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Any interested person may, on or before January 31, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Rel. No. IC-20828; File No. 812-9250]

### The Penn Insurance and Annuity Company, et al.

January 10, 1995.

**AGENCY:** Securities and Exchange Commission (the "SEC" or the "Commission").

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

**APPLICANTS:** The Penn Insurance and Annuity Company ("Company"), PIA Variable Annuity Account I ("Separate Account"), and Horner, Townsend & Kent, Inc. ("Horner").

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) for exemptions from Sections 22(d), 26(a)(2) and 27(c)(2) of the 1940 Act.

#### SUMMARY OF THE APPLICATION:

Applicants seek an order to permit the Company (i) to deduct a mortality and expense risk charge under certain variable annuity contracts from the assets of the Separate Account, or any other separate account established by the company in the future to support materially similar variable annuity contracts (the "Contracts"), and (ii) to waive the contingent deferred sales charge for defined "medically related free withdrawals" and "disability related free withdrawals" under the Contracts.

**FILING DATE:** The application was filed on September 27, 1994.

**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 on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on February 6, 1995 and 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 of the nature of the interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants: C. Ronald Rubley, Associate General Counsel, The Penn Mutual Life Insurance Company, Independence Square, Philadelphia, Pennsylvania 19172.

#### FOR FURTHER INFORMATION CONTACT:

Mark C. Amorosi, Staff Attorney, or Wendy Finck Friedlander, Deputy Chief, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

**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. The Company is a Delaware stock life insurance company. The Company is a wholly owned subsidiary of The Penn Mutual Life Insurance Company ("Penn Mutual").

2. The Separate Account is a segregated investment account established under Delaware law on July 13, 1994 by the executive committee of the Company's board of directors. The Separate Account is registered under the 1940 Act as a unit investment trust.

3. Horner, a wholly owned subsidiary of Penn Mutual, is registered as a broker-dealer under the Securities Exchange Act of 1934. Horner will serve as the principal underwriter. The Contracts will be sold by licensed insurance agents who are registered representatives of Horner or of a registered broker-dealer who has entered into a selling agreement with Horner.

4. The Contracts are individual combination variable and fixed annuity contracts. The amounts and timing of purchase payments under the Contracts will be determined by Contract Owners, except as follows. The minimum initial purchase payment is \$2,000 for Contracts qualifying as individual

retirement annuities under Section 408 of the Internal Revenue Code of 1986, as amended, and for Contracts qualifying as tax deferred annuities under Section 403(b) of the Internal Revenue Code. The minimum initial purchase payment for non-qualifying Contracts is \$5,000. The minimum subsequent purchase payment is \$250 for all Contracts. Payments under a Contract in excess of \$1 million require the Company's prior approval.

5. The Contracts provide for five forms of annuity payment options: (1) an annuity for a specified number of years; (2) a life annuity; (3) a life annuity with payments guaranteed for 10 or 20 years; (4) a joint and survivor annuity; or (5) such other form of annuity as the Company may agree upon with the Contract Owner. Except for an annuity for a specified number of years, which is available only on a fixed basis, all of the options may be elected on a variable or fixed basis.

6. Two forms of administrative charges are deducted from the Contracts. First, the application states that on every contract anniversary prior to the Annuity Date and on every other date when the Variable Account Value is reduced to zero through a withdrawal or transfer, the Company will deduct from the Variable Account Value a contract administration charge of \$30 or, if less, 2% of the Variable Account Value. However, if the Variable Account Value is greater than \$50,000, there will be no such deduction. The application states that the charge is made by cancelling accumulation units credited to the Contract, with the charge allocated pro rata among the subaccounts comprising the Variable Account Value. Second, the Company will also deduct from the Separate Account a daily administration charge equal to an effective annual rate of 0.15% of the daily net assets of the Separate Account. The application states that these administration charges are guaranteed not to increase. The Company also states that the administrative charges are intended not to exceed the Company's anticipated administrative expenses over the periods the Contracts are in force. The Company represents that these charges will be deducted in reliance on Rule 26a-1 under the 1940 Act.

7. A contingent deferred sales charge (the "Sales Charge") of up to 6% may be deducted in the event of full or partial withdrawal from the contract value prior to the Annuity Date. The Sales Charge will be imposed only on withdrawals of purchase payments in cases where the purchase payment was made within seven years of the date of