rate to Gulf Power or at an equivalent cost if sold on an interest-bearing basis.

Pursuant to order dated May 9, 1994 (HCAR No. 26049), Gulf Power is authorized to effect certain short-term borrowings prior to January 1, 1997. At September 30, 1996, borrowings in the aggregate principal amount of approximately $64.1 million were outstanding pursuant to such authorization. Gulf proposes that the authorization sought pursuant to this declaration would supersede and replace authorizations in file number 70–8397 effective immediately upon the date of the Commission's order authorizing this declaration.

The proceeds from the proposed borrowings will be used by Gulf Power for working capital purposes, including the financing in part of its construction program.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29414 Filed 11–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22325; File No. 812–10274]

Merrill Lynch Variable Series Funds, Inc. et al.

November 8, 1996.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Merrill Lynch Variable Series Funds, Inc. (''Company''), Merrill Lynch Asset Management L.P., Merrill Lynch Life Insurance Company, ML Life Insurance Company of New York, Merrill Lynch Variable Life Separate Account, Merrill Lynch Life Variable Life Separate Account II, Merrill Lynch Life Variable Annuity Separate Account A, Merrill Lynch Life Variable Annuity Separate Account B, Merrill Lynch Life Variable Annuity Separate Account, ML of New York Variable Life Separate Account, ML of New York Variable Life Separate Account II, ML of New York Variable Annuity Separate Account A, ML of New York Variable Annuity Separate Account B, and ML of New York Variable Annuity Separate Account.

RELEVANT 1940 ACT SECTIONS: Order requested under Section 17(b) of the 1940 Act granting an exemption from the provisions of Section 17(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the Company's Merrill Lynch Flexible Strategy Fund series to combine with and into its Merrill Lynch Global Strategy Focus Fund series and permitting the Company's Merrill Lynch International Bond Fund series to combine with and into its Merrill Lynch World Income Focus Fund series.

FILING DATE: The application was filed on July 25, 1996, and amended on November 6, 1996.

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 Commission Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 3, 1996, 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. Any person may request notification of a hearing by writing to the Commission Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington D.C. 20549. Ira P. Shapiro, Esq., Merrill Lynch Variable Series Funds, Inc., 800 Scudders Mill Road, Plainsboro, New Jersey 08536. Edward Diffin, Esq., Merrill Lynch Insurance Group, 800 Scudders Mill Road, Plainsboro, New Jersey 08536. Leonard B. Mackey, Jr., Esq., Rogers & Wells, 200 Park Avenue, New York, NY 10166.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, or Patrice M. Pitts, Branch Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. The Company is a Maryland corporation registered under the 1940 Act as an open-end management investment company.

2. The Company currently offers its shares in seventeen separate series (''Funds'') to separate accounts (''Separate Accounts'') of certain insurance companies (''Insurance Companies''), including Merrill Lynch Life Insurance Company (''MLLIC'') and ML Life Insurance Company of New York (''ML of New York''), wholly owned subsidiaries of Merrill Lynch & Co., Inc. (''Merrill Lynch''), to fund benefits under variable annuity contracts and/or variable life insurance contracts issued by such companies (''Contracts'').

3. The Separate Accounts include Merrill Lynch Variable Life Separate Account; Merrill Lynch Life Variable Life Separate Account II; Merrill Lynch Life Variable Annuity Separate Account A; Merrill Lynch Life Variable Annuity Separate Account B; Merrill Lynch Life Variable Annuity Separate Account; ML of New York Variable Life Separate Account; ML of New York Variable Life Separate Account II; ML of New York Variable Annuity Separate Account A; ML of New York Variable Annuity Separate Account B; and ML of New York Variable Annuity Separate Account.

4. Merrill Lynch Asset Management L.P. (''Investment Adviser'') is the investment adviser for each series of the Company and an indirect wholly owned subsidiary of Merrill Lynch.

5. Applicants request an exemption from the provisions of Section 17(a) of the 1940 Act to permit the Company's Merrill Lynch Flexible Strategy Fund series (''Flexible Strategy Fund'') to be combined with and into its Merrill Lynch Global Strategy Focus Fund series (the''Global Strategy Focus Fund'') and the Company's Merrill Lynch International Bond Fund series (''International Bond Fund'') be combined with and into its Merrill Lynch World Income Focus Fund series (''World Income Focus Fund'')(the ''Reorganizations''). MLLIC and ML of New York hold of record in their own name more than 5% of the outstanding shares of each of the Flexible Strategy Fund and the International Bond Fund (together, the ''Transferor Funds'') and the Global Strategy Focus Fund and the World Income Focus Fund (together, the ''Acquiring Funds'').

6. Pursuant to the Reorganizations, the Acquiring Funds will acquire all of the assets and assume all of the liabilities of the corresponding Transferor Funds in exchange for shares of the Acquiring Funds of the basis of relative new asset values at the effective date of the Reorganizations. Following the Reorganizations each Transferor Fund will liquidate and distribute the shares of the Acquiring Funds *pro rata* to its shareholders of record.

7. Each Reorganization is intended to be a ''reorganization'' within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended (the ''Code''). The Transferor Funds and corresponding Acquiring Funds will

receive an opinion of outside counsel substantially to the effect, among other things, that (a) shareholders of each Transferor Fund will recognize no income, gain or loss upon receipt, pursuant to the Reorganizations, of the corresponding Acquiring Fund's shares; (b) the Transferor Funds will recognize no income, gain or loss by reason of their Reorganization; and (c) the Acquiring Funds will recognize no income, gain or loss by reason of their Reorganization.

Comparison of the Transferor Funds to the Acquiring Funds Fund Assets

Fund Assets

8. At March 31, 1996, the Flexible Strategy Fund had net assets of approximately $324,163,771, while the Global Strategy Focus Fund had net assets of approximately $554,297,564, and the International Bond Fund had net assets of approximately $17,166,252, while the World Income Focus Fund had net assets of approximately $87,923,711. For the three months ended March 31, 1996, the annualized ratio of total expenses to average net assets was 0.71% for the shares of each of the Flexible Strategy Fund and the Global Strategy Focus Fund, and the annualized ratio of total expenses to average net assets was 0.78% (before expense reimbursement) for the shares of the International Bond Fund, compared to 0.68% for the shares of the World Income Focus Fund.

Fund Expenses

9. The Company's Investment Advisory Agreements require the Investment Adviser to reimburse each Fund (up to the amount of the advisory fee earned by the Investment Adviser with respect to such Fund) if and to the extent that in any fiscal year the operating expenses of the Fund exceed the most restrictive expense limitation then in effect under any state securities law or the published regulations thereunder. At present the most restrictive expense limitation requires the Investment Adviser to reimburse expenses which exceed 2.5% of each Fund's first $30 million of average daily net assets, 2.0% of its average daily net assets in excess of $30 million but less than $100 million, and 1.5% of its average daily net assets in excess of $100 million. Expenses for this purpose include the Investment Adviser's fee but exclude interest, taxes, brokerage fees and commissions and extraordinary charges, such as litigation costs.

10. The Investment Adviser and Merrill Lynch Life Agency, Inc. (''MLLA'')—the entity that sells the Contracts—entered into two reimbursement agreements (the ''Reimbursement Agreements'') that provide that the expenses paid by each Fund (excluding interest, taxes, brokerage fees and commissions and extraordinary charges such as litigation costs) will be limited to 1.25% of its average net assets. Any expenses in excess of this percentage will be reimbursed to the Fund by the Investment Advisers which, in turn, will be reimbursed by MLLA. The Reimbursement Agreements may be amended or terminated by the parties thereto upon prior written notice to the Company.

11. The investment advisory fee for each of the Flexible Strategy Fund and the Global Strategy Focus Fund is 0.65% per annum of average daily net assets. The investment advisory fee for each of the International Bond Fund and the World Income Focus Fund is 0.60% per annum of average daily net assets. During the Company's financial year ended December 31, 1995, the advisory fee expense incurred by the Company totalled $21,376,742 of which $1,941,598 related to the Flexible Strategy Fund and $3,348,535 related to the Global Strategy Focus Fund, and $70,573 related to the International Bond Fund and $464,049 related to the World Income Focus Fund.

12. During the same period, the total operating expenses of the Transferor Funds and the Acquiring Funds (including the advisory fees paid by the Investment Adviser), were as follows: $2,128,926 by Flexible Strategy Fund (representing .71% of its average net assets), $3,719,425 by Global Strategy Focus Fund (representing .72% of its average net assets), and $112,261 by International Bond Fund (representing .95% of its average net assets prior to complete reimbursement by the Investment Manager) and $527,752 by World Income Focus Fund (representing .68% of its average net assets). Thus far during 1996, the Investment Adviser has continued to waive all of its fees and reimbursed all expenses of the International Bond Fund. The Investment Adviser has no current intention of waiving its advisory fee payable by the World Income Focus Fund or reimbursing the World Income Focus Fund for any expenses, other than as required under the Reimbursement Agreements.

Fund Investment Objectives and Policies

13. The Flexible Strategy Fund has an investment objective of high total investment return consistent with prudent risk and the Global Strategy Focus Fund has an investment objective of high total investment return by investing primarily in a portfolio of equity and fixed income securities, including convertible securities, of United States and foreign issues. The Flexible Strategy Fund seeks to meet its investment objective by investing primarily in securities of U.S. issuers [1] whereas the Global Strategy Focus Fund invests primarily in the securities of issuers located in the United States, Canada, Western Europe and the Far East.

14. The investment policies of the Flexible Strategy Fund and the Global Strategy Focus Fund are also substantially similar. Both Funds may invest in a broad range of securities, including equity securities of domestic and foreign large-capitalization and small capitalization companies, convertible and non-convertible intermediate and long-term debt obligations issued or guaranteed by sovereign and corporate issuers, and money market obligations. In addition, both Funds may, at any given time, concentrate their investments in either equities or debt securities. However, because of its greater ability to invest in non-U.S. securities, the Global Strategy Focus Fund, unlike the Flexible Strategy Fund, may engage in transactions in futures contracts, options on futures contracts, forward foreign exchange contracts, currency options and options on portfolio securities and on stock indexes for hedging purposes only and not for speculation. This ability to engage in hedging transactions also accounts for the variation in what are otherwise substantially similar fundamental and non-fundamental investment restrictions.

15. The investment objective of the International Bond Fund is to seek a high total investment return. The investment objective of the World Income Focus Fund is to seek to provide stockholders with high current income. However, the Reorganization of the International Bond Fund and the World Income Focus Fund is contingent upon the approval by shareholders of the World Income Focus Fund of a proposal to change the investment objective of the World Income Focus Fund to an investment objective substantially similar to that of the International Bond Fund.

16. In addition, the fundamental and non-fundamental investment restrictions applicable to the two Funds

[1] As a matter of operating policy, the Flexible Strategy Fund may invest up to 25% of its net assets in the securities of non-U.S. issuers.

are substantially similar.[2] To the extent there was any variation in those restrictions, such variations would be eliminated by the adoption of proposed uniform investment restrictions submitted to stockholders of the Company's Funds (other than the Merrill Lynch Domestic Money Market Fund and the Merrill Lynch Reserve Assets Fund) at the same time approval of the combination of the two Funds was sought.

Approval by the Board and Contractowners

17. The Reorganizations were unanimously approved by the Board of Directors of the Company, including the disinterested directors thereof, on July 10, 1995, and were approved by the shareholders of the Transferor Funds on October 11, 1996.

Applicants' Legal Analysis

1. Section 17(a) of the 1940 Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person ''(1) knowingly to sell any security or other property to such registered company * * *; [or] (2) knowingly to purchase from such registered company * * * any security or other property. * * *''

2. Section 2(a)(3) of the 1940 Act defines the term ''affiliated person'' of another person to include, in pertinent part, ''(A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person; * * * [and] (E) if such other person is an investment company, any investment adviser thereof. * * *''

3. MLLIC and ML of New York, which are under common ownership and control with the Investment Adviser, hold of record more than 5% of the outstanding voting securities of the Acquiring Funds. Because of this 5% ownership, each Acquiring Fund might be deemed an ''affiliated person'' of MLLIC and ML of New York under Section 2(a)(3)(B). Also, MLLIC and ML of New York are ''affiliated persons'' of the Investment Adviser under Section 2(a)(3)(C) by virtue of their common ownership and control by Merrill Lynch. The Investment Adviser, in turn, is an ''affiliated person'' of the Transferor Funds under Section 2(a)(3)(E) by virtue of its investment advisory relationship with those Funds. Therefore, each Acquiring Fund might be deemed ''an affiliated person of an affiliated person'' of the corresponding Transferor Fund.

4. Rule 17a–8 generally exempts from the prohibitions of Section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied. For the reasons noted above, Applicants state that the proposed Reorganization might not be deemed exempt from the prohibitions of Section 17(a) by reason of Rule 17a–8.

5. Section 17(b) of the 1940 Act provides that, notwithstanding Section 17(a), any person may file with the Commission an application for an order exempting a proposed transaction from one or more provisions of that subsection and that the Commission shall grant such application and issue such order of exemption if evidence establishes that ''(1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under [the 1940 Act]; and (3) the proposed transaction is consistent with the general purposes of [the 1940 Act].'' The Applicants seek an order under Section 17(b) to permit the Reorganizations to proceed.

6. In this regard, Applicants assert that Transferor Fund shareholders will receive corresponding Acquiring Fund shares with a total net asset value equal to that of the Transferor Fund shares which they previously held. Applicants further assert that the Board found, as contemplated by Rule 17a–8(a) under the 1940 Act, that participation in the Reorganizations is in the best interests of the Transferor Funds and corresponding Acquiring Funds and that the interests of existing shareholders of such Funds will not be diluted as a result of the Reorganizations. In reaching this conclusion, the Board noted that the Reorganizations should not result in any dilution of the interests of the Contract holders for whom the Separate Accounts hold shares of the Transferor Funds and the corresponding Acquiring Funds and should provide those Contract holders with substantially the same benefits as are expected to be realized by the Insurance Companies that own the shares of such Funds directly. The factors considered by the Board included: (1) The compatibility of the objectives, policies and restrictions of the Transferor Funds and the corresponding Acquiring Funds; (2) future cost savings or other advantages which might be achieved by combining the Transferor Funds and the corresponding Acquiring Funds; (3) the tax-free nature of the proposed Reorganizations; (4) the terms and conditions of the Reorganization Agreements; (5) the agreement of the Insurance Companies, primarily MLLIC and ML of New York, to bear a substantial portion of the costs associated with the proposed Reorganizations; (6) that the rate of the advisory fees would remain constant for Transferor Funds' shareholders; (7) that in no event will the holders of Transferor Funds' shares become subject to a less advantageous expense reimbursement ''cap'' as a result of the proposed combination of Funds; and (8) the potential benefits to the Investment Adviser of the transactions contemplated by the Reorganization Agreements.

7. Applicants also note that, consistent with the requirements of Rule 18f–2 under the 1940 Act, the proposed Reorganizations were approved by a majority of the outstanding voting securities of each Transferor Fund, voting as a separate series, as well as by the vote required under applicable state law. Moreover, the Reorganizations were the subject of a registration statement on Form N–14.

Conclusion

For the reasons and upon the facts set forth above, the terms of the proposed Reorganization transactions, including

[2] For example, both Funds may (i) utilize borrowings for temporary emergency purposes or to meet redemption requests; (ii) invest in illiquid securities, although the World Income Focus Fund is limited to investing no more than 10% of its total assets in such securities, whereas the International Bond Fund is limited to 15%; (iii) the World Income Focus Fund has a fundamental restriction that it will not purchase or retain the securities of any issuer, if those individual officers and directors of the Company, the Investment Adviser or any subsidiary thereof each owning beneficially more than ½ of 1% of the securities of such issuer, own in the aggregate more than 5% of the securities of such issuer, whereas the International Bond Fund has such investment restriction as a non-fundamental investment restriction and refers only to Merrill Lynch Funds Distributors, Inc., the distributor of the shares of the Company, in place of ''any subsidiary''; and (iv) the World Income Focus Fund is not prohibited from issuing senior securities whereas the International Bond Fund is so prohibited.

the consideration to be paid and received, are: (a) fair and reasonable and do not involve overreaching on the part of any person concerned; (b) consistent with the policy of each registered investment company concerned, as recited in its registration statements and reports filed under the 1940 Act; and, (c) consistent with the general purposes of the 1940 Act. Accordingly, Applicants submit that the terms of the Reorganizations meet the standards for exemption from Section 17(a) of the 1940 Act as set forth in Section 17(b) thereof.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29415 Filed 11–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37937; File No. SR–NYSE–96–29]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating to Stock Distributions

November 8, 1996.

On October 11, 1996, the New York Stock Exchange, Inc. (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NYSE–96–29) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the Federal Register on October 18, 1996.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The proposed rule change will allow listed companies engaged in distributions to offer shareholders whose ownership of stock is directly registered with them or their transfer agents the choice of receiving either certificates or account statements. The NYSE is rescinding its policy which required listed companies to supply stock certificates to recordholders for all distributions, such as stock splits, mergers, and spin-offs, other than those relating to dividend reinvestment plans (''DRIPs'') and dividend reinvestment stock purchase plans (''DRSPPs''). The NYSE is rescinding the current policy due to the decreasing importance of physical certificates, the technological enhancements in the automation of stock ownership records, and a recent rule filing by The Depository Trust Company (''DTC'') to implement an electronic ''direct registration system'' (''DRS'').[3]

DRS will provide a linkage between transfer agents, broker-dealers, and the depositories and will allow investors to move stock position from transfer agent to broker-dealers in connection with their sales of stock. As a condition of allowing issuers to provide investors with the option of obtaining either certificates or account statements for distributions in addition to those associated with DRIPs and DRSPPs, NYSE is requiring issuers to include their stock in a DRS. Such a DRS must be operated by a registered clearing agency and must be available for exchange-traded stock.

II. Discussion

Section 6(b)(5)[4] of the Act requires that an exchange have rules that are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The Commission believes that NYSE's proposed rule change rescinding its policy will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. By rescinding its policy, NYSE listed companies will have the opportunity to participate in DRS, which a joint industry committee comprised of representatives from the transfer agent, broker-dealer, and depository communities. DRS will provide significant efficiencies in the processing of securities and should contribute to the cooperation and coordination between the various groups involved in the clearance and settlement process.

NYSE has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication because accelerated approval will allow NYSE listed issuers to participate in the DRS pilot program which begins on November 11, 1996.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–96–29) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29441 Filed 11–15–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[PN 2468]

International Joint Commission; Boundary Waters Treaty of 1909; an Invitation To Comment on the 1996 Progress Report of the Air Quality Committee Under the Canada-United States Air Quality Agreement

The International Joint Commission invites public comment on progress by the United States and Canada in reducing transboundary air pollution under the 1991 Agreement on Air Quality. The Commission will provide a synthesis of the comments to the two governments and the public as directed by the Agreement.

The Governments of the United States and Canada signed an Agreement on Air Quality on March 13, 1991. The purpose of the Agreement was to establish a practical and effective instrument to address shared concerns on transboundary air pollution. The 1996 Progress Report reviews acid rain control programs, monitoring, emission inventories, visibility protection, scientific and technical cooperation, and includes the first five-year review of the Agreement.

Under the terms of the Agreement, the Governments established a bilateral Air Quality Committee. This Committee is responsible for reviewing progress made in the implementation of the Agreement, preparing and submitting periodic progress reports to the Governments, referring each progress

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 37809 (October 10, 1996), 61 FR 54476.

[3] For a complete description of DRS, refer to Securities Exchange Act Release No. 35038 (December 1, 1994), 59 FR 63652 (concept release on a transfer agent operated book-entry registration system) and DTC Important Notice B# 1811–96 (October 7, 1996) and Important Notice B# 1841–96 (October 7, 1996), which are attached as Exhibits A and B to Securities Exchange Act Release No. 37800 (October 9, 1996), 61 FR 54473.

[4] 15 U.S.C. 78f (1988).

[5] 17 CFR 200.30–3(a)(12) (1996).