

of 1934. The Order is attached as Exhibit A.

Margaret H. McFarland,
Deputy Secretary.

Exhibit A

SECURITIES AND EXCHANGE COMMISSION

[File No. ATS-EXEMPT-99-01]

May 7, 1999.

Order Granting BondNet an Exemption From Compliance With Regulation ATS Until October 21, 1999

BondNet, an alternative trading system operated as a division of the Bank of New York, filed an application for a temporary exemption from Regulations ATS pursuant to Rule 301(a)(5) of the Securities Exchange Act of 1934 ("Exchange Act").

Under the new regulatory framework applicable to exchanges and alternative trading systems, BondNet is required to register as an exchange, or register as a broker-dealer and comply with Regulation ATS. The Commission notes that the Bank of New York is currently operating subject solely to regulation by banking authorities, and consequently, BondNet must undertake the registration process with the Commission and the National Association of Securities Dealers, Inc. to comply with Regulation ATS. Under Rule 301(a)(5) of the Exchange Act, the Commission may, by order, grant an exemption from the requirements of Regulation ATS after determining that such an order is consistent with the public interest, the protection of investors, and the removal of impediments to, and perfection of the mechanisms of, a national market system.

The Commission has reviewed BondNet's application for a temporary exemption from Regulation ATS to allow it time to fully comply with that rule's requirements. The Commission finds that such an exemption is consistent with the public interest, the protection of investors, and the removal of impediments to, and perfection of the mechanisms of, a national market system and has determined to grant BondNet an exemption from Regulation ATS until October 21, 1999.

The Commission finds good cause to grant BondNet's request for confidential treatment for 120 days from the date of issuance of this Order.

It is therefore ordered, pursuant to Rule 301(a)(5) of the Exchange Act, that BondNet's exemption from Regulation ATS until October 21, 1999, be granted.

By the Commission.

Jonathan G. Katz,
Secretary.

[FR Doc. 99-23826 Filed 9-13-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23998; No. 812-11512]

Ohio National Life Insurance Company, et al.; Notice of Application

September 8, 1999.

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

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the "Act").

SUMMARY OF APPLICATION: Applicants seek an order approving the substitution of: (a) Shares of Small Cap Growth Portfolio of Ohio National Fund, Inc. ("ON Small Cap Growth Portfolio") for shares of Montgomery Variable Series: Small Cap Opportunities Fund ("Montgomery Small Cap Fund"); and (b) shares of Lazard Retirement Emerging Markets Portfolio ("Lazard Emerging Markets Portfolio") for shares of Montgomery Variable Series: Emerging Markets Fund ("Montgomery Emerging Markets Fund").

APPLICANTS: The Ohio National Life Insurance Company ("Ohio National"), Ohio National Variable Account A ("Variable Account A"), Ohio National Life Assurance Corporation ("ONLAC"), and Ohio National Variable Account R ("Variable Account R").

FILING DATES: The application was filed on February 17, 1999, and amended and restated on July 26, 1999, and August 27, 1999.

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 should be received by the Commission no later than 5:30 p.m. on September 29, 1999, 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 Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, Ohio National Life Insurance Company, One Financial Way, Cincinnati, Ohio 45242.

FOR FURTHER INFORMATION CONTACT: Paul G. Cellupica, Senior Counsel, 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, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel (202) 942-8090).

Applicants' Representations

1. Ohio National was organized as a stock company under the laws of Ohio in 1909. It issues annuities in 47 states, the District of Columbia and Puerto Rico. ONLAC, a wholly-owned subsidiary of Ohio National, is a stock life insurance company organized under the laws of Ohio in 1979.

2. Variable Account A was established in 1969 by Ohio National as a separate account under Ohio law for the purpose of funding variable annuity contracts issued by Ohio National. Five of the variable annuity contracts are affected by the application ("VA Contracts"). Variable Account R was established in 1985 for the purpose of funding variable life insurance contracts issued by ONLAC. One of the variable life insurance contracts is affected by this application ("VLI Contract," collectively with the VA Contracts, the "Contracts"). Variable Account A and Variable Account R are registered as unit investment trusts under the Act.

3. Purchase payments for the Contracts are allocated to one or more subaccounts of Variable Account A or Variable Account R ("Subaccounts"). The Contracts permit allocations of accumulation value to up to 10 of the available Subaccounts that invest in specific investment portfolios ("Portfolios") of Underlying mutual funds ("Underlying Funds").

4. The Contracts permit transfers of accumulation value from one Subaccount to another at any time prior to annuitization. No sales charge applies to a transfer of accumulation value among the Subaccounts. For three of the VA Contracts, the first transfer in any calendar month is free; each additional transfer in a calendar month is subject to a \$10 charge. For the two remaining VA Contracts and the VLI Contract, the first four transfers during each contract year are free; each additional transfer is subject to a \$3 charge. Although there currently is no limit on the number of transfers that may be made, the Contracts permit Ohio National or ONLAC, as applicable, to limit the number, frequency, method or amount of transfers. Transfers from any Subaccount on any one day may be

limited to 1% of the previous day's total net assets of the Portfolio if Ohio National, ONLAC or the Underlying Fund believe that the Portfolio might otherwise be damaged.

5. Applicants propose the following substitutions: (a) The substitution of shares of ON Small Cap Growth Portfolio for shares of Montgomery Small Cap Fund and (b) the substitution of shares of Lazard Emerging Markets Portfolio for shares of Montgomery Emerging Markets Fund.

6. Montgomery Small Cap Fund is a separate investment portfolio of The Montgomery Funds III ("Montgomery Funds"), an open-end management investment company registered under the Act, and is currently an investment option under three of the VA Contracts. Montgomery Small Cap Fund is managed by Montgomery Asset Management, LLC ("Montgomery"), a subsidiary of Commerzbank AG.

7. Montgomery Small Cap Fund's investment objective is to seek capital appreciation by investing primarily in equity securities, usually common stock, of domestic companies having market capitalizations of less than \$1 billion. The expense ratio of Montgomery Small Cap Fund for 1998 was 1.50%. Absent voluntary fee waivers by Montgomery, that expense ratio would have been 3.71%. Absent voluntary fee waivers by Montgomery, that expense ratio would have been 3.71%. The total return of Montgomery Small Cap Fund (exclusive of Contract or Subaccount charges) was -7.20% for the period since its inception on May 1, 1998, through December 31, 1998.

8. Montgomery and Montgomery Funds intend to cease offering shares of Montgomery Small Cap Fund due to the small amount of assets and the corresponding absence of economies of scale. Montgomery has indicated that the small size of Montgomery Small Cap Fund makes it difficult to manage successfully and makes it difficult to comply with diversification requirements applicable to variable insurance products under the Internal Revenue Code of 1986, as amended, and to mutual funds under the Act. On May 1, 1999, Ohio National and ONLAC ceased permitting allocations by new contractowners of accumulation value to the Subaccounts that invest in Montgomery Small Cap Fund.

9. ON Small Cap Growth Portfolio is another investment option currently available under the VA Contracts which also offer Montgomery Small Cap Fund. The investment adviser of ON Small Cap Growth Portfolio is Ohio National Investments, Inc. The sub-adviser that manages the investments of ON Small

Cap Growth Portfolio is Robertson Stephens Investment Management, L.P.

10. The investment objective of ON Small Cap Growth Portfolio is capital appreciation. ON Small Cap Growth Portfolio invests in an actively managed portfolio of equity securities, principally common stocks, of companies that in the opinion of its sub-adviser have the potential, based on superior products or services, operating characteristics, and financing capabilities, for more rapid growth than the over-all economy. Up to 30% of its assets may be invested in foreign securities. The expense ratio of ON Small Cap Growth Portfolio for 1998 was 1.30%. The total return of ON Small Cap Growth Portfolio (exclusive of Contract or Subaccount charges) was 4.62% for the period since its inception on May 1, 1998, through December 31, 1998.

11. Montgomery Emerging Markets Fund (collectively with Montgomery Small Cap Fund, the "Eliminated Portfolios") is a separate investment portfolio of Montgomery Funds and is currently an investment option under the Contracts. Montgomery Emerging Markets Fund is managed by Montgomery.

12. Montgomery Emerging Markets Fund's investment objective is to seek capital appreciation by investing primarily in equity securities of companies in countries having economies and markets generally considered by the World Bank or the United Nations to be emerging or developing. The expense ratio of Montgomery Emerging Markets Fund for 1998 was 1.75%. Absent voluntary deferral of fees and absorption of expenses by Montgomery, that expense ratio would have been 1.80%. The total return of Montgomery Emerging Markets Fund (exclusive of Contract or Subaccount charges) was -37.53% for the year ended December 31, 1998, and the average annual total return since its inception on February 2, 1996, through December 31, 1998, was -13.15%.

13. On May 1, 1999, Ohio National and ONLAC ceased permitting allocations by new contractowners of accumulation value to the Subaccounts that invest in Montgomery Emerging Markets Fund.

14. Lazard Emerging Markets Portfolio (collectively with ON Small Cap Growth Portfolio, the "Substitute Portfolios") is a separate investment portfolio of Lazard Retirement Series, Inc., an open-end management investment company registered under the Act. The Lazard Emerging Markets Portfolio has been available under the Contracts since May 1, 1999. Lazard Emerging Markets Portfolio is managed by Lazard Asset

Management ("Lazard"), a division of Lazard Freres & Co. LLC.

15. Lazard Emerging Markets Portfolio's investment objective is to seek capital appreciation. It invests primarily in equity securities of non-United States issuers located, or doing significant business, in emerging market countries that Lazard considers inexpensively priced relative to the return on total capital or equity. The expense ratio of Lazard Emerging Markets Portfolio for 1998 was 1.80%. Absent voluntary expense reductions, that expense ratio would have been 14.37%. The total return of Lazard Emerging Markets Portfolio for the year ended December 31, 1998 was -22.85%. Its average annual total return since its inception on November 4, 1997, through December 31, 1998, was -26.48%.

16. Applicants represent that each substitution will take place at the relative asset values determined on the date of the substitution in accordance with Section 22 of the Act and Rule 22c-1 thereunder. There will be no financial impact to any contractowner. Each substitution will be effected by having each Subaccount that invests in the Eliminated Portfolio redeem its shares of the Eliminated Portfolio at the net asset value calculated on the date of the substitutions and purchase shares of the substitute Portfolio at net asset value on the same date.

17. Immediately following the substitutions, Ohio National and ONLAC will combine: (a) The Montgomery Small Cap and ON Small Cap Growth Subaccounts that each hold shares of the ON Small Cap Growth Portfolio after the substitution; and (b) the Montgomery Emerging Markets and Lazard Emerging Markets Subaccounts that each hold shares of the Lazard Emerging Markets Portfolios after the substitution. Ohio National and ONLAC will reflect this treatment in disclosure documents for Variable Account A and Variable Account R, respectively, and in the financial statements and Form N-SAR annual report filed by Variable Account A and Variable Account R.

18. Applicants represent that the proposed substitutions were described in supplements to the prospectus for the Contracts ("Stickers") filed with the Commission and mailed to contractowners. The Stickers gave contractowners notice of the substitutions and describe the reasons for engaging in the substitutions. The Stickers also informed contractowners that no additional amounts may be allocated to the Subaccounts that invest in the Eliminated Portfolios on or after the date of substitution. In addition, the

Stickers informed affected contractowners that they will have one opportunity to reallocate accumulation value:

(a) Prior to the substitutions, from the Subaccounts investing in the Eliminated Portfolios; or

(b) For 30 days after the substitutions, from the Subaccounts investing in the Substitute Funds, to Subaccounts investing in other Portfolios available under the Contracts, without the imposition of any transfer charge or limitation.

19. A transfer out of the Subaccounts investing in the Eliminated Portfolios from the date of the notice through the date of the substitutions will not: (a) Be assessed a transfer fee; (b) count as a free transfer; or (c) be subject to any limitation relating to transfers that result in more than a reduction of an Underlying Fund's assets by 1% or more.

20. Similarly, for a period of 30 days after the substitutions, a transfer out of a Subaccount that invests in a Substitute Portfolio of accumulation value moved to that Subaccount as a result of the substitutions will not: (a) Be assessed a transfer fee; (b) count as a free transfer; or (c) be subject to any limitation relating to transfers that result in more than a reduction of an Underlying Fund's assets by 1% or more.

21. Applicants represent that the prospectuses for the Contracts reflect the substitutions. Each contractowner will have been provided prospectuses for the Substitute Portfolios before the substitutions. Within five days after the substitutions, Ohio National and ONLAC will send to contractowners written confirmation that the substitutions have occurred.

22. Applicants represent that Ohio National and ONLAC will pay all fees and expenses of the substitutions, including legal, accounting, brokerage commissions and other fees and expenses; none will be borne by contractowners. Affected contractowners will not incur any fees or charges as a result of the substitutions, nor will their rights or the obligations of Ohio National or ONLAC under the Contracts be altered in any way. The proposed substitutions will not cause the fees and charges under the Contracts currently being paid by contractowners to be greater after the substitutions than before the substitutions.

23. Applicants state that their request satisfies the standards for relief of Section 26(b) because:

(a) The substitutions involve Portfolios with substantially similar investment objectives;

(b) After each substitution, affected contractowners will be invested in a Portfolio whose performance has been better on a historical basis; and

(c) After each substitution affected contractowners will be invested in a Portfolio whose expenses have been less on a historical basis.

Applicants' Legal Analysis

1. Applicants request an order pursuant to Section 26(b) of the Act approving the substitutions. Section 26(b) of the Act makes it unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission approves the substitution. The Commission will approve such a substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicants assert that the purposes, terms and conditions of the substitutions are consistent with the principles and purposes of section 26(b) and do not entail any of the abuses that section 26(b) is designed to prevent. Applicants represent that substitution is an appropriate solution to the unfavorable relative performance and higher relative expenses of the Portfolios to be eliminated. Applicants believe that each Substitute Portfolio will better serve contractowner interests because its performance has been significantly better than the performance of, and its expenses have been lower than the expenses of, the corresponding Eliminated Portfolio. Moreover, Ohio National and ONLAC have each reserved this right in the Contracts and disclosed this reserved right in the prospectuses for the Contracts.

3. Applicants represent that the substitutions will not result in the type of costly forced redemption that section 26(b) was intended to guard against and, for the following reasons, are consistent with the protection of investors and the purposes fairly intended by the Act:

(a) Each Substitute Portfolio has investment objectives, policies and restrictions substantially similar to those of the corresponding Eliminated Portfolio, and permits contractowners continuity of their investment objectives and expectations.

(b) The costs of the substitutions will be borne by Ohio National and ONLAC and will not be borne by contractowners. No charges will be assessed to effect the substitutions.

(c) The substitutions will, in all cases, be at net asset values of the respective

shares, without the imposition of any transfer or similar charge and with no change in the amount of any contractowner's accumulation value.

(d) The substitutions will not cause the fees and charges under the Contracts currently being paid by contractowners to be greater after the substitutions than before the substitutions.

(e) The contractowners will be given notice prior to the substitutions and will have an opportunity to reallocate accumulation value among other available Subaccounts without the imposition of any transfer charge or limitation. No transfer:

(i) From a Subaccount investing in an Eliminated Portfolio from the date of the notice through the date of the substitutions, or

(ii) For 30 days after the substitutions, of accumulation value that had been transferred to a Subaccount that invests in a Substitute Portfolio as a result of the substitutions, will count as one of the limited number of transfers permitted in a contract year free of charge.

(f) Within five days after the substitutions, Ohio National and ONLAC will send to contractowners written confirmation that the substitutions have occurred.

(g) The substitutions will in no way alter the insurance benefits to contractowners or the contractual obligations of Ohio National or ONLAC.

(h) The substitutions will in no way alter the tax benefits to contractowners.

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the substitutions should be granted.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-24003; No. 812-11688]

Select Ten Plus Fund, LLC

September 9, 1999.

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

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act").