For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16931 Filed 7–10–95; 8:45 am]

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[Rel. No. IC–21181; No. 812–9514]

Hartford Life Insurance Company, et al.

June 30, 1995.

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

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

APPLICANTS: Hartford Life Insurance Company (''Hartford''), ITT Hartford Life and Annuity Insurance Company (''ITT-Hartford'') (collectively, ''Companies''), Separate Account VL–II of Hartford (''Account VL–II''), Separate Account VL III of ITT-Hartford (''Account VL–III'') (collectively, ''Separate Accounts''), any future separate accounts (''Future Accounts'') of the Companies offering variable life insurance contracts (''Future Contracts'') that are materially similar to the last survivor flexible premium variable life insurance contracts (''Contracts'') offered by the Separate Accounts, and Hartford Equity Sales Company (''HESCO'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 27(a)(3) and 27(c)(2) of the 1940 Act and Rules 6e–3(T)(b)(13)(ii) and 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the issuance of the Contracts in which: (1) Premium payments attributable to the basic face amount in excess of the target premium and any premium payments attributable to the supplemental face amount may be subject to a lower sales load when compared to a subsequent year's premium payment attributable to the basic face amount up to the target premium; and (2) a deduction is made from premium payments of an amount that is reasonably related to the Companies' increased federal tax burden resulting from the application of Section 848 of the Internal Revenue Code of 1986, as amended (''Code'').

FILING DATE: The application was filed on March 3, 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 by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 24, 1995, 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 requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Rodney J. Vessels, Esq., Counsel, ITT Hartford Life Insurance Companies, 200 Hopmeadow Street, Simsbury, Connecticut 06089.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The 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. Hartford, a Connecticut stock life insurance company, offers life insurance in all states and the District of Columbia. Hartford is indirectly wholly-owned by Hartford Fire Insurance Company, a subsidiary of ITT Corporation.

2. ITT-Hartford, a Wisconsin stock life insurance company, offers life insurance and annuities in all states, except New York, and in the District of Columbia. ITT-Hartford is a wholly owned subsidiary of Hartford.

3. Account VL-II was established by Hartford as a separate account under the insurance laws of Connecticut. Account VL-III was established by ITT-Hartford as a separate account under the insurance laws of Wisconsin. The Separate Accounts have filed registration statements to register as unit investment trusts under the 1940 Act. Registration statements also have been filed under the Securities Act of 1933 in connection with the offering of the Contracts by the Separate Accounts. Each Separate Account presently is comprised of twenty-two sub-accounts (''Sub-Accounts''), which invest exclusively in certain open-end management investment companies or series of such companies (''Funds'').[1]

4. HESCO is the principal underwriter for the Contracts and for other variable insurance contracts issued by the Companies' other separate accounts. HESCO is registered as a broker-dealer under the Securities Exchange Act of 1934.

5. The Policies are last survivor flexible premium variable life insurance contracts that provide for allocation of premium payments to the Sub-Accounts or to a fixed account. The cash value and the death benefit under the Contracts may fluctuate depending on the investment experience of the Sub-Accounts. There are three Death Benefit Options, which are payable at the death of the last surviving insured: (a) face amount; (b) face amount plus account value; or (c) face amount plus a return of premiums. The minimum death benefit is equal to the account value multiplied by a specified percentage, which varies according to certain conditions. The Contracts will not lapse if the cash surrender value is sufficient to cover monthly fees and charges deducted from account value or the death benefit guarantee is in effect.

6. Certain fees and charges are deducted under the Contracts, including a premium expense and processing charge and a state premium tax charge as well as monthly issue charges, administrative charges, insurance charges, charges for optional rider benefits, charges for extra mortality risks, and a charge for mortality and expense risks. In addition, Applicants propose to deduct from premium payments a front-end sales load and a charge equal to 1.25% of each premium payment to cover the estimated cost of the federal income tax treatment under Section 848 of the Code, commonly referred to as the ''DAC Tax,'' both of which are discussed below.

[6] 17 CFR 200.30–3(a)(12) (1994).

[1] The Funds include: (1) the Hartford Funds—Hartford Advisers Fund, Inc., Hartford Aggressive Growth Fund, Inc., Hartford Bond Fund, Inc., Hartford Dividend and Growth Fund, Inc., Hartford Index Fund, Inc., Hartford International Opportunities Fund, Inc., Hartford Mortgage Securities Fund, Inc., Hartford Stock Fund, Inc., and HVA Money Market Fund, Inc., which are managed by Hartford Investment Management Company; (2) The Putnam Funds—PCM Diversified Income Fund, PCM Global Asset Allocation Fund, PCM Global Growth Fund, PCM Growth and Income Fund, PCM High Yield Fund, PCM Money Market Fund, PCM New Opportunities Fund, PCM U.S. Government and High Quality Bond Fund, PCM Utilities Growth and Income Fund, and PCM Voyager Fund, which are managed by the Putnam Management Company, Inc.; and (3) the Fidelity Funds—the Equity-Income Portfolio, Overseas Portfolio and Asset Manager Portfolio, which are managed by Fidelity Management & Research Company.

7. *Front-End Sales Load Charge.* a. The front-end sales load is based on the amount of the premium paid in relation to the ''Target Premium,'' [2] the Contract Year in which the premium is paid, and the pro-rated amount of the premium payment attributable to the basic face amount and to the supplemental face amount.[3]

b. Current and maximum front-end sales load for premium payments attributable to: (1) the basic face amount up to Target Premium, (2) the basic face amount in excess of the Target Premium, and (3) supplemental face amount, are as follows:

FRONT-END SALES LOADS

Contract years	Basic face amount		Supplemental face amount
	Up to target premium	Excess of target premium	Current/max (percent)
	Current/max (percent)	Current/max (percent)	
1	50.0/50.0	9.0/9.0	4.0/4.0
2–5	15.0/15.0	4.0/4.0	4.0/4.0
6–10	10.0/10.0	4.0/4.0	4.0/4.0
11–20	2.0/2.0	2.0/2.0	2.0/2.0
After 20	0.0/0.0	0.0/2.0	0.0/2.0

8. *Section 848 ''DAC Tax'' Charge.* a. Applicants state that the 1.25% charge deducted from each Premium Payment is designed to reimburse the Companies for their increased federal tax burden resulting from the application of Section 848 of the Code to the receipt of those premiums. Section 848, as amended, requires life insurance companies to capitalize and amortize over ten years certain general expenses for the current year rather than deduct these expenses in full from the current year's gross income, as allowed under prior law. Section 848 effectively accelerates the realization of income from specified contracts and, consequently, the payment of taxes on that income. Taking into account the time value of money, Section 848 increases the insurance company's tax burden because the amount of general deductions that must be capitalized and amortized is measured by the premiums received under the Contracts.

b. Deductions subject to Section 848 equal a percentage of the current year's net premiums received (*i.e.*, gross premiums minus return premiums and reinsurance premiums) under life insurance or other contracts categorized under this Section. The Contracts will be categorized as ''specific contracts'' under Section 848 requiring 7.7% of the net premiums received to be capitalized and amortized under the schedule set forth in Section 848(c)(1).

c. The increased tax burden on every $10,000 of net premiums received under the Contracts is quantified by Applicants as follows. For each $10,000 of net premiums received in a given year, the Companies' general deductions are reduced by $731.50, or (a) $770 (*i.e.*, 7.7% of $10,000), minus (b) $38.50 (one-half year's portion of the ten year amortization which may be deducted in the current year). The remaining $731.50 ($770 less $38.50) is subject to taxation at the corporate tax rate of 34% and results in $248.71 (.34% × $731.50) more in taxes for the current year than the Companies otherwise would have owed prior to OBRA 1990. However, the current tax increase will be offset partially by deductions allowed during the next ten years, which result from amortizing the remainder $770 ($77 in each of the following nine years and $38.50 in year ten).

d. In calculating the present value of these increased future deductions, the Companies determined that, in their business judgment, it is appropriate to use a discount rate of 10% for the following reasons. To the extent that capital must be used by the Companies to pay the increased federal tax burden under Section 848, such surplus will be unavailable for investment. Thus, the cost of capital used to satisfy this increased tax burden under Section 848 is the Companies' targeted rate of return (*i.e.*, return sought on invested capital), which is in excess of 10%. Accordingly, Applicants submit that the targeted rate of return is appropriate for use in this present value calculation.

e. Applicants also submit that, to the extent that the 10% discount rate is lower than the Companies' actual targeted rate of return, the calculation of this increased tax burden will continue to be reasonable over time, even if the applicable corporate tax rate is reduced, or their targeted rate of return is lowered.

f. In determining the targeted rate of return used in arriving at the discount rate, the Companies first identified a reasonable risk-free rate of return that can be expected to be earned over the long term. The Companies then determined the premium needed to earn more than that risk-free rate of return because of the inherently risky nature of the insurance products it sells. Applicants represent that these are appropriate factors to consider in determining the Companies' targeted rate of return.

g. Using a federal corporate tax rate of 34%, and applying a discount rate of 10%, the present value of the tax effect of the increased deductions allowable in the following ten years, which partially offsets the increased tax burden, equals $155.82. The effect of Section 848 on the Contract, therefore, is an increased tax burden with a present value of $92.89 for each $10,000 of net premiums (*i.e.*, $248.71 less $155.82).

h. Applicants state that the Companies do not incur incremental federal income tax when they pass on state premium taxes to Contract Owners because state premium taxes are deductible in computing the Companies' federal income taxes. Conversely, federal income taxes are not deductible in computing the Companies' federal income taxes. To compensate the Companies fully for the impact of Section 848, an additional charge must be imposed to make them whole for the $92.89 additional tax

[2] The ''Target Premium'' is a percentage of the level annual premium payment, or the ''Guideline Annual Premium,'' necessary to provide future benefits under the Policy through maturity.

[3] Premium payments are allocated to the basic face amount and to the supplemental face amount in the same ratio that the initial amounts each bear, respectively, to the initial face amount.

burden attributable to Section 848, as well as the tax on the additional $92.89 itself. This additional charge can be determined by dividing $92.89 by the complement of 34% federal corporate income tax rate (*i.e.*, 66%) resulting in an additional charge of $140.74 for each $10,000 of net premiums, or 1.41%.

i. Based on prior experience, the Companies reasonably expect to take almost all future deductions. It is the judgment of the Companies that a charge of 1.25% would reimburse them for the increased federal income tax liabilities under Section 848 of the Code. Applicants represent that the 1.25% charge will be reasonably related to the Companies' increased federal income tax burden under Section 848 of the Code. This representation takes into account the benefit to the Companies of the amortization permitted by Section 848 and the use of a 10% discount rate (which is equivalent to the Companies' targeted rate of return) in computing the future deductions resulting from such amortization. Applicants assert that it is appropriate to deduct this charge, and to exclude the deduction of this charge from sales load, because it is a legitimate expense of the Companies and not for sales and distribution expenses.

Applicants' Legal Analysis

A. Exemptive Relief Under Section 27(a)(3) of the 1940 Act and Rule 6e–3(T)(b)(13)(ii) Thereunder

1. Section 27(a)(3) of the 1940 Act provides that the amount of sales charge deducted from any of the first twelve monthly payments on a periodic payment plan certificate may not exceed proportionately the amount deducted from any other such payment. Section 27(a)(3) further provides that the sales charge deducted from any subsequent payment may not exceed proportionately the amount deducted from any other subsequent payment.

2. Rule 6e-3(T)(b)(13)(ii) provides a partial exemption from the prohibitions of Section 27(a)(3). Exemptive relief from the prohibitions of Section 27(a)(3) provided by Rule 6e-3(T)(13)(ii) is available if the proportionate amount of sales charge deducted from any premium payment, unless an increase is caused by reductions in the annual cost of insurance or in sales charge for amounts transferred to a variable life insurance contract from another plan of insurance. Rule 6e-3(T)(b)(13)(ii) thus permits a decrease in sales load for any subsequent premium payment but not an increase.

3. Under the Contracts' sales load structure, a subsequent year's premium payment that is attributable to the basic face amount up to the Target Premium will be subject to a higher sales charge than premium payments attributable to the basic face amount in excess of one year's Target Premium and the supplemental face amount (together, ''Excess Premium'').[4] Applicants thus request an exemption from the requirements of Section 27(a)(3) and Rule 6e-3(T)(b)(13)(ii) because the Contracts' sales load structure violates the ''stair-step'' provisions in Section 27(a)(3) and because the exemption from Section 27(a)(3) provided by Rule 6e-3(T)(b)(13)(ii) does not apply to the Contracts' sales load structure.

4. Applicants state that, had they chosen to impose the higher front-end sales load equally on all premium payments, the Contracts would qualify for exemptive relief under Rule 6e-3(T)(b)(13)(ii), subject to the maximum limits permissible under subparagraph (b)(13)(i) of the Rule. Applicants represent, however, that the sales load structure has been designed based on the Companies' operating expenses for the sale of the Contracts and, thus, reflects in part the lower overall distribution costs that are associated with Excess Premiums paid over the life of a Contract. Applicants submit that it would not be in the best interest of a Contract Owner to require the imposition of a higher sales load structure than Applicants deem necessary to adequately defray their expenses.

5. Applicants argue that Section 27(a)(3) was designed to address the abuse of periodic payment plan certificates under which large amounts of front end sales loads were deducted so early in the life of the plan that an investor redeeming in the early periods would recoup little of his or her investment since only a small portion of the investor's early payments were actually invested. Applicants submit that the deduction of a reduced front-end sales load on Excess Premiums paid in any Contract Year does not have the detrimental effect that Section 27(a)(3) was designed to prevent because a greater proportion of the Contracts' sales loads are deducted later than otherwise would be the case.

6. Applicants state that Rule 6e-3(T)(b)(13)(i) specifically permits an insurance company to reduce or eliminate its sales loads with respect to amounts contributed to a variable life insurance contract in connection with an exchange from another plan of insurance and, thereafter, to impose the full sales load with respect to subsequent premium payments. Applicants submit that such sales load variations normally reflect decreased sales expenses in connection with the exchanged amounts. Similarly, Applicants submit that the Companies should be permitted to pass on its reduced sales expenses by forgoing the extra front-end sales load applicable to any Excess Premium, notwithstanding that it will impose a front-end sales load on premium payments in subsequent years as described herein.

7. Applicants also state that Target Premiums and Excess Premium have different levels of sales expenses because they serve different purposes. Premium payments up to the Target Premium are applied primarily to guarantee benefits under the Contracts and have a higher level of sales expenses than the Excess Premium, which are applied to increase account values under the Contracts, resulting in an increase in the investment element of the Contracts. Applicants argue that it is appropriate to analyze the sales load structure for premium payments up to and in excess of Target Premium separately from those attributable to supplemental face amounts. Applicants submit that, when analyzed separately, both types of sales load comply with Rule 6e-3(T)(b)(13)(ii).

B. Exemptive Request With Respect to Section 27(c)(2) of the 1940 Act and Rule 6e-3(T)(c)(4)(v) Thereunder in Connection With Deduction of Charge for Section 848 Deferred Acquisition Costs

1. Section 27(c)(2) prohibits a registered investment company or its depositor or underwriter from making any deduction from premium payments made under periodic payment plan certificates other than a deduction for ''sales load.'' Section 2(a)(35)[5] defines ''sales load'' as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment, less amounts deducted

[4] For example, in Contract Year 2, premium payments attributable to the basic face amount in excess of the Target Premium and premium payments attributable to the supplemental face amount are subject to a 4% sales load. In Contract Year 3, however, subsequent premium payments attributable to the basic face amount up to the Target Premium are subject to a 15% sales load.

[5] Sales loads, as defined under Section 2(a)(35), are limited by Sections 27(a)(1) and 27(h)(1) to a maximum of 9% of total payments on periodic payment plan certificates. The proceeds of all payments (except amounts deducted for ''sales load'') must be held by a trustee or custodian having the qualifications established under Section 26(a)(1) for the trustees of unit investment trusts and held under an indenture or agreement that conforms with the provisions of Section 26(a)(2) and Section 26(a)(3) of the 1940 Act.

from trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees that are not properly chargeable to ''sales load.''

2. The Separate Accounts are, and the Future Accounts will be, regulated under the 1940 Act as issuers of periodic payment plan certificates. Accordingly, the Separate Accounts, the Future Accounts, the Companies (as depositor), and HESCO (as principal underwriter) are deemed to be subject to Section 27 of the 1940 Act. Applicants thus request an order under Section 6(c) of the 1940 Act granting exemptions from Sections 27(c)(2) of the 1940 Act to allow the deduction of a charge from premium payments to compensate the Companies for their increased federal tax burden resulting from the receipt of such premium payments under the Contracts.

3. Certain provisions of Rule 6e-3(T) provides exemptive relief from Section 27(c)(2) if the separate account issues flexible premium variable life insurance contracts, as defined in subparagraph (c)(1) of that Rule. Rule 6e-3(T)(b)(13)(iii) provides exemptive relief from Section 27(c)(2) to permit an insurer to make certain deductions, other than ''sales load,'' including the insurer's tax liabilities from receipt of premium payments imposed by states or by other governmental entities. For purposes of variable life insurance contracts issued in reliance on Rule 6e-3(T), paragraph (b)(1) of the Rule provides an exemption from the Section 2(a)(35) definition of ''sales load'' by substituting a new definition provided in paragraph (c)(4) of the Rule. Under Rule 6e-3(T)(c)(4), ''sales load'' charged during a period is defined as the excess of any payments made during that period over the sum of certain specified charges and adjustments, including a deduction for state premium taxes.

4. Applicants request exemptions from Rule 6e-3(T)(c)(4)(v) under the 1940 Act to permit the proposed deduction with respect to Section 848 of the Code to be treated as other than ''sales load,'' as defined under Section 2(a)(35) of the 1940 Act, for purposes of Section 27 and the exemptions from various provisions of that Section found in Rule 6e-3(T).

5. Applicants assert that the proposed deduction with respect to Section 848 of the Code arguably is covered by Rule 6e-3(T)(b)(13)(iii) and should be treated as other than ''sales load.'' Applicants note, however, that the language of paragraph (c)(4) of Rule 6e-3(T) appears to require that deductions for federal tax obligations from receipt of premium payments be treated as ''sales load.'' Under a literal reading of Rule 6e-3(T)(c)(4), a deduction for an insurer's increased federal tax burden does not fall squarely into those itemized charges or deductions, arguably causing the deduction to be treated as part of ''sales load.''

6. Applicants state that they have found no public policy reason for including a deduction for an insurer's increased federal tax burden in sales load. Applicants assert that the public policy that underlies paragraph (b)(13)(i) of Rule 6e-3(T), like that which underlies paragraphs (a)(1) and (h)(1) of Section 27, is to prevent excessive sales loads from being charged for the sale of periodic payment plan certificates. Applicants submit that this legislative purpose is not furthered by treating a federal income tax charge based on premium payments as a sales load because the deduction is not related to the payment of sales commissions or other distribution expenses. Applicants assert 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).

7. Applicants submit that the source for the definition of ''sales load'' found in Rule 6e-3(T)(c)(4) supports this analysis. Applicants believe that, in adopting paragraph (c)(4) of the Rule, the Commission intended to tailor the general terms of Section 2(a)(35) to variable life insurance contracts to ease verification by the Commission of compliance with the sales load limits of subparagraph (b)(13)(i) of the Rule. 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, Applicants assert that the percentage limits in subparagraph (b)(13)(i) of Rule 6e-3(T) depends on paragraph (c)(4) of that Rule, which does not depart, in principal, from Section 2(a)(35).

8. Applicants submit that the exclusion from the definition of ''sales load'' under Section 2(a)(35) of deductions from premiums for ''issue taxes'' 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 insure's costs attributable to its federal tax obligations. Additionally, the exclusion of administrative expenses or fees that are ''not properly chargeable to sales or promotional activities'' also suggests that the only deductions intended to fall within the definition of ''sales load'' are those that are properly chargeable to sales or promotional activities. Applicants represent that the proposed deductions will be used to compensate the Companies for their increased federal tax burden attributable to the receipt of premiums and not for sales or promotional activities. Applicants therefore believe the language in Section 2(a)(35) further indicates that not treating such deductions as sales load is consistent with policies of the 1940 Act.

9. Finally, Applicants submit that it is probably an historical accident that the exclusion of premium tax in subparagraph (c)(4)(v) of Rule 6e-3(T) from the definition of ''sales load'' is limited to state premium taxes. Applicants note that, when Rule 6e-3(T) was adopted, and later amended, the additional Section 848 tax burden attributable to the receipt of premiums did not yet exist.

10. Applicants further submit that the terms of the relief requested with respect to Future Contracts to be issued through Future Accounts are also consistent with the standards of Section 6(c). Without the requested relief, the Applicants would have to request and obtain such exemptive relief for each Future Contract to be issued through a Future Account. Such additional requests for exemptive relief would present no issues under the 1940 Act that have not already been addressed in this application.

11. 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 the Applicants to file redundant exemptive applications regarding the federal tax charge, thereby reducing their administrative expenses and maximizing the efficient use of their resources. Applicants represent that the delay and expense involved in having to repeatedly seek exemptive relief would impair their ability to effectively take advantage of business opportunities as they arise.

12. Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. If Applicants were required to repeatedly seek exemptive relief with respect to the same issues regarding the federal tax charge addressed in this application, investors would not receive any benefit or additional protection thereby and might be disadvantaged as a result of the Applicants' increased overhead expenses.

13. Conditions for Relief. Applicants agree to the following conditions:

a. The Companies will monitor the reasonableness of the charge to be deducted pursuant to the requested exemptive relief.

b. The registration statement for each Contract under which the above-

referenced federal tax charge is deducted will: (1) disclose the charge; (2) explain the purpose of the charge; and (3) state that the charge is reasonable in relation to the relevant Company's increased federal tax burden under Section 848 of the Code resulting from the receipt of premium payments.

c. The registration statement for each Contract under which the above-referenced federal tax charge is deducted will contain as an exhibit an actuarial opinion as to: (1) The reasonableness of the charge in relation to the relevant Company's increased federal tax burden under Section 848 of the Code resulting from the receipt of premiums; (2) the reasonableness of the targeted rate of return that is used in calculating such charge; and (3) the appropriateness of the factors taken into account by the relevant Company in determining such targeted rate of return.

Conclusion

1. Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act, 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 contract and provisions of the 1940 Act.

2. For the reasons and upon the facts set forth above, Applicants submit that the requested exemptions from Sections 27(a)(3) and 27(c)(2) of the 1940 Act and paragraphs (b)(13)(ii) and (c)(4) of Rule 6e-3(T) thereunder, are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act. Therefore, the standards set forth in Section 6(c) of the 1940 Act are satisfied.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16933 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 21177; 812–9510]

Paine Webber Group Inc., et al.; Notice of Application

June 30, 1995.

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

ACTION: Notice of Application for an Order under section 2(a)(9) of the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Paine Webber Group Inc. (''PWG''), PaineWebber Incorporated (''PWI''), Mitchell Hutchins Asset Management Inc. (''MHAM''), and Mitchell Hutchins Institutional Investors Inc. (''MHII'') (collectively, the ''Painewebber Companies'').

RELEVANT ACT SECTION: Declaratory order requested under section 2(a)(9).

SUMMARY OF APPLICATION: General Electric Company (''GE'') acquired securities of Paine Webber Group Inc. (''PWG'') that, upon conversion of certain of such securities into common stock, would result in GE owning more than 25% of PWG's outstanding voting securities. The PWG securities owned by GE are subject to certain restrictions, obligations, and prohibitions as described in a stockholders agreement. Applicants request an order declaring that the presumption of control by a greater than 25% shareholder under section 2(a)(9) of the Act has been rebutted. The order would be effective for so long as the stockholders agreement remains in full force and effect without any amendment that would materially reduce the restrictions, obligations, and prohibitions with respect to GE's ownership of PWG's securities.

FILLING DATES: The application was filed on March 3, 1995 and amended on June 12, 1995.

HEARING OR NOTIFICATION OF HEARING: 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 July 26, 1995, 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 such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Mitchell Hutchins Asset Management Inc., 1285 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Senior Attorney, at (202) 942–0565, 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.

Applicant's Representations

1. PWG is a publicly held financial services holding company. PWI, a wholly owned subsidiary of PWG, is a broker-dealer registered under the Securities Exchange Act of 1934 (''1934 Act'') and an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''). MHAM, a wholly owned subsidiary of PWI, is a broker-dealer registered under the 1934 Act and an investment adviser registered under the Advisers Act. As of October 31, 1994, MHAM served as investment adviser or sub-adviser to thirty investment companies with fifty-six separate portfolios and aggregate assets of over $23.3 billion. MHII, a wholly owned subsidiary of MHAM, is an investment adviser registered under the Advisers Act. As of October 31, 1994, MHII served as investment sub-adviser to eight separate portfolios of seven investment companies with aggregate assets of over $1.1 billion.

2. On October 17, 1994, PWG entered into an asset purchase agreement with General Electric Company (''GE'') and Kidder, Peabody Group Inc. (''Kidder'') (the ''Asset Purchase Agreement''). Under the Asset Purchase Agreement, PWG agreed to purchase certain assets from Kidder, a wholly owned subsidiary of GE. As part of the consideration for the purchase of those assets, on December 16, 1994 (the ''Closing''), PWG issued to GE shares of PWG Common Stock, Redeemable Preferred Stock, and Convertible Preferred Stock (collectively, the ''Equity Securities'').

3. At the Closing, GE received shares representing approximately 21.6% of the shares of Common Stock outstanding as of February 28, 1995. The Common Stock is the only class of securities of PWG outstanding that are generally entitled to vote for the election of directors.[1] GE does not hold for its

[1] As a holder of Redeemable Preferred Stock and Convertible Preferred Stock, GE could, under

Continued