

3. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction from the net assets of the Separate Account and the Other Accounts in connection with the Contracts and Future Contracts of the 1.00% charge for the assumption of mortality an expense risks, and .35% of the average death benefit amount for the enhanced death benefit charge, and to exempt Future Broker-Dealers.

4. Applicants assert that the terms of the relief requested with respect to any Future Contracts funded by the Separate Account or Other Accounts, as well as for Future Broker-Dealers, are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, Applicants would have to request and obtain exemptive relief for each new Other Account it establishes to fund any Future Contract, as well as for each Future Broker-Dealer that distributes the Contracts or the Future Contracts. Applicants submit that any such additional request for exemption would present no issues under the 1940 Act that have not already been addressed in this application, and that investors would not receive any benefit or additional protections thereby.

Applicants submit that the requested relief is appropriate in the public interest, because it would promote competitiveness in the variable annuity contract market by eliminating the need for Applicants to file redundant exemptive applications, thereby reducing their administrative expenses and maximizing the efficient use of their resources. The delay and expense involved in having repeatedly to seek exemptive relief would reduce Applicants' ability effectively to take advantage of business opportunities as they arise.

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. Applicants thus believe that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

5. Applicants represent that the 1.00% per annum mortality and expense risk charge is within the range of industry practice for comparable annuity contracts. This representation is based upon an analysis of publicly available information about similar industry products, taking into consideration such factors as, among others, the current charge levels and benefits provided, the existence of

expense charge guarantees, guaranteed death benefits, and guaranteed annuity rates. United of Omaha will maintain at its principal offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, Applicants' comparative review.

6. Applicants also assert that the charge equal to an annual rate of .35% of the average death benefit amount for Contracts and Future Contracts issued with the enhanced death benefit is reasonable in relation to the risks assumed by United of Omaha. In arriving at this determination, United of Omaha projected its expected cost in providing this benefit by using the price of put options which could be used to hedge the risk inherent in providing the enhanced death benefit. United of Omaha undertakes to maintain at its home office a memorandum, available to the Commission, setting forth in detail the methodology used in determining that the risk charge equal to an annual rate of .35% of the average death benefit amount under certain Contracts and Future Contracts for the enhanced death benefit is reasonable in relation to risks assumed by United of Omaha under the Contracts and Future Contracts.

7. United of Omaha has concluded that there is a reasonable likelihood that the Separate Accounts and Other Accounts' proposed distribution financing arrangements will benefit the Separate Accounts and their investors. United of Omaha represents that it will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion.

8. The Separate Account and Other Accounts will be invested only in management investment companies that undertake, in the event the company should adopt a plan for financing distribution expenses pursuant to Rule 12b-1 under the 1940 Act, to have such plan formulated and approved by the company's board members, the majority of whom are not "interested persons" of the management investment company within the meaning of Section 2(a)(19) of the 1940 Act.

9. Section 2(a)(32) of the 1940 Act defines a redeemable security as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(c)(1) of the 1940 Act and Rule 22c-1 thereunder, in pertinent part, prohibit a registered investment company, its

depositor, or principal underwriter, from selling periodic payment plan certificates unless such certificates are redeemable securities.

10. Applicants request exemptions from Sections 2(a)(32), 22(c), and 27(c)(1) of the 1940 Act, and Rule 22c-1 thereunder, to permit the deduction upon surrender of the prorated enhanced death benefit equal to .35% of the average death benefit.

11. Applicants assert that the enhanced death benefit charge is assessed to compensate United of Omaha for the increase risk it bears if the Contract owner elects the enhanced death benefit. The death benefit represents an optional insurance benefit that United of Omaha may provide through the life of the Contract or Future Contract for which it is entitled to receive compensation. Normally, the enhanced death benefit charge accrues each Contract year and is deducted retroactively on each Contract anniversary, for that prior Contract year. By deducting a prorated enhanced death benefit charge upon a Contract owner's surrender, the Contract owner compensates United of Omaha for the additional risk the company bears during the period between the last Contract anniversary and the date of surrender.

12. Applicants further assert that the assessment of the prorated enhanced death benefit charge upon surrender does not alter a Contract owner's current net asset value. As previously discussed, United of Omaha deducts the enhanced death benefit charge through the cancellation of a Contract owner's accumulation units. Accordingly, the assessment of the prorated enhanced death benefit charge upon surrender, or at any other time during the life of a Contract or Future Contract, will not alter the Contract or Future Contract's current net asset value.

13. In addition, Applicants assert that the assessment of a prorated enhanced death benefit charge upon a Contract owner's surrender, which is fully disclosed in the prospectus for the Contract, should not be construed as a restriction on redemption. Applicants maintain that the Contracts and Future Contracts are and will be redeemable securities and that the imposition of the prorated enhanced death benefit charge upon surrender represents nothing more than the proportionate deduction of an insurance charge that could otherwise be deducted daily through the life of the Contract or Future Contract. Moreover, as stated previously, Applicants only assess the charge if the Contract owner has elected the enhanced death benefit.