

equivalent, which ignores the differences between the two mail types and the correct application of the non-cost factors of the Act; and (3) fails to consider "the import of differences between the Postal Service's volume variable analysis and the Commission's attributable cost methodology with respect to the BPRS fee," where a recalculation of the October cost study using Commission R97-1 methodology results in a cost coverage very close to the Commission's original recommended figure (163.5 versus 156 percent). *Id.* at 4-5.

The answer presents arguments against the validity of complainant's claim, and requests that the Commission dismiss the complaint. The Commission construes the answer to include a Postal Service motion to dismiss the Complaint, and accepts the responsive CSA Opposition.

### Statutory Authority To Consider Complaint and Procedural Process

Section 3662 of title 39 of the United States Code provides in relevant part:

Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in this title \* \* \* may lodge a complaint with the Postal Rate Commission in such form and in such manner as it may prescribe. The Commission may in its discretion hold hearings on such complaint.

Section 3001.82 of the Commission's regulations, which addresses the scope and nature of complaints, indicates that the Commission shall entertain complaints which clearly raise an issue concerning whether or not rates or services contravene the policies of the Postal Reorganization Act.

In the instant docket, CSA has filed a complaint alleging that the current BPRS rate contravenes title 39 policies. While the Postal Service offers varying explanations for why complainant is mistaken in its assertion, the Service has failed to provide adequate justification for dismissal of the complaint without hearings. Accordingly, the Commission will consider the complaint, although it notes that the recent establishment of the BPRS rate through a settlement agreed to by CSA, and the expectation that an omnibus rate request will be submitted in the near future, would seem to provide a situation where it may be possible for the parties to pursue resolution and settlement of the complaint through informal procedures, as provided for in rule 85 of the Commission's rules of practice.

The Commission will allow until September 17, 1999 for participants to

explore the potential for settlement. Discovery may be initiated during this period. If settlement discussions are not productive, complainant is directed to provide a statement, on or about September 17, 1999, estimating the amount of time it will require to develop and file a case-in-chief. A procedural schedule and special rules of practice, if any, will be considered after this estimate has been submitted.

### Directives

Accordingly, the Commission orders that proceedings in conformity with 39 U.S.C. 3624 shall be held in this matter. It also denies the Service's suggestion (included within the answer of United States Postal Service, filed on July 9, 1999) that the complaint should be dismissed. The Commission will sit *en banc* in this proceeding. Ted P. Gerarden, director of the Commission's office of the consumer advocate, is designated to represent the interests of the general public in docket no. C99-4. Mr. Gerarden is also charged with acting as settlement coordinator, and in this capacity shall encourage parties to reach settlement on this complaint, as provided for under rule 85 of the Commission's rules of practice and procedure. Complainant shall provide a statement, on or about September 17, 1999, estimating the amount of time it will require to develop and file a direct case in this proceeding. The Commission also directs the Secretary of the Commission to arrange for publication of this notice and order in the **Federal Register** in a manner consistent with applicable requirements.

**Margaret P. Crenshaw,**  
Secretary.

[FR Doc. 99-23674 Filed 9-13-99; 8:45 am]  
BILLING CODE 7710-FW-P

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

### Summary of Proposal(s)

(1) *Collection title:* Pension Plan Reports.

(2) *Form(s) submitted:* G-88p, G-88r, G-88r.1.

(3) *OMB Number:* 3220-0089.

(4) *Expiration date of current OMB clearance:* 11/30/1999.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other-for-profit.

(7) *Estimated annual number of respondents:* 500.

(8) *Total annual responses:* 2,240.

(9) *Total annual reporting hours:* 300.

(10) *Collection description:* The Railroad Retirement Act provides for payment of a supplemental annuity to a qualified railroad retirement annuitant. The collection obtains information from the annuitant's employer to determine (a) the existence of a railroad employer pension plans and whether such plans, if they exist, require a reduction to supplemental annuities paid to the employer's former employees and (b) the amount of supplemental annuities due railroad employees.

### Additional Information or Comments

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 and the OMB reviewer, Laurie Schack (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Chuck Mierzwa,**

Clearance Officer.

[FR Doc. 99-23835 Filed 9-13-99; 8:45 am]

BILLING CODE 7905-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41838; File No. ATS-EXEMPT-99-01]

### Notice of Order Granting BondNet an Exemption From Compliance With Regulation ATS Until October 21, 1999

September 7, 1999.

On May 7, 1999 the Commission issued an Order granting BondNet, an alternative trading system operated as a division of the Bank of New York, an exemption from Regulation ATS until October 21, 1999 pursuant to Rule 301(a)(5) of the Securities Exchange Act

of 1934. The Order is attached as Exhibit A.

**Margaret H. McFarland,**  
*Deputy Secretary.*

#### Exhibit A

#### SECURITIES AND EXCHANGE COMMISSION

[File No. ATS-EXEMPT-99-01]

May 7, 1999.

#### Order Granting BondNet an Exemption From Compliance With Regulation ATS Until October 21, 1999

BondNet, an alternative trading system operated as a division of the Bank of New York, filed an application for a temporary exemption from Regulations ATS pursuant to Rule 301(a)(5) of the Securities Exchange Act of 1934 ("Exchange Act").

Under the new regulatory framework applicable to exchanges and alternative trading systems, BondNet is required to register as an exchange, or register as a broker-dealer and comply with Regulation ATS. The Commission notes that the Bank of New York is currently operating subject solely to regulation by banking authorities, and consequently, BondNet must undertake the registration process with the Commission and the National Association of Securities Dealers, Inc. to comply with Regulation ATS. Under Rule 301(a)(5) of the Exchange Act, the Commission may, by order, grant an exemption from the requirements of Regulation ATS after determining that such an order is consistent with the public interest, the protection of investors, and the removal of impediments to, and perfection of the mechanisms of, a national market system.

The Commission has reviewed BondNet's application for a temporary exemption from Regulation ATS to allow it time to fully comply with that rule's requirements. The Commission finds that such an exemption is consistent with the public interest, the protection of investors, and the removal of impediments to, and perfection of the mechanisms of, a national market system and has determined to grant BondNet an exemption from Regulation ATS until October 21, 1999.

The Commission finds good cause to grant BondNet's request for confidential treatment for 120 days from the date of issuance of this Order.

*It is therefore ordered,* pursuant to Rule 301(a)(5) of the Exchange Act, that BondNet's exemption from Regulation ATS until October 21, 1999, be granted.

By the Commission.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 99-23826 Filed 9-13-99; 8:45 am]

BILLING CODE 8010-01-M

#### SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23998; No. 812-11512]

#### Ohio National Life Insurance Company, et al.; Notice of Application

September 8, 1999.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the "Act").

**SUMMARY OF APPLICATION:** Applicants seek an order approving the substitution of: (a) Shares of Small Cap Growth Portfolio of Ohio National Fund, Inc. ("ON Small Cap Growth Portfolio") for shares of Montgomery Variable Series: Small Cap Opportunities Fund ("Montgomery Small Cap Fund"); and (b) shares of Lazard Retirement Emerging Markets Portfolio ("Lazard Emerging Markets Portfolio") for shares of Montgomery Variable Series: Emerging Markets Fund ("Montgomery Emerging Markets Fund").

**APPLICANTS:** The Ohio National Life Insurance Company ("Ohio National"), Ohio National Variable Account A ("Variable Account A"), Ohio National Life Assurance Corporation ("ONLAC"), and Ohio National Variable Account R ("Variable Account R").

**FILING DATES:** The application was filed on February 17, 1999, and amended and restated on July 26, 1999, and August 27, 1999.

**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 Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission no later than 5:30 p.m. on September 29, 1999, 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. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, Ohio National Life Insurance Company, One Financial Way, Cincinnati, Ohio 45242.

**FOR FURTHER INFORMATION CONTACT:** Paul G. Cellupica, Senior Counsel, or Kevin

M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel (202) 942-8090).

#### Applicants' Representations

1. Ohio National was organized as a stock company under the laws of Ohio in 1909. It issues annuities in 47 states, the District of Columbia and Puerto Rico. ONLAC, a wholly-owned subsidiary of Ohio National, is a stock life insurance company organized under the laws of Ohio in 1979.

2. Variable Account A was established in 1969 by Ohio National as a separate account under Ohio law for the purpose of funding variable annuity contracts issued by Ohio National. Five of the variable annuity contracts are affected by the application ("VA Contracts"). Variable Account R was established in 1985 for the purpose of funding variable life insurance contracts issued by ONLAC. One of the variable life insurance contracts is affected by this application ("VLI Contract," collectively with the VA Contracts, the "Contracts"). Variable Account A and Variable Account R are registered as unit investment trusts under the Act.

3. Purchase payments for the Contracts are allocated to one or more subaccounts of Variable Account A or Variable Account R ("Subaccounts"). The Contracts permit allocations of accumulation value to up to 10 of the available Subaccounts that invest in specific investment portfolios ("Portfolios") of Underlying mutual funds ("Underlying Funds").

4. The Contracts permit transfers of accumulation value from one Subaccount to another at any time prior to annuitization. No sales charge applies to a transfer of accumulation value among the Subaccounts. For three of the VA Contracts, the first transfer in any calendar month is free; each additional transfer in a calendar month is subject to a \$10 charge. For the two remaining VA Contracts and the VLI Contract, the first four transfers during each contract year are free; each additional transfer is subject to a \$3 charge. Although there currently is no limit on the number of transfers that may be made, the Contracts permit Ohio National or ONLAC, as applicable, to limit the number, frequency, method or amount of transfers. Transfers from any Subaccount on any one day may be