. Third, the Commission believes that the Phlx will be able to provide adequate notice to market participants regarding to change to the Index value prior to its implementation. As noted above,[14] the Phlx has already indicated its intent, subject to Commission approval, to adjust the Index value after the December expiration.

V. Conclusion

For the foregoing reasons, the Commission finds that the Phlx's proposal to reduce the value of the Index to one-half of its present value is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–Phlx–95–61) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–30855 Filed 12–19–95; 8:45 am]

BILLING CODE 8010–01–M

[14] See supra note 9.

[15] 15 U.S.C. 78s(b)(2) (1988).

[16] 17 CFR 200.30–3(a)(12) (1994).

[Rel. No. IC–21600; File No. 812–9526]

Connecticut General Life Insurance Company, et al.

December 13, 1995.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Connecticut General Life Insurance Company (''CG Life''), CG Variable Life Insurance Separate Account II (the ''Account''), and CIGNA Financial Advisors, Inc. (''CIGNA'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applciants seek an order to permit them to deduct a charge that is reasonable in relation to CG Life's increased federal income tax burden resulting from the receipt by CG Life of premiums in connection with certain flexible premium variable life insurance contracts issued by CG Life, the Account and any other separate account established in the future by CG Life (the ''Other Accounts,'' collectively, with the Account, the ''Accounts'').

FILING DATE: The application was filed on March 13, 1995 and amended and restated on August 1, 1995 and December 1, 1995.

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 on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on January 8, 1996 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 interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Robert A. Picarello, Esq., Connecticut General Life Insurance Company, 900 Cottage Grove Road, Hartford, Connecticut 06152.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, or Wendy Friedlander, Deputy Chief, both at (202) 942–0670, 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 Commission's Public Reference Branch.

Applicants' Representations

1. CG Life, a stock life insurance company domiciled in Connecticut, is a wholly owned subsidiary of CIGNA Holdings, Inc., which is, in turn, wholly owned by CIGNA Corporation. The Account, established by CG Life on July 6, 1994 pursuant to Connecticut law, is registered with the Commission as a unit investment trust. The assets of the Account are divided among subaccounts, each of which will invest in shares of one of five registered investment companies (the ''Funds''). The funds currently offer sixteen portfolios for investment. Each of the Funds is an open-end diversified management investment company under the 1940 Act. The Other Accounts will be organized as unit investment trusts and will file registration statements under the 1940 Act and the Securities Act of 1933.

2. CIGNA will serve as the distributor and the principal underwriter of the Existing Contracts, described below. Applicants state that they expect CIGNA also to serve as the distributor and the principal underwriter of the Future Contracts, described below. CIGNA is a wholly owned subsidiary of Connecticut General Corporation, CIGNA, which is, in turn, a wholly owned subsidary of CIGNA Corporation. CIGNA a member of the National Association of Securities Dealers, Inc., is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934, and as an investment adviser under the Investment Advisers Act of 1940.

3. The Existing Contracts are flexible premium variable life insurance policies, and will be issued on a group or individual basis. The Future Contracts will be substantially similar in all material respects to the Existing Contracts (the Future Contracts, collectively, with the Existing Contracts, the ''Contracts''). The Contracts will be issued in reliance on Rule 6e–3(T)(b)(13)(i)(A) under the 1940 Act. Applicants state that CG Life will deduct 1.15% of each premium payment made under the Contracts to cover CG Life's estimated cost for the federal income tax treatment of deferred acquisition costs.

4. In the Omnibus Budget Reconciliation Act of 1990, Congress amended the Internal Revenue Code of 1986 (the ''Code'') by, among other things, enacting Section 848 thereof.

Section 848 changed how a life insurance company must compute its itemized deductions from gross income for federal income tax purposes. Section 848 requires an insurance company to capitalize and amortize over a period of ten years part of the company's general expenses for the current year. Under prior law, these general expenses were deductible in full from the current year's gross income.

5. The amount of expenses that must be capitalized and amortized over ten years rather than deducted in the year incurred is based solely upon ''net premiums'' received in connection with certain types of insurance contracts. Section 848 of the Code defines ''net premium'' for a type of contract as gross premiums received by the insurance company on the contracts minus return premiums and premiums paid by the insurance company for reinsurance of its obligations under such contracts. Applicants state that the effect of Section 848 is to accelerate the realization of income from insurance contracts covered by that Section, and, accordingly, the payment of taxes on the income generated by those contracts.

6. The amount of general expenses that must be capitalized depends upon the type of contract to which the premiums received relate and varies according to a schedule set forth in Section 848. Applicants state that the Contracts are ''specified insurance contracts'' that fall into the category of life insurance contracts, and under Section 848, 7.7% of the year's net premiums received must be capitalized and amortized.

7. Applicants state that CG Life's increased tax burden resulting from section 848 may be quantified as follows. For each $10,000 of net premiums received by CG Life under the Contracts in a given year, section 848 requires CG Life to capitalize $770 (7.7% of $10,000), and $38.50 (one-half year's portion of the ten year amortization) of this $770 may be deducted in the current year. This leaves $731.50 ($770 minus $38.50) subject to taxation at the corporate tax rate of 35%, and results in an increase in tax for the current year of $256.03 (.35×$731.50). This increase will be partially offset by deductions that will be allowed during the next ten years as a result of amortizing the remainder of the $770 ($77 in each of the following nine years and $38.50 in the tenth year).

8. In the business judgment of CG Life, a discount rate of 10% is appropriate for use in calculating the present value of CG Life's future tax deductions resulting from the amortization described above. Applicants state that CG Life seeks an after tax rate of return on the investment of its capital in excess of 10%. To the extent that capital must be used by CG Life to meet its increased federal tax burden under section 848 resulting from the receipt of premiums, such capital is not available to CG Life for investment. Thus, Applicants contend, the cost of capital used to satisfy CG Life's increased federal income tax burden under section 848 is, in essence, CG Life's after tax rate of return on capital; and, accordingly, the rate of return on capital is appropriate for use in this present value calculation.

9. Applicants submit that, to the extent that the 10% discount rate is lower than CG Life's actual targeted rate of return, a measure of comfort is provided that the calculation of CG Life's increased tax burden attributable to the receipt of premiums will continue to be reasonable over time, even if the corporate tax or the targeted after tax rate of return applicable to CG Life is reduced. CG Life undertakes to monitor the tax burden imposed on it and to reduce the charge to the extent of any significant decrease in the tax burden.

10. In determining the after tax rate of return used in arriving at the 10% discount rate, Applicants state that CG Life considered several factors, including: historical capital costs; market interest rates; CG Life's anticipated long term growth rate; the risk level for this type of business; and inflation. CG Life represents that such factors are appropriate factors to consider in determining CG Life's cost of capital. Applicants state that CG Life projects its future growth rate based on its sales projections, the current interest rates, the inflation rate, and the amount of capital that CG Life can provide to support such growth. CG Life then uses the anticipated growth rate and the other factors enumerated above to set a rate of return on capital that equals or exceeds this rate of growth. Applicants state the CG Life seeks to maintain a ratio of capital to assets that is established based on CG Life's judgment of the risk represented by various components of CG Life's assets and liabilities. Applicants state that maintaining the ratio of capital to assets is critical to offering competitively prices products and, as to CG Life, to maintaining a competitive rating from various rating agencies. Consequently, Applicants state that CG Life's capital should grow at least at the same rate as do CG Life's assets.

11. Applying the 10% discount rate, and assuming a 35% corporate income tax rate, the present value of the tax effect of the increased deductions allowable in the following ten years amounts to a federal income tax savings of $160.40. Thus, the present value of the increased tax burden resulting from the effect of section 848 on each $10,000 of net premiums received under the Contracts is $95.63, *i.e.*, $256.03 minus $160.40 or 1.47%.

12. State premium taxes are deductible in computing federal income taxes. Thus, CG Life does not incur incremental federal income tax when it passes on state premium taxes to owners of the Contracts. Conversely, federal income taxes are not deductible in computing CG Life's federal income taxes. To compensate CG Life fully for the impact of section 848, therefore, it would be necessary to allow CG Life to impose in additional charge that would make CG Life whole not only for the $95.63 additional federal income tax burden attributable to section 848 but also for the federal income tax on the additional $95.63 itself. This federal income tax can be determined by dividing $95.63 by the complement of the 35% federal corporate income tax rate, *i.e.*, 65%, resulting in an additional charge of $147.12 for each $10,000 of net premiums, or 1.46%.

13. Based on prior experience, CG Life expects that all of its current and future deductions will be fully taken. It is the judgment of CG Life that a charge of 1.15% would reimburse CG Life for the impact of section 848 on CG Life's federal income tax liabilities. Applicants represent that the charge to be deducted by CG Life pursuant to the relief requested is reasonably related to the increased federal income tax burden under section 848, taking into account that benefit to CG Life of the amortization permitted by section 848, and the use by CG Life of a discount rate of 10% in computing the future deductions resulting from such amortization, such rate being the equivalent of CG Life's cost of capital.

14. CG Life asserts that although a charge of 1.15% of premium payments would reimburse CG Life's for the impact of section 848 (as currently written) on CG Life's federal income tax liabilities, it will have to increase this charge if any future change in, or interpretation of section 848, or any successor provision, results in an increased federal income tax burden due to the receipt of premiums. Such an increase could result from a change in the corporate federal income tax rate, a change in the 7.7% figure, or a change in the amortization period.

Applicant's Legal Analysis

1. Applicants request an order of the Commission pursuant to Section 6(c)

exempting them from the provisions of Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder to the extent necessary to permit deductions to be made from premium payments received in connection with the Contracts. The deductions would be in an amount that is reasonable in relation to CG Life's increased federal income tax burden related to the receipt by such premiums. Applicants further request an exemption from Rule 6e–3(T)(c)(4)(v) under the 1940 Act to permit the proposed deductions to be treated as other than ''sales load'' for the purposes of Section 27 of the 1940 Act and the exemptions from various provisions of that Section found in Rule 6e–3(T)(b)(13).

2. Section 6(c) of the 1940 Act provides, in pertinent part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction from any provision of the 1940 Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the 1940 Act.

3. Section 27(c)(2) of the 1940 Act prohibits the sale of periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sales load) are held under an indenture or agreement containing in substance the provisions required by Sections 26(a)(2) and 26(a)(3) of the 1940 Act. Certain provisions of Rule 6e–3(T) provide a range of exemptive relief for the offering of flexible premium variable life insurance policies such as the Contracts. Rule 6e–3(T)(b)(13)(iii) provides, subject to certain conditions, exemptions from Section 27(c)(2) that include permitting a payment of certain administrative fees and expenses, the deduction of a charge for certain mortality and expense risks, and the ''deduction of premium taxes imposed by any state or other governmental entity.''

4. Rule 6e–3(T)(c)(4) defines ''sales load'' charged during a contract period as the excess of any payments made during the period over the sum of certain specified charges and adjustments, including ''a deduction for and approximately equal to state premium taxes.''

5. Applicants submit that the deduction for federal income tax charges, proposed to be deducted in connection with the Contracts, is akin to a state premium tax charge in that it is an appropriate charge related to CG Life's tax burden attributable to premiums received. Thus, Applicants submit that the proposed deduction be treated as other than sales load, as is a state premium tax charge, for purposes of the 1940 Act.

6. Applicants contend that the requested exemptions from Rule 6e–3(T)(c)(4) are necessary in connection with Applicant's reliance on certain provisions of Rule 6e–3(T)(b)(13), and particularly on subparagraph (b)(13)(i) of the Rule, which provides exemptions from Sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates may rely on Rule 6e–3(T)(b)(13)(i) only if they meet the Rule's alternative limitations on sales load as defined in Rule 6e–3(T)(c)(4). Applicants state that, depending upon the load structure of a particular Contract, these alternative limitations may not be met if the deduction for the increase in an issuer's federal tax burden is included in sales load. Although a deduction for an insurance company's increased federal tax burden does not fall squarely within any of the specified charges or adjustments which are excluded from the definition of ''sales load'' in Rule 6e–3(T)(c)(4), Applicants state that they have found no public policy reason for including these deductions in ''sales load.''

7. The public policy that underlies Rule 6e–3(T)(b)(13)(i), like that which underlies Sections 27(a)(1) and 27(h)(1) of the 1940 Act, is to prevent excessive sales loads from being charged in connection with the sale of periodic payment plan certificates. Applicants submit that the treatment of a federal income tax charge attributable to premium payments as sales load would not in any way further this legislative purpose because such a deduction has no relation to the payment of sales commissions or other distribution expenses. Applicants state that the Commission has concurred with this conclusion by excluding deductions for state premium taxes from the definition of ''sales load'' in Rule 6e–3(T)(c)(4).

8. Applicants assert that the source for the definition of ''sales load'' found in the Rule supports this analysis. Applicants state that the Commission's intent in adopting such provisions was to tailor the general terms of Section 2(a)(35) of the 1940 Act to variable life insurance contracts. Just as the percentage limits of Sections 27(a)(1) and 27(h)(1) depend on the definition of ''sales load'' in Section 2(a)(35) for their efficacy, the percentage limits in Rule 6e–3(T)(b)(13)(i) depend on Rule 6e–3(T)(c)(4), which does not depart, in principle, from Section 2(a)(35).

9. Section 2(a)(35) excludes deductions from premiums for ''issue taxes'' from the definition of ''sales load'' under the 1940 Act. Applicants submit that this suggests that it is consistent with the policies of the 1940 Act to exclude from the definition of ''sales load'' in Rule 6e–3(T) deductions made to pay an insurance company's costs attributable to its tax obligations. Section 2(a)(35) also excludes administrative expenses or fees that are ''not properly chargeable to sales or promotional activities.'' Applicants contend that this suggests that the only deductions intended to fall within the definition of ''sales load'' are those that are properly chargeable to such activities. Because the proposed deductions will be used to compensate CG Life for its increased federal income tax burden attributable to the receipt of premiums, and are not properly chargeable to sales or promotional activities, this language in Section 2(a)(35) is another indication that not treating such deductions as ''sales load'' is consistent with the policies of the 1940 Act.

10. Applicants assert that the terms of the relief requested with respect to Contracts to be issued through the Accounts are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, CG Life would have to request and obtain exemptive relief for each Contract to be issued through one of the Accounts. Applicants state that such additional requests for exemptive relief would present no issues under the 1940 Act not already addressed in this request for exemptive relief.

11. Applicants assert that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable life insurance market by eliminating the need for CG Life and Other Accounts to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. The delay and expense involved in having to seek repeated exemptive relief would impair the ability of CG Life and the Accounts to take advantage fully of business opportunities as those opportunities arise. Additionally, Applicants state that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. If CG Life and the Other Accounts were required to seek exemptive relief repeatedly with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby and might be disadvantaged as a result of increased overhead expenses for CG Life and the Accounts.

Conditions for Relief

1. Applicants represent that CG Life will monitor the reasonableness of the charge to be deducted by CG Life pursuant to the requested exemptive relief.

2. Applicants represent that the registration statement for each Contract under which the charge referenced in paragraph one of this section is deducted will: (i) disclose the charge; (ii) explain the purpose of the charge; and (iii) state that the charge is reasonable in relation to CG Life's increased federal income tax burden under Section 848 resulting from the receipt of premiums.

3. Applicants represent that the registration statement for each Contract under which the charge referenced in paragraph one of this section is deducted will contain as an exhibit an actuarial opinion as to: (i) the reasonableness of the charge in relation to CG Life's increased federal income tax burden under Section 848 resulting from the receipt of premiums; [1] (ii) the reasonableness of the after tax rate of return that is used in calculating such charge and the relationship that such charge has to CG Life's cost of capital; and (iii) the appropriateness of the factors taken into account by CG Life in determining the after tax rate of return.

Conclusion

Applicants submit that, for the reasons and upon the facts set forth above, the requested exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder, to permit CG Life to deduct 1.15% of premium payments under the Contracts, meet the standards set forth in Section 6(c) of the 1940 Act. In this regard, Applicants assert that granting the relief requested in the application would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Jonathan G. Katz,

Secretary.

FR Doc. 95–30858 Filed 12–19–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicants represent that they will amend the application during the Notice period to include this condition as set forth herein.

[Investment Company Act Release No. 21597; 812–9476]

The Diversified Investors Funds Group, et al.; Notice of Application

December 13, 1995.

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

ACTION: Notice of Application for an Order Under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: The Diversified Investors Funds Group (''Diversified Fund''); Diversified Investors Portfolios (''Diversified Portfolios''); Diversified Investment Advisors, Inc. (''Diversified''), on behalf of itself and each open-end management investment company or series thereof organized in the future (the ''Future Funds'') which is a member of the same ''group of investment companies'' as defined in rule 11a–3 under the Act; and Diversified Investors Securities Corp. (the ''Distributor'').

RELEVANT ACT SECTIONS: Order of exemption requested pursuant to section 6(c) of the Act from section 12(d)(1) of the Act, pursuant to sections 6(c) and 17(b) of the Act from section 17(a) of the Act, and pursuant to rule 17d–1 under the Act permitting certain joint transactions in accordance with section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: The requested order would permit applicants to create a ''fund of funds'' that initially will have three portfolios. Each portfolio would allocate substantially all of its assets among the series of Diversified Fund or of the Future Funds (each such series and Future Fund is referred to individually as an ''Underlying Spoke,'' and all such series and Future Funds, collectively, as the ''Underlying Spokes'') without regard to the percentage limitations of section 12(d)(1). The Underlying Spokes, in turn, will invest in a corresponding series of Diversified Portfolios or of a Future Fund (each such series and Future Fund is referred to individually as an ''Underlying Hub,'' and all such series and Future Funds, collectively, as the ''Underlying Hubs''). The requested order also would permit certain affiliated joint transactions in accordance with section 17(d) of the Act and rule 17d–1.

FILING DATES: The application was filed on February 6, 1995, and amended and restated on June 2, 1995, July 12, 1995, and December 12, 1995.

HEARING OR NOTIFICATION OF HEARINGS: An order granting the application 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 January 8, 1996, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 4 Manhattanville Road, Purchase, New York 10577.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney, at (202) 942–0579, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Diversified Fund is organized as a Massachusetts business trust. Diversified Portfolios is organized as a trust under the laws of the State of New York. Each of Diversified Fund and Diversified Portfolios is registered as an open–end management investment company under the Act. Diversified Fund currently consists of eight separate series and Diversified Portfolios currently consists of nine separate series.

2. Diversified is a registered investment adviser under the Investment Advisers Act of 1940. Diversified is an indirect, wholly-owned subsidiary of AEGON USA, Inc., a financial services holding company whose primary emphasis is life and health insurance and annuity and investment products. AEGON USA, Inc. is an indirect, wholly-owned subsidiary of AEGON nv, a Netherlands corporation which is a publicly traded international insurance group. Diversified currently is the investment manager for Diversified Portfolios and acts as administrator and transfer agent for Diversified Fund. Each Underlying Spoke organized in the future will be administered by Diversified, and each Underlying Hub organizer in the future will be advised by Diversified. Diversified Investors Securities Corp.