

and regulatory enforcement in that sector. Agricultural producers and their representatives have expressed concerns about changes in the agricultural marketplace, including increasing processor concentration in some commodities. There have been several congressional oversight hearings related to competition in the agricultural sector, as well as legislative proposals to restrict the activities of agricultural processors and intensify federal government scrutiny of agricultural mergers.

The workshops will address the dynamics of competition in agriculture markets, including, among other issues, buyer power (also known as monopsony) and vertical integration. They will examine legal doctrines and jurisprudence and current economic learning, and will provide an opportunity for farmers, ranchers, consumer groups, processors, agribusinesses, and other interested parties to provide examples of potentially anticompetitive conduct and to discuss any concerns about the application of the antitrust laws to the agricultural sector. The goals of the workshops are to promote dialogue among interested parties and foster learning with respect to the appropriate legal and economic analyses of these issues as well as to listen to and learn from parties with real-world experience in the agricultural sector.

To begin, the DOJ and USDA are soliciting public comments from lawyers, economists, agribusinesses, consumer groups, academics, agricultural producers, agricultural cooperatives, and other interested parties. The DOJ and USDA are interested in comments on the application of the antitrust laws to monopsony and vertical integration in the agricultural sector, including the scope, functionality, and limits of current or potential rules. The DOJ and USDA are also inviting input on additional topics that might be discussed at the workshops, including the impact of agriculture concentration on food costs, the effect of agricultural regulatory statutes or other applicable laws and programs on competition, issues relating to patent and intellectual property affecting agricultural marketing or production, and market practices such as price spreads, forward contracts, packer ownership of livestock before slaughter, market transparency, and increasing retailer concentration.

The DOJ and USDA plan to hold the first workshop in early 2010. While some of these workshops may be held in Washington, DC, others will be held regionally. The DOJ and USDA plan to

publish a more detailed description of the topics to be discussed before each workshop and to solicit additional submissions about each topic. The workshops will be transcribed and placed on the public record. Any written comments received also will be placed on the public record.

**DATES:** Any interested person may submit written comments responsive to any of the topics addressed in this **Federal Register** notice. Respondents are encouraged to provide comments as soon as possible, but no later than December 31, 2009.

**ADDRESSES:** Written comments should be submitted in both paper and electronic form to the Department of Justice. All comments received will be publicly posted. The comments should be submitted as follows:

Two paper copies should be addressed to the Legal Policy Section, Antitrust Division, U.S. Department of Justice, 450 5th Street, NW., Suite 11700, Washington, DC 20001. The Antitrust Division is requesting that the paper copies of each comment be sent by courier or overnight service, if possible, because U.S. postal mail at the Department is subject to delay due to heightened security precautions. The electronic version of each comment should be submitted by electronic mail to [agriculturalworkshops@usdoj.gov](mailto:agriculturalworkshops@usdoj.gov).

**FOR FURTHER INFORMATION CONTACT:**

Mark B. Tobey, Special Counsel for State Relations and Agriculture, Antitrust Division, U.S. Department of Justice, 950 Pennsylvania Ave., NW., Washington, DC 20530; telephone: (202) 532-4763; e-mail: [agriculturalworkshops@usdoj.gov](mailto:agriculturalworkshops@usdoj.gov). Detailed agendas and schedules for the workshops will be made available on the Antitrust Division's Web site, <http://www.usdoj.gov/atr>.

**SUPPLEMENTARY INFORMATION:** The Horizontal Merger Guidelines recognize monopsony power and its exercise as a concern in analyzing potential competitive effects of proposed mergers and acquisitions. As a general proposition, the analysis of competitive issues in monopsony cases is the mirror image of the more common analysis of competitive issues in monopoly cases. For example, instead of determining whether the merged firm would gain sufficient market power to raise prices to consumers, monopsony analysis focuses on whether the merged firm would gain sufficient market power to depress prices paid to its suppliers. Likewise, instead of determining whether the buyers could defeat an attempt by the merged firm to increase prices by a small but significant and

non-transitory amount by switching to alternative products or alternative suppliers, the issue in a monopsony investigation is whether the sellers could defeat an attempt by the merged firm to depress prices by producing other products or by selling their products to other buyers.

Vertical integration occurs when multiple stages of production, for example, processing, distribution, or marketing, are brought together in one firm or are linked by contracts. In many instances, vertical integration may be procompetitive, allowing firms to reduce their costs. However, there may be circumstances in which vertical integration raises antitrust concerns, usually by increasing barriers to entry, facilitating collusion, or circumventing regulation.

**Christine A. Varney,**

*Assistant Attorney General, Antitrust Division.*

**Ann Wright,**

*Deputy Undersecretary for Marketing and Regulatory Programs, Department of Agriculture.*

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**BILLING CODE P**

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## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0376; Docket No.: 07007001; Certificate No. GDP-1; EA-08-280]

### In the Matter of United States Enrichment Corporation, Paducah Gaseous Enrichment Plant; Confirmatory Order (Effective Immediately)

I

The United States Enrichment Corporation (USEC), a subsidiary of USEC Inc., is the holder of NRC Certificates of Compliance (COC) No. GDP-1 issued by the NRC pursuant to 10 CFR part 76 on November 26, 1996, and renewed on December 22, 2008. The COC is set to expire on December 31, 2013. The certificate authorizes USEC to operate the Paducah Gaseous Diffusion Plant (Paducah), located near Paducah, Kentucky. The certificate also authorizes USEC to receive, and other NRC licensees to transfer to USEC, byproduct material, source material, or special nuclear material to the extent permitted under the COC.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on July 1, 2009.

**II**

On September 30, 2008, the NRC's Office of Investigations (OI) completed an investigation (OI Case No. 2-2008-009) regarding activities at the Paducah Gaseous Diffusion Plant facility located in Paducah, Kentucky. Based on the evidence developed during the investigation, the NRC staff concluded that on August 10, 2007, a Training Records Clerk and a Security Analyst willfully shipped a package containing classified information to an address that was not an approved classified mailing address (CMA). These actions were contrary to 10 CFR 95.39(b)(3) and Paducah Security Procedure CP2-SS-SE1036, Classified Matter Protection and Control, which require the external transmission of classified mail be made to a uniquely designated CMA for the receipt of classified information.

**III**

On July 1, 2009, the NRC and USEC met in an ADR session mediated by a professional mediator, which was arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. The NRC and USEC agreed that a violation occurred on August 10, 2007, when a Training Records Clerk and a Security Analyst shipped a package containing classified information to an address that was not an approved CMA. These actions were contrary to 10 CFR 95.39(b)(3) and Paducah Security Procedure CP2-SS-SE1036, Classified Matter Protection and Control, which require the external transmission of classified mail be made to a uniquely designated CMA for the receipt of classified information.

2. Based on its review and investigation, USEC-Paducah concluded that the cause of the violation was not due to willfulness on the part of the Training Records Clerk or the Security Analyst.

3. Based on USEC's review of the incident and NRC concerns associated with precluding recurrence of the violation, USEC-Paducah completed the following corrective actions and enhancements:

a. Processed procedural enhancements to procedure CP2-SS-SE1036 to provide instructions for verifying proper use of classified

mailing addresses and shipping addresses, clarify entity with authority to package and process classified shipments and mailings, provide specific instructions for use of commercial carriers, and provide actions to take for off-normal requests.

b. Security Management briefed and discussed the event and error with the Security staff personnel. The briefing and discussions included the apparent violation of the procedure and reiterated management expectations with respect to procedure adherence.

c. The Records Management Document Control (RMDC) Manager briefed and discussed the event and procedural error with RMDC personnel. Expectations discussed included that classified materials may be mailed and not shipped to USEC headquarters, and that RMDC has primary responsibility for mailing classified information, while Shipping and Receiving has primary responsibility for shipping classified information.

d. Security and RMDC staff were retrained on requirements for off-site shipping/ mailing. The training highlighted shipment of classified documents versus the mailing of classified documents.

e. Lessons learned were documented and issued to all site personnel. The lessons included: the importance of procedural adherence, even when under time constraints; the need to re-implement procedure steps when the environment changes; the requirement that all forms be completed; and the use of error prevention tools.

4. In addition to the actions completed by USEC as discussed above, USEC agreed to additional corrective actions and enhancements, as fully delineated below in Section V of the Confirmatory Order.

5. At the ADR session, the NRC and USEC agreed that (1) the actions referenced in Section III.3 and Section V, would be incorporated into a Confirmatory Order, and (2) the resulting Confirmatory Order would be considered by the NRC for any assessment of USEC, as appropriate.

6. In consideration of the completed corrective actions delineated in Section III.3 and the commitments delineated in Section V of this Confirmatory Order, the NRC agreed to refrain from proposing a civil penalty or issuing a Notice of Violation for all matters discussed in the NRC's letter to USEC of February 6, 2009 (EA-08-280).

7. This agreement is binding upon successors and assigns of USEC.

On August 12, 2009, USEC consented to issuance of this Order with the commitments, as described in Section V

below. USEC further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

**IV**

Since USEC has completed the actions as delineated in Section III.3, and agreed to take the actions as set forth in Section V, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that USEC's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that USEC's commitments be confirmed by this Order. Based on the above and USEC's consent, this Order is immediately effective upon issuance.

**V**

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 76, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT CERTIFICATE NO. GDP-1 BE MODIFIED AS FOLLOWS:

a. In October 2008, USEC-Paducah developed recurring training for Operations and Maintenance supervisors to reinforce "conduct of" principles and procedure compliance. Training will continue on a quarterly basis for a period of at least twelve (12) months after issuance of the Confirmatory Order.

b. In July 2008, a group of Paducah plant employees attended an INPO course on Human Performance. This group formed the Human Performance Steering team which was established to assist the plant in efforts to prevent among other things, noncompliance with regulatory requirements and other adverse events.

i. Brainstorming sessions were held with workers to identify practical solutions to preventing adverse events.

ii. Multiple interactive informational training sessions were held with small groups of employees focusing on identifying critical job tasks and the tools to prevent and protect against causing adverse events when performing critical tasks. Sessions in Maintenance and Operations have been completed. This approach will continue for the remainder of the Paducah employees for a period of at least twelve (12) months after issuance of the Confirmatory Order.

c. By no later than sixty (60) calendar days after the issuance of the Confirmatory Order, USEC agrees to develop a "lessons learned" document addressing the lessons learned from the event which gave rise to this mediation, and share those lessons learned with USEC's Paducah Gaseous Diffusion Plant, Portsmouth Gaseous Diffusion Plant, Headquarters, the American Centrifuge Plant (ACP), and ACP vendors who handle classified information. After issuance of the lessons learned, USEC will require a response within ninety (90) days which identifies any actions taken by the vendors to address the lessons learned. USEC will track internal actions via the use of its Business Prioritization System.

d. By no later than one-hundred twenty (120) calendar days after the issuance of the Confirmatory Order, USEC agrees to revise the relevant classified material mailing and shipping procedures applicable to USEC's Paducah Gaseous Diffusion Plant, Portsmouth Gaseous Diffusion Plant, USEC Headquarters, and the ACP to clarify the definition of the term "cleared commercial carrier" as that term applies to the mailing or shipping of classified information, and provide associated training.

e. USEC-Paducah agrees to complete the items listed in Section V above within twelve (12) months of issuance of the Confirmatory Order.

f. Within three (3) months of completion of the terms of the Confirmatory Order, USEC-Paducah will provide the NRC with a letter discussing its basis for concluding that the Confirmatory Order has been satisfied.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by USEC of good cause.

## VI

Any person adversely affected by this Confirmatory Order, other than USEC, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

If a person other than USEC requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The NRC E-filing Final Rule was issued on August 28, 2007 (72 FR 49139), and was codified in pertinent part at 10 CFR part 2, subpart B. The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV), or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, he/she can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon

receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory e-filing system may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1-866-672-7640 or by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov).

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and

Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their works.

## VII

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated this 18th day of August 2009.

For the Nuclear Regulatory Commission.

**Victor M. McCree,**

*Deputy Regional Administrator for Operations.*

[FR Doc. E9-20678 Filed 8-26-09; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28849; File No. 812-13611]

### MML Series Investment Fund, et al.; Notice of Application

August 20, 2009.

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

**ACTION:** Notice of application for an exemption pursuant to Section 6(c) of the Investment Company Act of 1940, as amended (the "1940 Act or Act"), seeking exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

**Applicants:** MML Series Investment Fund ("MML Trust"), MML Series Investment Fund II ("MML II Trust") and Massachusetts Mutual Life Insurance Company ("MassMutual") (collectively, "Applicants").

**SUMMARY:** *Summary of Application:* Applicants request an order pursuant to Section 6(c) of the 1940 Act exempting each life insurance company separate

account supporting variable life insurance contracts ("VLI Account") (and its insurance company depositor) that may invest in shares of an existing portfolio of the MML Trust or the MML II Trust (an "Existing Fund") or a "Future Fund," as defined below, from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, in situations where such VLI Accounts hold shares of any Existing Fund or Future Fund (each, a "Fund;" collectively, the "Funds") when one or more of the following other types of investors also hold shares of the Funds: (1) a life insurance company separate account supporting variable annuity contracts (a "VA Account"), (2) any VLI account, (3) a Fund's investment adviser or affiliated person of the investment adviser (representing seed money investments in the Fund), and/or (4) trustees of a qualified group pension or group retirement plan outside the separate account context. As used herein, a Future Fund is any investment company (or investment portfolio or series thereof), other than an Existing Fund, designed to be sold to VLI Accounts and to which Applicants or their affiliates may in the future serve as investment advisers, investment subadvisers, investment managers, administrators, principal underwriters, or sponsors.

**DATES:** *Filing Date:* The application was filed on December 15, 2008, and amended and restated on April 14, 2009 and August 12, 2009.

*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 September 14, 2009, 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 Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. Applicants, c/o Andrew M. Goldberg, Massachusetts Mutual Life Insurance Company, 1295 State Street, Springfield, MA 01111. Copy to Mary Thornton Payne, Sutherland Asbill & Brennan

LLP, 1275 Pennsylvania Avenue, Washington, DC 20004-2415.

**FOR FURTHER INFORMATION CONTACT:** Mark Cowan, Senior Counsel, or Zandra Bailes, Branch Chief, Office of Insurance Products, Division of Investment Management at (202) 551-6795.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549 ((202) 551-8090).

### Applicants' Representations

1. MML Trust was organized as a Massachusetts business trust on December 19, 1984. MML Trust is registered under the 1940 Act as an open-end management investment company (File No. 811-02224). MML Trust is a series investment company as defined by Rule 18f-2 under the Act and is currently comprised of twenty-seven series.

2. Shares of the series of the MML Trust are offered solely to separate investment accounts established by MassMutual and its life insurance company subsidiaries. The MML Trust has filed a registration statement under the Securities Act of 1933 (the "1933 Act") on Form N-1A (File No. 2-39334) to register such shares. The Trust may establish additional series in the future and additional classes of shares for such series. Shares of MML Trust are not offered to the general public.

3. MML II Trust was formed as a Massachusetts business trust on February 8, 2005. MML II Trust is registered under the 1940 Act as an open-end management investment company (File No. 811-21714). MML II Trust is a series investment company as defined by Rule 18f-2 under the Act and is currently comprised of ten series.

4. Shares of the series of the MML II Trust are offered solely to separate investment accounts established by MassMutual and its life insurance company subsidiaries. The MML II Trust has filed a registration statement under the 1933 Act on Form N-1A (File No. 333-122804) to register such shares. The Trust may establish additional series in the future and additional classes of shares for such series. Shares of MML II Trust are not offered to the general public.

5. MassMutual is the investment adviser to the MML Trust and the MML II Trust and is responsible for providing all necessary investment management and administrative services. MassMutual is paid an investment management fee from each Fund's