

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATES:** Weeks of August 27, September 3, 10, 17, 24, October 1, 2001.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

*Week of August 27, 2001*

There are no meetings scheduled for the Week of August 27, 2001.

*Week of September 3, 2001—Tentative*

There are no meetings scheduled for the Week of September 3, 2001.

*Week of September 10, 2001—Tentative*

There are no meetings scheduled for the Week of September 10, 2001.

*Week of September 17, 2001—Tentative*

There are no meetings scheduled for the Week of September 17, 2001.

*Week of September 24, 2001—Tentative*

Friday, September 28, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

9:30 a.m.—Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301-415-6607)

1:30 p.m.—Briefing on Threat Environment Assessment (Closed—Ex. 1)

*Week of October 1, 2001—Tentative*

Thursday, October 4, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

\* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: David Louis Gamberoni (301) 415-1651.

### Additional Information

By a vote of 4-0 on August 15, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation on Final Rule: Interim Storage for Greater than Class C Waste, 10 CFR Parts 30, 70, 72, and 150" be held on August 22, and on less than one week's notice to the public.

By a vote of 4-0 on August 21 and 22, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of

Consolidated Edison Company of New York, Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc.; Decision on Standing and Admissibility of Contentions in License Transfer Proceeding" be held on August 22, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: August 23, 2001.

**David Louis Gamberoni,**  
*Technical Coordinator, Office of the Secretary.*

[FR Doc. 01-21831 Filed 8-24-01; 2:05 pm]

**BILLING CODE 7590-01-M**

## PRESIDIO TRUST

### Correction to Notice of Public Meeting

**AGENCY:** The Presidio Trust.

**ACTION:** Correction to notice of public meeting.

**SUMMARY:** On August 21, 2001 the Presidio Trust published notice of a public meeting of the Presidio Trust Board of Directors in the **Federal Register** (66 FR 43921) in accordance with both Section 103(c)(6) of the Presidio Trust Act, 16 U.S.C. Section 460bb note, Title I of Pub. L. 104-333, 110 Stat. 4097, and the Presidio Trust's bylaws. The notice incorrectly indicated that members of the public would be provided an opportunity to comment on the *final* Presidio Trust Implementation Plan (PTIP) and Environmental Impact Statement (EIS). This public meeting is the second public hearing regarding the *draft* PTIP and EIS, and members of the public will be provided an opportunity at the meeting to make oral comments for the record on the *draft* PTIP and EIS [italics added for emphasis]. These comments will be considered by the Presidio Trust in preparation of the final PTIP and EIS.

**Time:** The meeting will be held from 1 p.m. to 4 p.m. on Monday, September 17, 2001.

**ADDRESS:** The meeting will be held at the Officers' Club, 50 Moraga Avenue, Presidio of San Francisco.

**FOR FURTHER INFORMATION CONTACT:** Craig Middleton, Deputy Director for Governmental Affairs, Programs and Administration, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129-0052, Telephone: (415) 561-5300.

Dated: August 21, 2001.

**Karen A. Cook,**  
*General Counsel.*

[FR Doc. 01-21661 Filed 8-27-01; 8:45 am]

**BILLING CODE 4310-4R-P**

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-25119; File No. 812-12512]

### Janus Aspen Series, et al.; Notice of Application

August 21, 2001.

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

**ACTION:** Notice of application for an order under Section 26(c) of the Investment Company Act of 1940 ("Act") approving the proposed substitution of securities.

*Applicants:* (1) Janus Aspen Series ("JAS"), (2) Western Reserve Life Assurance Co. of Ohio ("WRL"), (3) WRL Series Annuity Account B ("WRL Separate Account") (collectively, "Applicants").

*Summary of Application:* Applicants request an order approving the proposed substitution of shares of Flexible Income Portfolio of Janus Aspen Series ("Flexible Income Portfolio") for the shares of High-Yield Portfolio of Janus Aspen Series ("High-Yield Portfolio") held by the WRL Series Annuity Account B ("WRL Separate Account") in connection with variable annuity contracts (the "Contracts") issued by Western Reserve Life Assurance Co. of Ohio ("WRL").

*Filing Dates:* The application was filed on April 27, 2001, and an amended and restated application was filed on June 22, 2001.

*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, in person or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 24, 2001, 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 of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Bonnie M. Howe, Esq., 100 Fillmore Street, Denver, Colorado 80206-4928.

**FOR FURTHER INFORMATION CONTACT:** Patrick Scott, Attorney, or Lorna MacLeod, 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 SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (202) 942-8090).

#### Applicants' Representations

1. JAS, a Delaware business trust, is registered under the Act as an open-end management investment company. JAS currently issues shares in fourteen investment Portfolios, including High-Yield Portfolio. Each portfolio, including High-Yield Portfolio, consists of two classes of shares. Both classes of shares of each portfolio are registered under the Securities Act of 1933 ("1933 Act"). Institutional shares are offered to insurance company separate accounts as investment vehicles for variable life insurance policies and variable annuity contracts, as well as to qualified plans. Service shares are offered to insurance company separate accounts and qualified plans that require a fee from portfolio assets to procure distribution and administrative services to contract owners and plan participants. WRL Separate Account invests in institutional shares of High-Yield Portfolio.

2. Janus Capital Corporation ("Janus Capital") serves as investment adviser to each portfolio of JAS. The investment objective of High-Yield Portfolio is to seek to obtain high current income. Capital appreciation is a secondary objective when consistent with its primary objective.

3. WRL is a stock life insurance company and is engaged in the business of writing life insurance policies and annuity contracts. WRL is wholly-owned by First AUSA Life Insurance Company, a stock life insurance company which is wholly-owned by AEGON USA, Inc. ("AEGON USA"),

which conducts most of its operations through subsidiary companies engaged in the insurance business or in providing non-insurance financial services. All of the stock of AEGON USA is indirectly owned by AEGON N.V. of the Netherlands, the securities of which are publicly traded. AEGON N.V., a holding company, conducts its business through subsidiary companies engaged primarily in the insurance business.

4. WRL Separate Account is a separate account established by WRL to support variable annuity contracts, including Janus Retirement Advantage ("JRA Contract"). The JRA Contract currently permits allocation of purchase payments and transfers of Contracts values among and between 13 sub-accounts corresponding to different portfolios of JAS (excluding High-Yield Portfolio). High-Yield Portfolio is no longer an allocation option under JRA Contract issued after May 1, 2001. WRL Separate Account is registered as a unit investment trust under the Act and interests in the WRL Separate Account are registered as securities under the 1933 Act.

5. Janus Capital states that High-Yield Portfolio has not grown to a size to allow it to operate efficiently. As of March 31, 2001, High-Yield Portfolio had net assets of approximately \$1.7 million. Janus Capital believes the prospects of increasing sales and raising assets to a viable level are low. As a result of its limited assets, High-Yield Portfolio has had relatively high expenses as a percentage of net assets. Absent fee waivers and expense reimbursements from Janus Capital, the Portfolio's total expenses for the year ended December 31, 2000 were 10.38%. To maintain the Portfolio's 1.0% expense limit, Janus Capital waived 9.38% in fees and expenses in 2000. Moreover, it is difficult and inefficient for High-Yield Portfolio's portfolio manager to buy and sell small lots of securities for such a small portfolio.

6. At a meeting on March 13, 2001, the Trustees of JAS authorized closing High-Yield Portfolio to new investors, effective May 1, 2001, and authorized the officers of JAS to file an application for a substitution order with the Commission and to take such other actions as may be necessary to liquidate High-Yield Portfolio. Janus Capital contacted WRL and discussed the advisability of liquidating High-Yield Portfolio and the methods by which this could be accomplished. It was agreed that the most efficient method of liquidating High-Yield Portfolio would be to have WRL substitute shares of another fund for those of High-Yield

Portfolio currently held by WRL Separate Account.

7. If the requested substitution order is granted, WRL, on behalf of WRL Separate Account, will substitute institutional shares of Flexible Income Portfolio for shares of High-Yield Portfolio. Flexible Income Portfolio is another investment portfolio of JAS. Flexible Income Portfolio's investment objective is to seek to obtain maximum total return, consistent with preservation of capital. It invests primarily in a wide variety of income-producing securities such as corporate bonds and notes, government securities and preferred stock and may own an unlimited amount of high-yield/high risk bonds. As of March 31, 2001, Flexible Income Portfolio had net assets of 287.2 million. The portfolio's total expenses for the year ended December 31, 2001, were .76%, which did not include any fee waiver or expense offset.

8. Applicants state that the JRA Contract gives WRL the right to eliminate or add sub-accounts, combine two or more sub-accounts, or substitute one or more underlying mutual funds or portfolios for others in which one or more sub-accounts are invested. Applicants assert that these contractual provisions also have been disclosed in the prospectuses or statements of additional information relating to the JRA Contract.

9. Applicants state that, as of the effective date of the substitutions, WRL will redeem shares of High-Yield Portfolio for cash. Simultaneously, WRL will use these proceeds to purchase the appropriate number of shares of Flexible Income Portfolio proposed to be substituted. The substitutions will take place at relative net asset values of the portfolios with no change in the amount of any JRA Contract owner's account values or death benefit.

10. Applicants represent that Janus Capital and WRL will pay all expenses and transaction costs of the substitutions, including legal, accounting and other fees and that none of these costs will be borne by JRA Contract owners. Applicants state that affected JRA Contract owners will not incur any fees or charges as a result of the substitutions, nor will the rights or obligations of WRL under the JRA Contract be altered in any way. Applicants also represent that the proposed substitutions will not have any adverse tax consequences to JRA Contract owners and that the proposed substitutions will not cause JRA Contract fees and charges currently being paid by existing JRA Contract owners to be greater after the proposed

substitutions than before the proposed substitutions.

11. Applicants state that the proposed substitutions will not be treated as transfers that may be made by a JRA Contract owner in any period without a transfer charge. Applicants state that WRL will not, with respect to shares substituted, exercise its right that it may have under its JRA Contract to impose additional restrictions on transfers for a period of at least 30 days following the proposed substitutions. Each JRA Contract owner will be allowed one transfer of contract value with respect to shares substituted, for a period of 30 days following the proposed substitution, without that transfer counting toward any limit on free transfers under the JRA Contract.

12. Applicants state that affected JRA Contract owners will be notified of the proposed elimination of High-Yield Portfolio. In addition, Applicants further state that WRL will send affected JRA Contract owners a prospectus supplement which informs them that WRL and other applicants have filed an application for an order allowing WRL to undertake the substitutions described in the application and that affected JRA Contract owners may elect any time prior to the closing date of the substitution to transfer their interest in the sub-account corresponding to High-Yield Portfolio to any other sub-account, without such transfer counting toward any limits on free transfers under a JRA Contract. Applicants also state that with this JRA Contract owners have already received a current prospectus relating to Flexible Income Portfolio (which was included in a combined prospectus with High-Yield Portfolio).

13. Applicants state that once the proposed substitution are completed, a confirmation will be mailed to the JRA Contract owners reflecting the transfer of the JRA Contract values from the sub-accounts investing in High-Yield Portfolio to the sub-accounts investing in the substituted Flexible Income Portfolio. Applicants state that this confirmation will be sent within five days of the completion of the substitution. Applicants also state that, following the proposed substitution, Janus Capital, as the sole remaining shareholder of High-Yield Portfolio, will approve the final liquidation of the High-Yield Portfolio.

#### **Applicants' Legal Analysis:**

1. Applicants request that the Commission issue an order pursuant to Section 26(c) of the Act approving the substitution by WRL of shares of Flexible Income Portfolio for shares of

High-Yield Portfolio held by WRL Separate Account.

2. Section 26(c) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive Commission approval before substituting the securities held by the trust. Section 26(c) also states that the Commission shall issue an order approving such substitution if the evidence established that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants state that WRL has reserved the right to substitute shares of another open-end management investment company in the JRA Contract and disclosed this reserved right in the prospectuses or statements of additional information for the JRA Contract.

4. Applicants note that, Flexible Income Portfolio is a substantially larger fund that High-Yield Portfolio and that the expense of Flexible Income Portfolio are lower than those of High-Yield Portfolio, even with the current expense limitation in place for High-Yield Portfolio. Applicants state, moreover, that the current expenses limitation for High-Yield Portfolio may be terminated at each annual renewal of High-Yield Portfolio's investment advisory contract, and there is no assurance this arrangement will continue in the future.

5. Applicants also maintain that the Flexible Income Portfolio is an appropriate substitute investment vehicle with regard to JRA Contract owner interests held in High-Yield Portfolio. WRL believes that the investment objectives and policies of Flexible Income Portfolio are sufficiently similar to those of High-Yield Portfolio so as to be appropriate for substitution. Flexible Income Portfolio invests primarily in a wide variety of income-producing securities such as corporate bonds and notes, government securities and preferred stock and may own an unlimited amount of high-yield/high risk bonds. During the fiscal year ended December 31, 2000, based upon a weighted monthly average, Flexible Income Portfolio held 16% of its net assets in securities rated BB. WRL believes JRA Contract owners that have allocated values to High-Yield Portfolio will find Flexible Income Portfolio to be an attractive and highly suitable alternative.

6. Applicants maintain that the purposes, terms and conditions of the substitution are consistent with the principles and purposes of Section 26(c) and do not entail any of the abuses that Section 26(c) is designed to prevent.

Applicants note that the JRA Contract provides each JRA Contract owner with the right to exercise his or her own judgment and transfer account values into other allocation options. Moreover, the JRA Contract will offer JRA Contract owners the opportunity to transfer amounts out of the sub-account corresponding to High-Yield Portfolio into any of the remaining sub-accounts without cost or other disadvantage.

#### **Conclusion**

Applicants submit that, for all of the reasons summarized above, the proposed substitution are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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

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

[FR Doc. 01-21650 Filed 8-27-01; 8:45 am]

**BILLING CODE 8010-01-M**

## **SECURITIES AND EXCHANGE COMMISSION**

### **Agency Meeting**

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [to be published].

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE PREVIOUSLY ANNOUNCED:** [to be published].

**CHANGE IN THE MEETING:** Additional Items.

The following items will be added to the closed meeting scheduled for Thursday, August 30, 2001, at 10 a.m.:

Formal Orders of Investigations

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942-7070.

Dated: August 23, 2001.

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

[FR Doc. 01-21860 Filed 8-24-01; 3:59 pm]

**BILLING CODE 8010-01-M**