

(a) The terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable 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, as recited in the registration statements and reports filed under the Act; and

(c) The proposed transaction is consistent with the general purposes of the Act.

7. Applicants represent that the terms of the proposed In-Kind Transaction are reasonable and fair and do not involve any overreaching on the part of any person concerned. The substitution will be accomplished on the basis of the relative net asset values of each of the Funds and, therefore, will have no economic impact on the interest of any contract owner.

8. Applicants represent that the substitution is consistent with the investment objective of each of the Funds in that both Funds seek long term growth of capital by investing primarily in value and growth oriented companies. Although the SmallCap Account and the MicroCap Account differ primarily in the market capitalization of the companies they invest in, with the SmallCap Account investing primarily in companies with small market capitalizations, ranging approximately from \$150 million to \$1.4 billion, and the MicroCap Account investing primarily in companies with market capitalizations under \$1 billion, there is substantial overlap in the securities in which each may invest, and the SmallCap Account, with its emphasis on investing in companies with small market capitalizations, will afford shareholders of the MicroCap Account an opportunity for continued investment exposure to companies with smaller market capitalizations. In addition, contract owners with an interest in the MicroCap Division will have the opportunity to transfer their interest, without charge, to any other Division.

9. Applicants represent that the substitution is consistent with the general purposes of the Act. Section 1(b)(2) of the Act declares that the public interest and interest of investors are adversely affected when investment companies are organized and managed in the interest of affiliated persons, rather than in the interest of the company's security holders. The substitution does not result in any of the self-dealing abuses that the Act was designed to prevent. Principal Life will

pay all expenses incurred in connection with the substitution. The substitution will be effected by Principal Life in accordance with the terms of the Contracts. The substitution will eliminate a small fund that has never been able to attract significant investor interest, will provide contract owners with an interest in a fund that has similar, although not identical, investment objectives and policies as well as a lower expense ratio, and should benefit the shareholders of both Funds by providing economies of scale that result from combining the assets and operations of the two Funds.

10. Applicants request an order of the Commission pursuant to section 26(c) of the Act approving the substitution and an order of exemption pursuant to section 17(b) of the Act in connection with aspects of the substitution that may be deemed to be prohibited by section 17(a), as described above. Section 26(c), in pertinent part, provides that the Commission shall issue an order approving a substitution of securities 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. For the reasons and upon the facts set forth above, Applicants believe that the requested order meets the standards set forth in section 26(c) and should, therefore, be granted. Section 17(b) of the Act provides that the Commission may grant an order exempting transactions prohibited by section 17(a) of the Act upon application subject to certain conditions. Applicants represent that the proposed In-Kind Transaction meets all of the requirements of section 17(b) of the Act and that an exemption should be granted, to the extent necessary, from the provisions of section 17(a).

#### Conclusion

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act, or any rule or regulation thereunder, 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 provisions of the Act.

Applicants submit that, for the reasons stated in the Application, their exemptive requests meet the standards

set out in section 6(c) and that an order should, therefore, 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

### Sunshine Act; Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of April 14, 2003:

A Closed Meeting will be held on Tuesday, April 15, 2003 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(5), (7), (8), (9)(B) and (10) and 17 CFR 200.402(a)(5), (7), (8), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

The subject matter of the Closed Meeting scheduled for Tuesday, April 15, 2003 will be:

Institution and settlement of administrative proceedings of an enforcement nature;

Regulatory matter regarding a financial institution;

Institution and settlement of injunctive actions; and

Formal Orders of Investigation;

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: April 8, 2003.

**Jonathan G. Katz,**

*Secretary.*

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