Section 213.3393 Pension Benefit Guaranty Corporation

Executive Director to the Secretary of Labor
Deputy Executive Director and Chief Negotiator to the Executive Director
Deputy Executive Director and Chief Financial Officer to the Executive Director

Section 213.3333 Federal Deposit Insurance Corporation

General Counsel to the Chairman
Director, Office of Corporate Communication to Deputy to the Chairman for Policy
Deputy to the Chairman for Policy to the Chairman

Section 213.3305 Department of the Treasury

Advisor to the Assistant Secretary for Tax Policy
Senior Deputy Comptroller for Economic Analysis and Public Affairs to the Comptroller of the Currency

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–22501 Filed 9–4–96; 8:45 am]

BILLING CODE 6325–01–U

The National Partnership Council Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

TIME AND DATE: 3:00 p.m., September 11, 1996.

PLACE: Old Executive Office Building, Room 450, 17th and Pennsylvania Avenue, NW., Washington, DC 20503.

STATUS: This meeting will be open to the public. Although the number of seats will be limited because of the capacity of the meeting room, seating will be available on a first-come, first-served basis. Also, because the Old Executive Office Building is a secure building, members of the public will require a security clearance and identification. Consequently, anyone who would like to attend this meeting should telephone OPM's Center for Partnership and Labor-Management Relations at (202) 606–2930 or 606–2707 on or before September 6, 1996, with his/her date of birth and social security number. Individuals with special access needs wishing to attend should also contact OPM to obtain appropriate accommodations.

MATTERS TO BE CONSIDERED: This meeting will consist of an awards ceremony. The winners of the 1996 National Partnership Award will be announced; and the winners will receive their awards. The National Partnership Award is given in recognition of outstanding labor-management partnership activities. A reception will be held immediately after the awards ceremony.

CONTACT PERSON FOR MORE INFORMATION: Michael Cushing, Director, Center for Partnership and Labor-Management Relations, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 7H28, Washington, DC 20415–0001, (202) 606–0010.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 96–22755 Filed 9–4–96; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determine that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1996, shall be at the rate of 34 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1996, 33.8 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 66.2 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 27, 1996.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–22550 Filed 9–4–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22185; File No. 812–10060]

Connecticut General Life Insurance Company, et al.

August 28, 1996.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Connecticut General Life Insurance Company (''CG Life''), CG Corporate Insurance Variable Life Separate Account 02 (''Account 02''), and CIGNA Financial Advisors, Inc. (''CFA'').

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

SUMMARY OF APPLICATION: Applicants request an order permitting Account 02 and any other separate account established in the future by CG Life (the ''Future Accounts,'' collectively, with Account 02, the ''Accounts'') to support certain flexible premium variable life insurance contracts (''Current Contracts'') or contracts which are substantially similar in all material respects to the Current Contracts (''Future Contracts'') issued by CG Life to deduct a charge (''federal tax burden charge'') that is reasonable in relation to CG Life's increased federal income tax burden resulting from the application of Section 848 of the Internal Revenue Code of 1986, as amended.

FILING DATE: The application was filed on March 26, 1996 and amended and restated on August 26, 1996.

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 Secretary of the SEC 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 September 23, 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 who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, Robert A. Picarello, Esq.,

Connecticut General Life Insurance Company, 900 Cottage Grove Road, Hartford, CT 06152, copy to George N. Gingold, Esq., 197 King Philip Drive, West Hartford, CT 06117–1409.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Staff Attorney, or Patrice M. Pitts, Special Counsel, 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 Public Reference Branch of the SEC.

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.

2. Account 02, established by CG Life on February 23, 1996, pursuant to Connecticut law, is registered with the Commission as a unit investment trust. The assets of Account 02 are divided among subaccounts, each of which invests in shares of a portfolio of a registered open-end management investment company. Each of the Future Accounts will be organized as unit investment trusts and will file registration statements under the 1940 Act and the Securities Act of 1933.

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

4. The Current Contracts are flexible premium variable individual life insurance policies. The Future Contracts will be substantially similar in all material respects to the Current Contracts (collectively, Future Contracts and Current Contracts, the ''Contracts''). The Contracts will be issued in reliance on Rule 6e-3(T)(b)(13)(i)(A).

5. CG Life will deduct 1.25% of each premium payment made under the Current Contracts to cover CG Life's estimated cost for the federal income tax treatment of deferred acquisition costs.

6. In the Omnibus Budget Reconciliation Act of 1990 (''OBRA 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 a life 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 gross income of the current year.

7. The amount of expenses that must be capitalized and amortized over ten years rather than deducted in the year incurred is based 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. 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.

8. 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. The Contracts are ''specified insurance contracts'' that fall into the category of life insurance contracts, under Section 848, for which 7.7% of the year's net premiums received must be capitalized and amortized.

9. The increased tax burden on CG Life resulting from the application of 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). $38.50 of this $770 may be deducted in the current year, leaving $731.50 ($770 minus $38.50) subject to taxation at the corporate tax rate of 35 percent. This results in an increase in tax for the current year of $256.03 ($.35 \times \$731.50$). This current increase in federal income tax 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 year ten).

10. 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. CG Life seeks an after tax rate of return on the investment of its capital in excess of 10%.[1] 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, 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. To the extent that the 10% discount rate is lower than CG Life's actual targeted rate of return, a margin 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 rate or targeted rate of return is lowered. 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.

11. Assuming a 35% corporate federal income tax rate, and applying the 10% discount rate, the present value of the federal income tax effect of the increased deductions allowable in the following 10 years is $160.40. Because this amount partially offsets the increased federal income tax burden, Section 848 imposes an increased federal income tax burden on CG Life with present value of $95.63 (*i.e.*, $256.03 minus $160.40, or 0.96%) for each $10,000 of net premiums.

12. State premium taxes are deductible when computing federal income taxes. Thus, CG Life does not incur incremental federal income tax when it passes on state premium taxes

[1] In determining the after-tax rate of return used in arriving at this discount rate, CG Life considered a number of factors, including: actual historical costs CG Life has incurred for capital; 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. CG Life first 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 other factors enumerated above to set a rate of return on capital that equals or exceeds this rate of growth. CG Life seeks to maintain a ratio of capital to assets that is established based on its judgment of the risks represented by various components of its assets and liabilities. Maintaining the ratio of capital to assets is critical to offering competitively priced products and, as to CG Life, to maintaining a competitive rating from various rating agencies. Consequently, CG Life's capital should grow at least at the same rate as do its assets.

to owners of the Contracts. Federal income taxes, however, are not deductible when 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 an additional charge that would make it 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 1.47% of net premiums.

13. Based on prior experience, CG Life expects that all of its current and future deductions will be fully taken. A charge of 1.25% of net premium payments would reimburse CG Life for the impact of Section 848 on its federal income tax liabilities, taking into account the benefit of CG Life of the amortization permitted by Section 848 and the use by CG Life of a discount rate of 10% (the equivalent of CG Life's cost of capital) in computing the future deductions resulting from such amortization.

14. Although a charge of 1.25% of net premium payments would reimburse CG Life for the impact of Section 848 (as currently written) on its federal income tax liabilities, CG Life 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 as a consequence of 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.

Applicants' 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 of 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. Applicants note that 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. For example, subject to certain conditions, Rule 6e–3(T)(b)(13)(iii) provides exemptions from Section 27(c)(2) that include permitting the 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 governmental entity.''

4. Rule 6e–3(T)(c)(4)(v) 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 proposed federal tax burden charge 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 federal tax burden charge should be treated as other than ''sales load,'' as is a state premium tax charge, for purposes of the 1940 Act.

6. Applicants maintain that the requested exemptions from Rule 6e–3(T)(c)(4)(v) are necessary in connection with Applicants' reliance on certain provisions of Rule 6e–3(T)(b)(13), and particularly on subparagraph (b)(13)(i) 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. Applicants acknowledge that a deduction for an insurance company's increased federal tax burden related to deferred acquisition costs 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). Nevertheless, Applicants submit that there is no public policy reason for treating such federal tax burden charge as ''sales load.''

7. Applicants assert that the public policy underlying Rule 6e–3(T)(b)(13)(i), like that underlying 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 in no 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 in 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 Rule 6e–3(T) supports this analysis. Applicants state that the Commission's intent in adopting Rule 6e–3(T)(c)(4) was to tailor the general terms of Section 2(a)(35) of the 1940 Act to variable life insurance contracts. In this regard, Applicants note that 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–(T)(b)(13)(i) depend on Rule 6e–3(T)(c)(4), which does not depart, in principle, from Section 2(a)(35).

9. Applicants assert that Section 2(a)(35) also excludes from ''sales load'' administrative expenses or fees that are ''not properly chargeable to sales or promotional activities''. Applicants submit 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 federal tax burden charge will be used to compensate CG Life for its increased federal income tax burden attributable to the receipt of premiums, and such cost is not properly chargeable to sales

or promotional activities, Applicants submit that this language of Section 2(a)(35) is another indication that not treating such federal tax burden charge as ''sales load'' is consistent with the policies of the 1940 Act.

10. Applicants further assert that Section 2(a)(35) excludes from the definition of ''sales load'' under the 1940 Act deductions from premiums for ''issue taxes.'' Applicants submit that the exclusion from ''sales load'' of charges attributable to federal tax obligations is consistent with the policies of the 1940 Act.

11. 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.

12. 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 or Future 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 exemptive relief repeatedly would impair the ability of CG Life and the Future Accounts to take advantage fully of business opportunities as those opportunities arise.

13. 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 Future 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 Future Accounts.

Conditions for Relief

1. Applicants agree to comply with the following conditions for relief.

a. CG Life will monitor the reasonableness of the federal tax burden charge to be duducted pursuant to the requested exemptive relief.

b. The registration statement for each Contract under which the federal tax burden charge 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 of the Code resulting from the receipt of premiums.

c. The registration statement for each Contract under which the federal tax burden charge 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; (ii) the reasonableness of the after tax rate of return that is used in calculating the federal tax burden 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.

2. Applicants undertake to rely on the exemptive relief requested herein with respect to Future Contracts only if such contracts are substantially similar in all material respects to the Contracts described in the Application.

Conclusion

For the reasons summarized above, Applicants represent that the requested relief from Sections 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder is necessary or appropriate in the public interest and otherwise meets the standards of Section 6(c) of the 1940 Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22579 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22181; 812–10216]

First American Investment Funds, Inc., et al.; Notice of Application

August 28, 1996.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: First American Investment Funds, Inc. (''FAIF''), First American Funds, Inc. (''FAF'') (collectively, the ''Funds''), First Trust National Association (''First Trust''), and First Bank National Association (''First Bank'').

RELEVANT ACT SECTIONS: Order requested under rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: The requested order would permit the Funds to pay First Trust, and First Trust to accept, fees for acting as lending agent with respect to securities lending transactions by the Funds.

FILING DATES: The application was filed on June 21, 1996, and amended on August 22, 1996.

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 September 23, 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 5th Street NW., Washington, DC 20549. Applicants: the Funds, 680 East Swedesford Road, Wayne, PA 19087; First Trust, 180 East Fifth Street, St. Paul, MN 55101; and First Bank, 601 Second Avenue South, Minneapolis, MN 55402.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Mercer E. Bullard, 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 at the SEC's Public Reference Branch.

Applicants' Representations

1. FAIF and FAF are registered under the Act as open-end management investment companies and are incorporated under the laws of the States of Maryland and Minnesota, respectively. FAIF has twenty separate series and FAF has three. First Trust serves as custodian for each Fund and First Bank is the investment adviser for each Fund. First Trust and First Bank are wholly-owned subsidiaries of First Bank System, Inc. (''FBS'').

2. Each Fund and its series, with one exception, is currently permitted under its investment objectives, policies, and restrictions to lend its portfolio securities. Since the Funds currently do not have the internal resources necessary to lend securities efficiently or effectively without the services of a third-party lending agent, First Bank has proposed that the Funds engage First Trust, or other third-party agents, to act