

other sub-accounts of the Separate Account, (Class 2 Sub-Account, Class 3 Sub-Account, Class 8 Sub-Account, and Class 9 Sub-Account), were consolidated into the Separate Account on November 18, 2002 (the "Consolidation"). Each sub-account had been registered as a distinct unit investment trust under the Investment Company Act of 1940 ("1940 Act"). The Consolidation effectively reorganized six separately-registered 1940 Act entities into a single 1940 Act registrant.

**Filing Date:** The application was filed on December 6, 2002.

**Applicant's Address:** American Skandia Life Assurance Corporation, One Corporate Drive, Shelton, CT 06484.

**American Skandia Life Assurance Corporation Variable Account B (Class 9 Sub-Account) [File No. 811-09989]**

**Summary:** Applicant seeks an order declaring that it has ceased to be an investment company. On November 18, 2002, the assets of American Skandia Life Assurance Corporation Variable Account B (Class 9 Sub-Account) were consolidated into what was formerly American Skandia Life Assurance Corporation Variable Account B (Class 1 Sub-Account) and is now known as American Skandia Life Assurance Corporation Variable Account B (the "Separate Account"). In addition, four other sub-accounts of the Separate Account, (Class 2 Sub-Account, Class 3 Sub-Account, Class 7 Sub-Account, and Class 8 Sub-Account), were consolidated into the Separate Account on November 18, 2002 (the "Consolidation"). Each sub-account had been registered as a distinct unit investment trust under the Investment Company Act of 1940 ("1940 Act"). The Consolidation effectively reorganized six separately-registered 1940 Act entities into a single 1940 Act registrant.

**Filing Date:** The application was filed on December 6, 2002.

**Applicant's Address:** American Skandia Life Assurance Corporation, One Corporate Drive, Shelton, CT 06484.

**American Skandia Life Assurance Corporation Variable Account B (Class 8 Sub-Account) [File No. 811-09705]**

**Summary:** Applicant seeks an order declaring that it has ceased to be an investment company. On November 18, 2002, the assets of American Skandia Life Assurance Corporation Variable Account B (Class 8 Sub-Account) were consolidated into what was formerly American Skandia Life Assurance Corporation Variable Account B (Class 1 Sub-Account) and is now known as

American Skandia Life Assurance Corporation Variable Account B (the "Separate Account"). In addition, four other sub-accounts of the Separate Account, (Class 2 Sub-Account, Class 3 Sub-Account, Class 7 Sub-Account, and Class 9 Sub-Account), were consolidated into the Separate Account on November 18, 2002 (the "Consolidation"). Each sub-account had been registered as a distinct unit investment trust under the Investment Company Act of 1940 ("1940 Act"). The Consolidation effectively reorganized six separately-registered 1940 Act entities into a single 1940 Act registrant.

**Filing Date:** The application was filed on December 6, 2002.

**Applicant's Address:** American Skandia Life Assurance Corporation, One Corporate Drive, Shelton, CT 06484.

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**

**[Investment Company Act Release No. 26092; 812-12979]**

**PBHG Funds, et al.; Notice of Application**

July 1, 2003.

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

**ACTION:** Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order to permit a limited liability company to transfer substantially all of its assets to a new series of a registered open-end management investment company in exchange for shares of the series.

**APPLICANTS:** PBHG Funds ("Trust"), Pilgrim Baxter & Associates, Ltd. ("Pilgrim Baxter"), TS&W Small Cap Value Fund, LLC ("TS&W Fund") and Thompson, Siegel & Walmsley, Inc. ("TS&W").

**FILING DATES:** The application was filed on May 29, 2003 and amended on June 30, 2003.

**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's 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 July 22, 2003, and should be accompanied by proof of service on the 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 Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609; Applicants, c/o John M. Zerr, Esq., Pilgrim Baxter & Associates, Ltd., 1400 Liberty Ridge Drive, Wayne, PA 19087.

**FOR FURTHER INFORMATION, CONTACT:** Jean E. Minarick, Senior Counsel, at (202) 942-0527, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

**Applicants' Representations**

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company. The Trust is organized as a series investment company and currently has 18 series, one of which, the PBHG Small Cap Value Fund ("Fund"), corresponds to the TS&W Fund in terms of investment objective and policies. Pilgrim Baxter, a Delaware corporation, will serve as investment adviser to the Fund pursuant to an investment advisory agreement with the Trust.

2. The TS&W Fund, a Virginia limited liability company, is not registered under the Act in reliance on section 3(c)(1) of the Act. Limited liability company interests ("Interests") in the TS&W Fund are not registered under the Securities Act of 1933, as amended (the "Securities Act"), and are held by accredited investors ("Members"). TS&W, a Virginia corporation, is TS&W Fund's sole managing Member and is responsible for the management, operation and administration of the TS&W Fund, including its investment activities. TS&W will serve as the investment sub-adviser to the Fund

pursuant to a sub-advisory agreement with the Trust.

3. Pilgrim Baxter and TS&W each are registered as an investment adviser under the Investment Advisers Act of 1940. Pilgrim Baxter and TS&W each are indirect, wholly owned subsidiaries of Old Mutual plc ("Old Mutual"), a financial services organization based in the United Kingdom.

4. The Fund will seek to provide investors with long-term growth of capital by investing primarily in small capitalization stocks. The Fund will invest at least 80% of its assets in value securities, such as common stocks, of domestic small sized companies, which include companies with equity securities traded in the U.S. securities markets with market capitalizations of \$1.3 billion or less at the time of purchase.

5. Applicants propose that, pursuant to an agreement and plan of reorganization (the "Reorganization Agreement"), the TS&W Fund will transfer to the Fund substantially all of its assets, which will consist of cash and portfolio securities with readily available market quotations and are permissible investments under the investment policies and restrictions of the Fund ("Assets"), less any funds required to pay the liabilities of the TS&W Fund, in exchange for shares (the "Shares") of the Fund (the "Exchange"). Under the Reorganization Agreement, Shares of the Fund delivered to the TS&W Fund will have an aggregate net asset value ("NAV") equal to the NAV of the Assets transferred by the TS&W Fund to the Fund. Upon the consummation of the Exchange, the Shares of the Fund will be credited to the account of each Member of the TS&W Fund, in an amount equal to the value of the Member's *pro rata* share of the Assets ("Interest") on the Closing Date. Thereafter, the TS&W Fund will liquidate. The Exchange is scheduled to occur on or about July 25, 2003. No brokerage commissions, fees (except for customary transfer fees, if any) or other remuneration will be paid by the Fund or the TS&W Fund in connection with the Exchange. TS&W will pay the expenses of the TS&W Fund and the Fund will pay its own expenses incurred in connection with the Exchange. Applicants have agreed not to make any material changes to the Reorganization Agreement without prior approval of the Commission or its staff.

6. On May 6, 2003, the board of trustees of the Trust ("Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees"), approved the

Exchange. In approving the Exchange, the Board concluded that: (a) The Exchange is consistent with the policies of the Fund, as recited in its registration statement, (b) the terms of the Exchange, including the consideration to be received by the Fund, are reasonable and fair and do not involve overreaching on the part of any person concerned, and (c) participation by the Fund in the Exchange is in the best interests of the Fund and its shareholders and the interests of existing shareholders of the Fund will not be diluted as a result of the Exchange. These findings, and the basis upon which such findings were made, are recorded in the minute books of the Trust.

7. With respect to the TS&W Fund, TS&W (as TS&W Fund's managing Member) believes that the Exchange is in the best interests of the TS&W Fund and its Members. The Exchange is required to be approved by Members of the TS&W Fund that represent more than 50% of the aggregate value of the outstanding Interests of the TS&W Fund.

8. The Exchange will not be effected until: (a) The Commission has issued the requested order; (b) Members of the TS&W Fund that represent more than 50% of the aggregate value of the outstanding Interests in the TS&W Fund have consented to: (i) The TS&W Fund's participation in the Exchange and (ii) an amendment to TS&W Fund's operating agreement that permits the TS&W Fund to redeem, immediately prior to the effectiveness of the Exchange, the Interest of any Member that has not consented to the Exchange; and (c) the Trust and the TS&W Fund have received an opinion of counsel substantially to the effect that the Exchange will not result in taxable income to the Fund, the TS&W Fund, or the Members.

#### Applicants' Legal Analysis

1. Section 17(a)(1) of the Act prohibits any affiliated person of a registered investment company, or any affiliated person of that person, acting as principal, from selling to the registered investment company any security or other property. Section 2(a)(3) of the Act defines an "affiliated person" as, among other things, any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; any person controlling, controlled by, or under common control with, the other person; any officer, director, partner, copartner or employee of the other person; and, if

the other person is an investment company, its investment adviser.

2. Applicants state that the TS&W Fund could be deemed to be an affiliated person of an affiliated person of the Fund because TS&W and Pilgrim Baxter might be deemed to be under the common control of Old Mutual. Thus, applicants state that the proposed Exchange may be prohibited under section 17(a) of the Act.

3. Rule 17a-7 exempts certain purchase and sale transactions otherwise prohibited by section 17(a) of the Act if an affiliation exists solely by reason of having a common investment adviser, investment advisers that are affiliated persons of each other, common directors, and/or common officers, provided, among other requirements, that the transaction is for no consideration other than cash. Applicants state that the relief provided by rule 17a-7 may not be available for the Exchange because the Exchange will involve consideration other than cash (*i.e.*, Shares of the Fund). Applicants also state that the TS&W Fund may be deemed to be affiliated with the Fund for reasons other than those set forth in rule 17a-7.

4. Rule 17a-8 exempts certain transactions (including mergers, consolidations or purchases or sales of substantially all of the assets of a company) between registered investment companies and eligible unregistered funds, as defined in rule 17a-8 ("Eligible Unregistered Fund"). Applicants state that the relief provided by rule 17a-8 is not available for the Exchange because the TS&W Fund is not a registered investment company or an Eligible Unregistered Fund.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from the provisions of section 17(a) of the Act if the terms of the 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 and the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

6. Applicants submit that the terms of the Exchange meet the criteria contained in section 17(b) of the Act. Applicants state that the Shares issued by the Fund will have an aggregate NAV equal to the NAV of the assets acquired from the TS&W Fund, determined in accordance with rule 17a-7 under the Act and the Fund's valuation policies as disclosed in its registration statement. Applicants also state that the investment objective and policies of the Fund are substantially similar to those

of the TS&W Fund. Applicants further state that the Board, including a majority of the Independent Trustees, has approved the Exchange and that the Exchange will comply with rule 17a-7(b) through (g) and the provisions of rule 17a-8 (as those provisions apply to the merger of an Eligible Unregistered Fund with a registered investment company).

#### Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

The Exchange will comply with the terms of paragraphs (b) through (g) of rule 17a-7 and the provisions of rule 17a-8 (as those provisions apply to the merger of an Eligible Unregistered Fund with a registered investment company).

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26091; 812-12919]

#### John Hancock Variable Series Trust I and John Hancock Life Insurance Company; Notice of Application

June 30, 2003.

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

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act.

**SUMMARY OF THE APPLICATION:** John Hancock Variable Series Trust I (the "Trust") and John Hancock Life Insurance Company ("John Hancock") (together, "Applicants") request an order (the "Order") that would permit them to enter into and materially amend subadvisory agreements without shareholder approval.

**FILING DATES:** The application was filed on January 17, 2003, and June 30, 2003.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be

received by the SEC by 5:30 p.m. on July 25, 2003, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549-0609. Applicants, John Hancock Place, P.O. Box 111, Boston, MA 02117.

#### FOR FURTHER INFORMATION CONTACT:

Christine Y. Greenlees, Senior Counsel, at (202) 942-0581, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549-0102 (telephone (202) 942-8090).

#### Applicants' Representations

1. The Trust, a Massachusetts business trust, is registered under the Act as an open-end management investment company. The Trust currently is comprised of 27 series (the "Existing Funds"), each with its own investment objectives and policies.<sup>1</sup> The Existing Funds currently serve as the investment medium for variable annuity and variable life insurance contracts issued by John Hancock and John Hancock Variable Life Insurance Company.

2. John Hancock is registered under the Investment Advisers Act of 1940 (the "Advisers Act") and serves as the investment adviser to the Existing

<sup>1</sup> Applicants also request relief with respect to: (a) Each existing and future series of the Trust and each existing and future series (together with the Existing Funds, the "Subadvised Funds") of any other existing or future registered open-end management investment company that (i) is advised by John Hancock or any entity controlling, controlled by, or under common control with John Hancock; (ii) uses the manager of managers arrangement described in the application; and (iii) complies with the terms and conditions in the application; and (b) any entity controlling, controlled by, or under common control with John Hancock that is an investment adviser of a Subadvised Fund and is registered as an investment adviser under the Advisers Act or exempt from such registration. The Trust is the only registered investment company that currently intends to rely on the requested order. If the name of any Subadvised Fund contains the name of a Sub-Adviser (as defined below), the Hancock name (or, if different, the name of the entity controlling, controlled by, or under common control with John Hancock that serves as the primary adviser to such Fund) will precede the name of the Sub-Adviser.

Funds. John Hancock, a stock life insurance company and publicly-held financial services company, is a subsidiary of John Hancock Financial Services, Inc., a publicly-traded holding company.

3. The Trust has entered into several investment advisory agreements with John Hancock ("Advisory Agreements") that were approved by the board of trustees (the "Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees"), and the Owners of each Existing Fund.<sup>2</sup> Under the terms of the Advisory Agreements, John Hancock provides investment management services for each Existing Fund and may hire one or more sub-advisers ("Sub-Advisers") to exercise day-to-day investment discretion over all or a portion of the assets of the Existing Funds pursuant to separate investment sub-advisory agreements ("Sub-Advisory Agreements"). Each current Sub-Adviser is, and any future Sub-Adviser will be registered under the Advisers Act or exempt from such registration. Sub-Advisers are recommended to the Board by John Hancock and selected and approved by the Board, including a majority of the Independent Trustees. The Sub-Advisers' fees will be paid out of the advisory fees that the Subadvised Funds pay to John Hancock.

4. Subject to Board review, John Hancock selects Sub-Advisers for the Subadvised Funds, monitors and evaluates Sub-Adviser performance, and oversees Sub-Adviser compliance with the Subadvised Funds' investment objectives, policies, and restrictions. John Hancock recommends Sub-Advisers based upon a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives. John Hancock also recommends to the Board whether a Subadvisory Agreement should be renewed, modified or terminated.

5. Applicants request relief to permit John Hancock, subject to Board approval, and the Trust, on behalf of its series, to enter into and materially amend Sub-Advisory Agreements without approval by the vote of a majority of the outstanding voting securities (as defined in section 2(a)(42) of the Act) of each such series. The requested relief will not extend to a Sub-Adviser that is an affiliated person,

<sup>2</sup> The term "Owner" includes variable annuity and variable life contract holders that participate in any insurance company separate account for which a Subadvised Fund's shares serve as a funding medium, as well as the holders of any other shares that the Subadvised Fund has outstanding.