5. No Fund of Funds or Fund of Funds Affiliate will cause a Rydex Fund to purchase a security from any underwriting or selling syndicate in which a principal underwriter is an officer, director, member of an advisory board, investment adviser, or employee of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, investment adviser, employee is an affiliated person (each an ''Underwriting Affiliate''). An offering of securities during the existence of an underwriting or selling syndicate of which principal underwriter is an Underwriting Affiliate is considered an ''Affiliated Underwriting.''

6. The Board of Trustees, including a majority of the disinterested trustees, will adopt procedures reasonably designed to monitor any purchases of securities by a Rydex Fund in an Affiliated Underwriting, including any purchases made directly from an Underwriting Affiliate. The Board of Trustees will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in shares of the Rydex Fund.

The Board of Trustees should consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Rydex Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Rydex Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have significantly from prior years. The Board of Trustees will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities from Affiliated Underwritings are in the best interests of shareholders.

7. The Trusts shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications, and will maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase from an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board of Trustee's determinations were made.

8. Prior to an investment in shares of a Rydex Fund in excess of the limit in section 12(d)(1)(A)(i), each Fund of Funds and the appropriate Trust will execute an agreement stating, without limitation, that the board of directors of the Fund of Funds and the Fund of Funds Adviser have read the notice of the application requesting the order, understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a Rydex Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Rydex Fund of the investment. At such time, the Fund of Funds also will transmit to the Rydex Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate.

The Fund of Funds will notify the Rydex Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Rydex Fund and the Fund of Funds will maintain and preserve a copy of the order, the agreement, and the list with any updated information for a period of not less than six years from the end of the fiscal year in which any investment occurred, the first two years in an easily accessible place.

9. Prior to approving any advisory contract under section 15 of the Act, the board of directors of each Fund of Funds, including a majority of the disinterested directors, will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract of any Rydex Fund in which the Fund of Funds may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Fund of Funds.

10. A Fund of Funds Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to a plan adopted by a Rydex Fund under rule 12b–1 under the Act) received by the Fund of Funds Adviser or an affiliated person of the Funds of Funds Adviser from the Rydex Funds in connection with the investment by the Funds of Funds in the Rydex Funds.

11. Any sales charges and/or service fees with respect to shares of the Fund of Funds will not exceed the applicable limits set forth in rule 2830 of the NASD Conduct Rules.

12. No Rydex Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by section 12(d)(1)(E) of the Act or an exemptive order that allows the Rydex Fund to purchase shares of an affiliated money market fund for short-term cash management purposes.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–26183 Filed 10–11–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24677; File No. 812–12030]

First Allmerica Financial Life Insurance Company, et al.

October 5, 2000.

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

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (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 deduction of a monthly charge upon termination of an Optional Insurance Rider.

APPLICANTS: First Allmerica Financial Life Insurance Company (''First Allmerica'') and Allmerica Financial Life Insurance and Annuity Company (''Allmerica Financial'') (hereinafter referred to as the ''Companies'') together with Separate Account VA–K of First Allmerica, Allmerica Select Separate Account of First Allmerica, Separate Account VA–P of First Allmerica, Separate Account KG of First Allmerica, Separate Account KGC of First Allmerica, Separate Account VA–K of Allmerica Financial, Allmerica Select Separate Account of Allmerica Financial, Separate Account VA–P of Allmerica Financial, Separate Account KG of Allmerica Financial, Separate Account KGC of Allmerica Financial (together, the ''Separate Accounts''), and Allmerica Investments, Inc. (collectively ''Applicants'').

SUMMARY OF APPLICATION: Applicants seek an order under section 6(c) of the 1940 Act, to the extent necessary to

permit the deduction of a monthly charge from variable deferred annuity contracts (the ''Contracts''), for optional insurance riders (''Optional Insurance Riders'') upon surrender of a Contract, that the Companies will issue through the Separate Accounts or other separate accounts which the Companies may establish in the future (''Other Separate Accounts''), as well as other contracts, similar in all material respects to the Contracts described herein, that the Companies may issue in the future through the Separate Accounts or Other Separate Accounts (''Future Contracts''). Applicants state that the Optional Insurance Riders contained in Future Contracts funded by Separate Accounts or any Other Separate Accounts may offer the same benefits described herein, even if the Optional Insurance Rider is offered under a different name. Applicants also request that the order being sought extend to any other National Association of Securities Dealers, Inc. (''NASD'') member broker-dealer controlling or controlled by, or under common control of First Allmerica or Allmerica Financial, whether existing or created in the future, that serves as distributor or principal underwriter of the Contracts or Future Contracts offered through the Separate Accounts or any Other Separate Account (collectively, ''the Companies' Broker-Dealers'').

FILING DATE: The Application was filed on March 7, 2000, and amended and restated on May 17, 2000 and September 6, 2000.

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 by 5:30 p.m. on October 30, 2000, 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 requester'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, N.W., Washington, DC 20549.

Applicants, c/o Allmerica Financial Corporation, 440 Lincoln Street, Worcester, Massachusetts 01653, Attn: John C. Donlon, Jr.

FOR FURTHER INFORMATION CONTACT: Mark Cowan, Senior Counsel, or Keith Carpenter, 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 (tel. (202) 942–8090).

Applicants Representations

1. First Allmerica is a life insurance company organized under the laws of Massachusetts in 1844. Effective October 16, 1995, First Allmerica converted from a mutual life insurance company known as State Mutual Life Assurance Company of America to a stock life insurance company and adopted its present name. First Allmerica is a wholly owned subsidiary of Allmerica Financial Corporation (''AFC'') and is licensed to do business in the State of New York.

2. Allmerica Financial is a life insurance company organized under the laws of Delaware in July 1974. Allmerica Financial, a wholly owned subsidiary of First Allmerica, is licensed to do business in the District of Columbia, Puerto Rico, the Virgin Islands, and all states except New York.

3. Each of the Separate Accounts of First Allmerica is a segregated asset account that is registered with the Commission as a unit investment trust under the 1940 Act (Separate Account VA–K, see file No. 811–8114; Allmerica Select Separate Account, see file No. 811–8116; Separate Account VA–P, see file No. 811–8872; Separate Account KG, see file No. 811–7769; and Separate Account KGC, see file No. 811–7771).

4. Each of the Separate Accounts of Allmerica Financial is a segregated asset account that is registered with the Commission as a unit investment trust under the 1940 Act (Separate Account VA–K, see file No. 811–6293; Allmerica Select Separate Account, see file No. 811–6632; Separate Account VA–P, see file No. 811–8848, Separate Account KG, see file No. 811–7767; and Separate Account KGC, see file No. 811–7777).

5. Allmerica Investments, Inc. (''Allmerica Investments'') is an affiliate of Allmerica Financial and will be the principal underwriter of the Separate Accounts and distributor of the Contracts funded through Separate Account VA–K of First Allmerica and Allmerica Financial (''VA–K Contracts''), Allmerica Select Separate Account of First Allmerica and Allmerica Financial (''Select Contract''), Separate Account VA–P of First Allmerica and Allmerica Financial (''VA–P Contracts''), Separate Account KG of First Allmerica and Allmerica Financial (''KG Contracts''), and Separate Account KGC of First Allmerica and Allmerica Financial (''KGC Contracts'') (collectively, the ''Contracts''). Allmerica Investments is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 (the ''1934 Act'') and is a member of the NASD. The Contracts will be offered through registered representative of Allmerica Investments, or through registered representatives of brokers-dealers, which are registered under the 1934 Act and members of NASD, that have selling agreements with Allmerica Investments. Allmerica Investments , or any successor entity, may act as principal underwriter for any Other Separate Account and distributor for any Future Contracts issued by the Companies. A successor entity may also act as principal underwriter for the Separate Accounts and Other Separate Accounts.

6. The Contracts are a combination fixed and variable, flexible payment deferred annuity contracts. Contracts may be issued as non-qualified annuities for after-tax contributions only, as individual retirement annuities (''IRAs,'' including either ''Traditional IRAs'' or ''Roth IRSs''), for use in certain types of qualified plans which qualify for special federal income tax treatment under sections 401, 403(b), 408, 408A and 457 of the Internal Revenue Code, and in retirement plans which do not qualify for special tax treatment. In some states the Contracts may be issued on a group basis connection with retirement plans that do not qualify for special federal income tax treatment.

7. The Contracts permit the owner to allocate contributions to a fixed interest account (''Fixed Account'') of the Companies' General Account, to accumulate interest at a fixed, guaranteed rate. Contributions may also be allocated to certain guarantee period accounts (''Gurarantee Period Accounts'') that will provide a guarantee of each contribution plus interest at a guaranteed interest rate. Once declared, the guaranteed interest rate will not change during the duration of the guarenteed period. A ''Market Value Adjustment'' will be made to the annuity account value in a Guarantee Period Account upon a withdrawal, surrender or transfer from the Gurantee Period Account prior to the expiration of its guarantee period. Even after application of the Market Value Adjustment, earnings in a Guarantee

Period Account will not be less than an effective rate of 3% annually.

8. Each Separate Account consists of Sub-Accounts that invest in the portfolios of certain underlying investment companies (''Funds'') each of which is registered with the Commission as an open-end management investment company. The shares of the Funds are registered under the 1933 Act. Other Funds may be made available to the Separate Accounts or to Other Separate Accounts of the Companies. The Owner may allocate contributions to the Sub-Accounts offered by the Contracts (the Contract may contain restrictions as to the number of Sub-Accounts that may be selected).

9. The Contracts sold by the Companies provide the purchaser with the right to select an Optional Insurance Rider or Riders for an additional charge. The following riders are offered by the Companies (the actual riders offered will vary by Contract): the Disability Rider, the Living Benefits Rider, the Enhanced Death Benefit Rider, and the Minimum Guaranteed Annuity Payout (M–GAP) Rider. The Companies deduct a separate monthly change for each rider selected. On the last day of the month and on the date the rider is terminated, a charge equal to 1/12 of the applicable annual rate is made against the Accumulated Value of the Contract at that time.

Applicant's Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the 1940 Act and the rules promulgated thereunder, if and 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 1940 Act. Applicants request that the Commission, pursuant to section 6(c) of the 1940 grant the exemptions requested below with respect to the Contracts, and any Future Contracts funded by the Separate Accounts or Other Separate Accounts, which are issued by the Companies and undewritten or distributed by Allmerica Investments or other Allmerica Broker-Dealers. Applicants state that the riders contained in Future Contracts funded by Separate Accounts or any Other Separate Account may offer the same benefit described herein, even if the Optional Insurance Rider is offered under a different name. Applicants believe that the requested exemptions are 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.

2. Rule 6c–8(b) under the Act exempts a registered separate account and its depositor and principal underwriter from certain provisions of the Act and Rule 22c–1 to permit the imposition of a contingent deferred sales charge on variable annuity contracts participating in such separate account. Applicants maintain that Rule 6c–8(b) is not available with respect to the imposition of a charge for an Optional Insurance Rider because it is a charge for an optional insurance benefit rather than a contingent deferred sales charge.

3. Rule 6c–8(c) provides exemptions from certain provisions of the Act and Rule 22c–1 to permit the deduction of a full annual administrative services fee from variable annuity contracts upon surrender. However, an Optional Insurance Rider charge is not a fee for administrative services and, therefore, Rule 6c–8(c) is not applicable. Applicants note; however, that Rule 6c–8(c) permits the deduction of the entire annual administrative fee upon surrender, it does not require that the fee be pro-rated. Applicants only seek an exemption so that it may collect the entire monthly charge when a Contract is surrendered on any day other than the last day of a Contract month.

4. Section 2(a)(32) of the 1940 Act defines ''redeemable security'' as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's currents net assets, or the cash equivalent thereof. Assessing the full monthly charge upon termination of an Optional Insurance Rider may not be contemplated by section 2(a)(32), and thus may be deemed inconsistent with the foregoing provision, to the extent that the charge can be viewed as causing a Contract to be redeemed at a price less than the current net asset value that is next computed after termination of the rider. Although Applicants do not concede that relief is necessary, Applicants request relief from section 2(a)(32) to permit the deduction of a monthly charge for each Optional Insurance Rider upon surrender of a Contract.

5. The Optional Insurance Rider represents a benefit for which each Insurer is entitled to receive compensation. Accordingly, Applicants assert the deduction of an Optional Insurance Rider charge is a legitimate charge for an optional insurance benefit under the Contract, and therefore does not reduce the amount of the Separate Account's current net assets that a Contract Owner would otherwise be entitled to receive.

6. The charge assessed for an Optional Insurance Rider at surrender of the Contract is little different, for this purpose, from the ''redemption'' charge authorized in section 10(d)(4) of the 1940 Act. Congress, according to the Applicants, obviously intended that such a redemption charge, which is expressly described as a ''discount from net asset value,'' be deemed consistent with the concept of ''proportionate share'' under section 2(a)(32).

7. The deduction of the charge for the Optional Insurance Rider upon termination of the rider is disclosed in the prospectuses. There will be no restriction on, or impediment to, surrender or partial withdrawal that should cause the Contracts to be considered other than redeemable securities within the meaning of section 2(a)(32) of the 1940 Act and the rules thereunder.

8. Rule 22c–1, promulgated under section 22(c), prohibits a registered investment company issuing any redeemable security, a person designated in such insurer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security. The deduction of a monthly charge for an Optional Insurance Rider upon the surrender of a Contract is consistent with the policy behind Rule 22c–1. Applicants submit that the Contracts will satisfy the requirements of Rule 22c–1. However, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from the provisions of section 22(c) and Rule 22c–1 to the extent necessary to permit the deduction of a monthly charge for an Optional Insurance Rider upon surrender of a Contract.

9. Section 27(i)(2)(A) provides that it shall be unlawful for any registered separate account funding variable insurance contracts, or for the sponsoring insurance company of such account, to sell any such contracts unless such contract is a redeemable security. Applicants submit that the deduction of a monthly charge for an Optional Insurance Rider upon surrender of a Contract is nothing more than the deduction of an insurance charge. Applicants submit that the

Contracts will satisfy the requirements of section 27(i)(2)(A).

10. Accordingly, Applicants seek exemptions pursuant to section 6(c) from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder to the extent deemed necessary to permit the Companies to issue Contracts that offer Optional Insurance Riders and deduct a monthly charge for each rider upon surrender of a Contract.

11. Applicants seek relief not only with respect to themselves and the Contracts, but also with respect to Other Separate Accounts established by the Companies that may support Future Contracts that may offer the same benefit described herein, even if the Optional Insurance Rider is offered under a different name. Applicants also seek relief with respect to any of the Companies' Broker-Dealers, which will be members of the NASD.

12. Applicants state, that without the requested class relief, exemptive relief for Future Contracts, any other Separate Account, or any of the Companies' Broker-Dealers would have to be requested and obtained separately. Applicants assert that these additional requests for exemptive relief would present no new issues under the 1940 Act not already addressed herein. Applicants state that if they were to repeatedly seek exemptive relief with respect to the same issues addressed herein, investors would not receive any additional protection or benefit, and investors and Applicants could be disadvantaged by increased costs from preparing such additional requests for relief. Applicants argue that the requested class relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the need for Applicants to refile redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient uses of resources. Elimination of the delay and the expense of repeatedly seeking exemptive relief would, Applicants opine, enhance each Applicant's ability to effectively take advantage of business opportunities as such opportunities arise.

Conclusion

For the reasons summarized above, Applicants submit that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants therefore request that an order be granted permitting the proposed transactions.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–26184 Filed 10–11–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43414; File No. SR–OPRA–00–09]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of a Proposal To Amend the Options Price Reporting Authority Plan To Increase the Professional Subscriber Information Fees

October 4, 2000.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act'')[1] notice is hereby given that on October 3, 2000, the Options Price Reporting Authority (''OPRA'')[2] submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''Plan''). The proposed Plan amendment would increase the professional subscriber information fees charged by OPRA in respect of its Basic Service.

I. Description and Purpose of the Amendment

The purpose of the amendment is to increase by approximately five percent the device-based information fees payable to OPRA by professional subscribers to OPRA's Basic Service, which consists of market data and related information pertaining to equity and index options (''OPRA Data'').[3] OPRA does not propose to make any changes to OPRA's nonprofessional subscriber fee or to OPRA's usage-based fees that apply to dial-up market data services (which may include Internet services), radio paging services, and voice-synthesized market data services.

The proposed increase of device-based professional subscriber fees ranges from 4.35% to 6.06% of the existing fees. Professional subscriber fees charged to members will continue to be discounted by two percent for members who preauthorize payment by electronic funds transfer through an automated clearinghouse system. OPRA estimates that the overall effect of the proposed increase in professional subscriber fees will be to increase revenues derived from professional subscriber fees by approximately five percent. Professional subscribers are those persons who subscribe to OPRA Data and do not qualify for the reduced fees charged to nonprofessional subscribers. As an alternative to device-based fees, professional subscribers may pay an enterprise rate fee based on the number of their U.S. registered representatives. No changes are proposed to be made to the enterprise rate fee.

The proposed increase in the amount of the professional subscriber fees is intended to generate additional OPRA revenues derived from device-based subscriber fees in order to cover actual and anticipated increases in the costs of collecting, consolidating, processing, and disseminating options market data. These increases for the most part reflect the costs of major enhancements to and upgrades of the OPRA system to enable it to handle expanded multiple trading of options, overall greater trading volume, and the move to decimal pricing for options.

II. Implementation of the Plan Amendment

Pursuant to paragraph (c)(3)(i) of Rule 11Aa3–2,[4] OPRA designates this amendment as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, thereby qualifying for effectiveness upon filing. In order to give subscribers advance notice of the revised fees, they are proposed to be put into effect commencing January 1, 2001. The Commission may summarily abrogate the amendment within 60 days of filing and require refiling and approval of the amendment by Commission order pursuant to Rule

[1] 17 CFR 240.11 Aa3–2.

[2] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2 thereunder. *See* Securities Exchange Act Release No. 17638 (March 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The six exchanges that are participants to the Plan are the American Stock Exchange, the Chicago Board Options Exchange, the International Securities Exchange, the New York Stock Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange.

[3] No changes are proposed to be made at this time to fees charged to vendors and subscribers for access to information pertaining to foreign currency options (''FCO'') provided through OPRA's FCO Service.

[4] 17 CFR 240.11Aa3–2(c)(3)(i).