

exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)].

The Board further determined that the public interest does not require that the Board's discussion of these matters be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3), (9) and (10) of title 5, United States Code; section 410(c), (2) and (3) of title 39, United States Code; and section 7.3(c), (i) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268-4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 96-31443 Filed 12-6-96; 12:44 pm]

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Sunshine Act Meeting; Board of Governors

Amendment to Closed Meeting Agenda

Federal Register Citation of Previous Announcement: 61 FR 58431, November 14, 1996, and 61 FR 59473, November 22, 1996.

PREVIOUSLY ANNOUNCED DATE OF MEETING: December 2, 1996.

CHANGE: Addition of the following items to the closed meeting agenda:

1. Consideration of Compensation Issues.
2. Consideration of Purchasing Procedures.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, (202) 268-4800.

At its meeting on December 2, 1996, the Board of Governors of the United States Postal Service voted unanimously to add to the agenda consideration of (1) compensation issues, and (2) purchasing procedures, and that discussion on the items was closed to the public pursuant to section 552b(c)(2), (6) and (7) of title 5, United States Code; and section 7.3(b), (f) and (g) of title 39, Code of Federal Regulations, and that no earlier announcement was possible.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting

was properly closed to public observation, pursuant to section 552b(c)(2), (6) and (7) of Title 5, United States Code; and section 7.3(b), (f) and (g) of Title 39, Code of Federal Regulations.

Thomas J. Koerber,

Secretary.

[FR Doc. 96-31444 Filed 12-6-96; 12:44 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-22369; No. 812-10254]

Midland National Life Insurance Company, et al.

December 4, 1996.

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

ACTION: Notice of Application for an Exemption pursuant to the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Midland National Life Insurance Company ("Midland"), Midland National Life Separate Account A ("Separate Account A"), Midland National Life Separate Account C ("Separate Account C," together with Separate Account A, the "Midland Separate Accounts"), Investors Life Insurance Company of Nebraska ("Investors"), Investors Life Separate Account B ("Separate Account B"), and Investors Life Separate Account D ("Separate Account D," together with Separate Account B, the "Investors Separate Accounts").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 17(b) granting an exemption from the provisions of Section 17(a).

SUMMARY OF APPLICATION: Applicants seek an order of exemption to the extent necessary to permit a transfer of assets and assumption of liabilities of Separate Account B by Separate Account A and of Separate Account D by Separate Account C.

FILING DATE: The application was filed on July 15, 1996, and amended on December 2, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 30, 1996, and must 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 Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o Jack L. Briggs, Esq., Midland National Life Insurance Company, One Midland Plaza, Sioux Falls, South Dakota 57193.

FOR FURTHER INFORMATION CONTACT: Michael Koffler, Law Clerk or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products (Division of Investment Management), at (202) 942-0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. Midland, a South Dakota stock life insurance company, is a wholly-owned subsidiary of Sammons Enterprises, Inc.

2. Midland established the Midland Separate Accounts as separate accounts pursuant to South Dakota law. Each of the Midland Separate Accounts is a "separate account," as defined by Section 2(a)(37) of the 1940 Act, and is registered with the Commission pursuant to the 1940 Act as a unit investment trust.

3. Certain variable life insurance contracts sponsored by Midland and issued through Separate Account A are registered with the Commission pursuant to the Securities Act of 1933 (the "Securities Act"). Certain variable annuity contracts sponsored by Midland and issued through Separate Account C are registered with the Commission pursuant to the Securities Act.

4. Each of the Midland Separate Accounts is divided into ten investment divisions, each of which invests exclusively in shares of a corresponding portfolio of Variable Insurance Products Fund or Variable Insurance Products Fund II (together, the "funds"), open-end management investment companies registered with the Commission pursuant to the 1940 Act.

5. Investors, a South Dakota stock life insurance company, is a subsidiary of Midland.

6. Investors established the Investors Separate Accounts as separate accounts pursuant to South Dakota law. Each of the Investors Separate Accounts is a "separate account," as defined by Section 2(a)(37) of the 1940 Act, and is registered with the Commission

pursuant to the 1940 Act as a unit investment trust.

7. Certain variable life insurance contracts sponsored by Investors and issued through Separate Account B are registered with the Commission pursuant to the Securities Act. Certain variable annuity contracts sponsored by Investors and issued through Separate Account D are registered with the Commission pursuant to the Securities Act.

8. Each of the Investors Separate Accounts is divided into ten investment divisions, each of which invests exclusively in shares of a corresponding portfolio of the Funds.

9. Midland and Investors have determined to engage in transactions whereby Investors will be reorganized with and merged into Midland, with Midland as the surviving corporation (such transactions, collectively, the "Reorganization"). Prior to the effective date of the Reorganization, an Agreement and Plan of Reorganization (the "Agreement") will have been approved and adopted by the respective Boards of Directors of Midland and Investors, the South Dakota Division of Insurance and any other applicable regulatory authority.

10. On the effective date of the Reorganization: (a) Midland will assume ownership of all the assets of Investors, including all the assets held in the Investors Separate Accounts; (b) Midland will conduct the business presently conducted by Investors, and will be responsible for satisfaction of all of the liabilities and obligations of Investors; and (c) Investors will cease to exist as a separate corporate entity. Midland will then control two separate accounts supporting identical variable universal life insurance contracts, and two separate accounts supporting identical variable annuity contracts.

11. After considering the nature and purpose of each separate account, the respective Board of Directors of Midland and Investors have determined that the efficiency of the operations of the separate accounts after the Reorganization could be improved, and the overall administration enhanced, by merging Separate Account B into Separate Account A, and by merging Separate Account D into Separate Account C. The Reorganization will be structured so there will be no change in the rights and benefits of persons having an interest in any of the variable life insurance contracts or variable annuity contracts issued by the separate accounts.

12. Following the transactions set forth in the Agreement, each Separate Account B contract owner will possess

a number of Separate Account A units, (both full and fractional) that when multiplied by the unit value of Separate Account A units, would result in an aggregate unit value equal to the aggregate unit value of the units the contract owner had in Separate Account B immediately before the consummation of the Reorganization. A similar method of crediting units will apply to Separate Account C units credited to Separate Account D contract owners.

13. Upon the effective date of the Reorganization, Midland will succeed to all of the business and operations of Investors, including the obligations pursuant to the variable life and variable annuity contracts issued by Investors. Midland will distribute to each Separate Account B and Separate Account D contract owner: (a) a contract rider indicating that such contracts are thereafter funded by Separate Account A or Separate Account C, as appropriate; (b) a prospectus supplement in the form of a letter informing such contract owners of the Reorganization; and (c) a copy of the current prospectus for Separate Account A or Separate Account C, as appropriate.

14. Except for the change in the depositor and the separate account funding the variable life or variable annuity contracts, all the rights and benefits of Separate Account B and Separate Account D contract owners will remain unchanged after the Reorganization. In particular, the assets supporting the former Separate Account B and the former Separate Account D will continue to be invested exclusively in shares of the Funds. The fees deducted from the assets supporting the former Separate Account B and Separate Account D after the Reorganization will not differ in type or amount from those currently being deducted from Separate Account A and Separate Account C, respectively.

15. Midland and Investors assert that the substitution of Separate Account A for Separate Account B as the investment vehicle for the variable life contracts and of Separate Account C for Separate Account D as the investment vehicle for the variable annuity contracts will have no tax consequences for contract owners. Midland and Investors will pay all of the costs in connection with the proposed Reorganization and no charges will be imposed on or other deductions made from the separate accounts in connection with the Reorganization.

16. After the effective date of the Reorganization, Separate Account B and Separate Account D will each submit an application to the Commission pursuant

to Section 8(f) of the 1940 Act to deregister as an investment company.

Applicants' Legal Analysis

1. Section 17(a) of the 1940 Act provides generally that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal to knowingly purchase or sell any security or other property from or to such registered company.

2. Section 17(b) of the 1940 Act provides generally that the Commission may grant an order exempting a transaction otherwise prohibited by Section 17(a) of the 1940 Act if evidence establishes that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

3. The Reorganization may be subject to the provisions of Section 17(a) of the 1940 Act since an investment company (Separate Account B or Separate Account D) is selling its assets to another investment company (Separate Account A or Separate Account C) that is affiliated by reason of having sponsoring insurance companies that are under common control, or by reason of having common directors.

4. Applicants request an order of the Commission pursuant to Section 17(b) of the 1940 Act to the extent necessary to exempt the Reorganization from the provisions of Section 17(a) of the 1940 Act.

5. Applicants assert that the terms of the Reorganization are fair and reasonable and that the investment objectives, policies, restrictions and portfolios of the participating investment companies are compatible. All of the separate accounts concerned invest exclusively in shares of the Funds and, after the consummation of the Reorganization, Separate Account A and Separate Account C will continue to invest in shares of the Funds, providing holders of variable contracts issued by Investors with the same investment options. Accordingly, the Reorganization will not result in any change in the investment objectives, policies, restrictions, or portfolios of the separate accounts funding the variable contracts issued by Investors.

6. The Reorganization will not result in any change in charges, costs, fees or expenses borne by any contract owner. No direct or indirect costs will be

incurred by any separate account concerned as a result of the Reorganization.

7. Applicants assert that the Reorganization does not involve overreaching on the part of any party involved and is consistent with the general purposes of the 1940 Act. The purpose of each of the mergers involved in the Reorganization is to consolidate two identical separate accounts, both of which issue identical contracts and invest in the same underlying Funds, into a single separate account. These mergers will allow for administrative efficiencies and cost savings by Midland because it can consolidate its separate account operations. It will also allow owners of contracts of Investors to participate in separate accounts that have sizeable net assets.

8. Applicants represent that the Reorganization is consistent with the policy of each separate account as set forth in its registration statement. Because the assets of the Investors Separate Accounts will continue to be invested in shares of one or more portfolios of the Funds after the Reorganization, the assets underlying all of the various contracts will continue to be invested in accordance with the investment policies recited in their respective registration statements.

9. Applicants represent that the Midland Separate Accounts will invest only in management investment companies that undertake, in the event the company adopts a plan to finance distribution expenses pursuant to Rule 12b-1 of the 1940 Act, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any such plan pursuant to Rule 12b-1.

Conclusion

For the reasons summarized above, Applicants assert that the terms of the Reorganization, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the investment policies of the Midland Separate Accounts and the Investors Separate Accounts as recited in their registration statements, are consistent with the general purposes of the 1940 Act, and therefore meet the conditions for exemptive relief established by Section 17(b).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-31332 Filed 12-9-96; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Release No. 22366; 812-10166]

The Victory Portfolios, et al.; Notice of Application

December 3, 1996.

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

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Victory Portfolios, SBSF Funds, Inc. dba the Key Mutual Funds (the "Key Mutual Funds") (collectively, the "Funds"), and KeyCorp Mutual Fund Advisers, Inc. ("Key Advisers").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act granting an exemption from the provisions of section 15(a) of the Act and rule 18f-2 thereunder, and from certain disclosure requirements set forth in item 22 of Schedule 14A under the Securities Exchange Act of 1934 (the "1934 Act"), items 2, 5(b)(iii), and 16(a)(iii) of Form N-1A, item 3 of Form N-14, item 48 of Form N-SAR, and sections 6-07.2(a), (b), and (c) of Regulation S-X.

SUMMARY OF APPLICATION: Applicants seek an order permitting Key Advisers, as investment adviser to the Funds, to enter into subadvisory contracts with sub-advisers without receiving prior shareholder approval, and the Funds to disclose only aggregate sub-advisory fees for each series in their prospectuses and other reports.

FILING DATE: The application was filed on May 23, 1996, and amended on September 16, 1996. Applicants have agreed to file an amendment, the substance of which is incorporated herein, during the notice period.

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 December 30, 1996 and should be accompanied by proof of service on the 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 Victory Portfolios and Key Mutual Funds, 3435 Stelzer Road, Columbus, OH 43219-3035; Key Advisers, 126 Public Square, Cleveland, OH 44114-1306.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942-0571, 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 from the SEC's Public Reference Branch.

Applicants' Representations

1. The Victory Portfolios, a Delaware business trust, and Key Mutual Funds, a Maryland corporation, are open-end management investment companies registered with the SEC under the Act. Each Fund currently has one or more investment series ("Series") with different investment objectives and policies.¹

2. The Funds plan to establish new Series, each structured as a "fund of funds" that will invest in shares of one or more other mutual funds beyond the limits in section 12(d)(1) of the Act. On May 20, 1996, applicants filed an application for exemptive relief from sections 12(d)(1) and 17 of the Act to implement and operate these funds. A "fund of funds" may invest in an underlying fund that is relying on the order requested in the immediate application.

3. Key Advisers, an Ohio corporation, is registered with the SEC as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"). It is a wholly-owned subsidiary of KeyCorp Asset Management Holdings, Inc., which is a wholly-owned subsidiary of KeyBank National Association, which is a wholly-owned subsidiary of KeyCorp. Under its current investment advisory agreement with The Victory Portfolios (the "Current Agreement"), Key Advisers is responsible for conducting investment research and supervision and for the purchase and sale of investments. Under the Current Agreement, Key Advisers may delegate

¹ Applicants also request relief with respect to any future open-end management investment company advised by Key Advisers.