

prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before shares of such Portfolio are offered to the public (or to Owners through a sub-account of a registered separate account).

2. Each Portfolio relying on the requested order will disclose in its prospectus the existence, substance and effect of any order granted pursuant to the application. In addition, each Portfolio relying on the requested order will hold itself out to the public as employing the Manager/Sub-Adviser Structure described in the application. Such Portfolio's prospectus will prominently disclose that the Manager has ultimate responsibility (subject to oversight by the Board) to oversee the Sub-Advisers and recommend their hiring, termination and replacement.

3. The Manager will provide general management and administrative services to each Portfolio, including overall supervisory responsibility for the general management and investment of each Portfolio's securities and other assets, and, subject to review and approval by the applicable Board, will:

- (i) Set each Portfolio's overall investment strategies;
- (ii) evaluate, select and recommend Sub-Advisers to manage all or a part of a Portfolio's assets;
- (iii) when appropriate, allocate and reallocate a Portfolio's assets among multiple Sub-Advisers;
- (iv) monitor and evaluate the investment performance of Sub-Advisers; and
- (v) implement procedures reasonably designed to ensure Sub-Advisers comply with the relevant Portfolio's investment objectives, policies and restrictions.

4. At all times, a majority of the Board of a Portfolio will be Independent Directors, and the nomination of new or additional Independent Directors will be at the discretion of the then existing Independent Directors.

5. Neither the Manager nor any Portfolio will enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without such Sub-Advisory Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, then pursuant to voting instructions of the Owners who have allocated assets to that sub-account).

6. When a Sub-Adviser change is proposed for a Portfolio with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the minutes of the meeting of the Board, that such change is in the

best interests of the applicable Portfolio and its shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Portfolio and the Owners who have allocated assets to the sub-account) and does not involve a conflict of interest from which the Manager of the Affiliated Sub-Adviser derives an inappropriate advantage.

7. No director or officer of a Portfolio or director or officer of the Manager will own directly or indirectly (other than through a polled investment vehicle that is not controlled by the director or officer) any interest in Sub-Adviser except (i) for the ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager; or (ii) for ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

8. Within 90 days of the hiring of any new Sub-Adviser, the Manager will furnish the shareholders (or, if the Portfolio serves as a funding medium for a sub-account of a registered separate account, the Owners who have allocated assets to that sub-account) of the applicable Portfolio all the information about the new Sub-Adviser that would have been included in a proxy statement. To meet this obligation, the Manager will provide the shareholders (or if the Portfolio serves as a funding medium for any sub-account of a registered separate account, the Owners) of the applicable Portfolio with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934, as amended, as well as the requirements of Item 22 of Schedule 14A under that Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-2167 Filed 1-29-03; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25913; File No. 812-12885]

Nationwide Life Insurance Company, et al.

January 24, 2003.

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

ACTION: Notice of Application for an order pursuant to section 6(c) of the Investment Company Act of 1940 (the "1940 Act") to amend a prior order of the Commission under section 6(c) of the 1940 Act which granted exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act and Rule 22c-1 thereunder to permit the recapture of credits applied to purchase payments made under certain deferred variable annuity contracts.

SUMMARY OF APPLICATION: On January 19, 2000 the Commission issued an order pursuant to section 6(c) of the 1940 Act granting exemptions from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the 1940 Act and Rule 22c-1 thereunder to permit the recapture of credits applied to purchase payments made under certain variable annuity contracts issued by Nationwide Life Insure Company (the "Original Order". See Nationwide Life Insurance Company, *et al.*, Investment Company Act Release No. 24256 (File No. 812-11824). Applicants seek an amendment to the Original Order pursuant to section 6(c) of the 1940 Act granting exemptions from the provisions of sections 2(a)(32), 22(c) and 27(i)(2)(A) of the 1940 Act and Rule 22c-1 thereunder to permit the recapture of credits applied to purchase payments made under certain variable annuity contracts under circumstances not contemplated under the Original Order. Applicants also request the relief under the order to extend to any current or current separate accounts of Nationwide Life Insurance Company which may in the future offer or support contracts that are substantially similar in all material respects to the contracts described in the Application (the "Other Separate Accounts") and to any other NASD registered broker/dealers under common control with Nationwide Life Insurance Company which may in the future serve as general distributor-principal underwriter of VA-II or Other Separate Accounts that offer or support variable annuity contracts that are substantially similar in all material respects to those describe in this Application.

APPLICANTS: Nationwide Life Insurance Company ("Nationwide"); Nationwide Variable Account-II ("VA-II"); and Nationwide Investment Services Corporation ("NISC") (all collectively, the "Applicants").

FILING DATE: The Application was filed on September 23, 2002. Amended Applications were filed on January 14, 2003 and January 24, 2003.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be