



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

March 20, 1992

Laurence K. Williams, Esq.
Sutherland, Asbill & Brennan
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2404

Re: Lincoln National Corporation

Dear Mr. Williams:

In regard to your letter of March 19, 1992 our response thereto is attached to the enclosed photocopy of your correspondence. By doing this, we avoid having to recite or summarize the facts set forth in your letter.

Sincerely,

A handwritten signature in cursive script that reads "Abigail Arms".

Abigail Arms
Chief Counsel

SUTHERLAND, ASBILL & BRENNAN

1275 PENNSYLVANIA AVENUE, N. W.

WASHINGTON, D. C. 20004-2404

(202) 383-0100

899 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30309-3886
(404) 853-8000

CABLE: SUTAB WASHINGTON
TELEX: 89-501
FACSIMILE:
(202) 637-3593

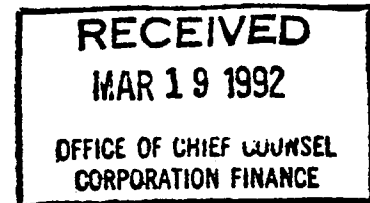
March 19, 1992

BY MESSENGER

William E. Morley, Esq.
Chief Counsel
Division of Corporate Finance
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

1934 Act/§16 and Rules 16a-1(c),
16b-3 and 16b-6(b)

Re: Lincoln National Corporation
Executive Value Sharing Plan



Dear Mr. Morley:

We are writing on behalf of Lincoln National Corporation ("Lincoln," "LNC" or the "Company") to request that you advise us that the staff (the "Staff") of the Securities and Exchange Commission (the "Commission") concurs with our interpretation of Section 16 and Rules 16a-1(c) and 16b-3 under the Securities Exchange Act of 1934 to the effect that (i) neither the right to participate in nor a grant of awards under the Company's proposed Executive Value Sharing Plan (the "EVS Plan") will be deemed a derivative security for purposes of Section 16, (ii) the grant of restricted stock in payment of such awards and the issuance of such stock will be exempt pursuant to Rule 16b-3, (iii) no shareholder approval is required for the amendment of the 1986 Incentive Stock Plan (the "ISO Plan") to include the EVS Plan, and (iv) receipt of restricted stock by EVS Plan participants will be exempt under Rule 16b-6(b). This letter replaces the no-action letter request submitted on February 7, 1992.

I. Background

Lincoln is a publicly-held company whose stock is listed on the New York, Midwest, Pacific, London and Tokyo Stock Exchanges. Both its common and preferred stock are registered under the Securities Exchange Act of 1934 and, in accordance therewith, the Company files reports, proxy statements and other information with the Commission.

The Company maintains a number of retirement, benefit, profit-sharing and incentive plans for its employees; in particular, it maintains three plans relevant to this request.

William E. Morley, Esq.

March 19, 1992

Page 2

A. Lincoln National Corporation Executive Value Sharing Plan

Beginning in 1992, the LNC EVS Plan (copy attached as Exhibit 1) will provide rights to participate in a plan under which individual awards of cash and/or restricted shares of Lincoln common stock in amounts which are meant to reflect the Company's performance over a three-year period (the "Performance Cycle") are made to selected key executives, managers, supervisors, and professionals of LNC or its direct or indirect subsidiaries or a person holding an agent's or broker's contract. The amount of such awards is based upon Lincoln's relative attainment of specific goals over three years (i.e., increase in the Company's book value) compared to a selected peer group of companies. The total awards and the amount of individual cash and/or restricted stock awards based on certain performance criteria are determined by those members of the Lincoln Board of Directors' Personnel Committee, who are "disinterested persons" as defined in paragraph (c)(2)(i) of Rule 16b-3, which is primarily responsible for administering the ISO Plan (the "ISO Committee").

The Chief Executive Officer of the LNC is always eligible for participation in the EVS Plan and is permitted to recommend executives to the Committee who he or she believes are eligible for plan participation under the criteria established by the Committee. However, the selection of participants is solely within the discretion of the ISO Committee.

The aggregate amount available as awards to participants is measured by the extent to which the increase in book value of Lincoln as a whole or the book value attributable to a strategic business unit of Lincoln during a Performance Cycle exceeds the benchmark book value established by reference to the average changes in book value of peer companies selected by the ISO Committee during the Cycle.

The right of individuals to participate in awards (including their relative percentage interests in the amount awarded) will be determined at the beginning of each Cycle by the ISO Committee according to three criteria: (1) the importance of the individual to his or her business unit; (2) the willingness of the individual to go above and beyond his or her job description; and (3) the importance of the individual's business unit to LNC. At any time prior to the end of the Performance Cycle, the Committee reserves the right to reduce, increase or withhold an award it deems inappropriate based on the performance of the individual's business unit. The ISO Committee has complete discretion as to whether an award will be settled in cash, restricted

William E. Morley, Esq.
March 19, 1992
Page 3

stock or both. (See Sections 5.2 and 5.3 of the EVS Plan.) Calculation of the amount by which the Lincoln book value exceeds the benchmark book value, the total amount available for awards to participants, and the cash value of individual awards to participants is determined and made by the ISO Committee after the end of the three-year Performance Cycle, December 31st of every year, but not later than March 15th. The Committee will make its final determination as to the percentage of an individual award that will be paid in shares of restricted stock on a date between (and including) March 1 and March 15 of the fiscal year following the end of a Performance Cycle.

Awards may be distributed either in cash or shares of restricted stock subject to the ISO Plan discussed below. The conversion of an award to restricted stock is based on the average of the fair market value of LNC's common stock as of the close of the business day immediately preceding January 1, February 1 and March 1 of the fiscal year following the end of a Performance Cycle. The amount, if any, of the EVS Plan award not paid in stock is payable in cash. The EVS Plan awards are not transferable by the participant except by will or the laws of descent and distribution.

B. Lincoln National Corporation Management Incentive Plans

Currently, LNC maintains two management incentive plans. The Lincoln National Corporation Management Incentive Plan ("MIP I") (copy attached as Exhibit 2) is a cash-only plan, which provides individual awards based on annual and/or long-term performance goals. These goals may be based upon the financial performance of the Company, upon the financial performance of an LNC business unit or upon the attainment of an individually determined goal. The ISO Committee and/or LNC's Chief Executive Officer establish all goals and awards. Awards for meeting goals are made annually prior to the end of the first quarter after the close of the fiscal year to which the award pertains.

The LNC Management Incentive Plan II ("MIP II") (copy attached as Exhibit 3) currently provides individual awards of cash or restricted stock or both to selected senior executives of Lincoln in amounts which are meant to reflect the Company's performance over a three-year period. The amount of such awards is based upon Lincoln's relative attainment of specific goals over three years (i.e., stock price appreciation and dividends) compared to a selected peer group of companies, in accordance with a schedule which sets forth at the beginning of the three-year period the range of awards given different Company results. The ISO

William E. Morley, Esq.

March 19, 1992

Page 4

Committee sets performance goals for the three-year Performance Cycle, the selection of a peer group of companies for comparative purposes, the selection of executive personnel deemed eligible to become participants in MIP II (based on job title and length of service), the amount of award to be granted to particular individuals based upon the relative contribution of the participant in the achievement of performance goals, and the form of award (cash or restricted stock) to be granted.

It is anticipated that LNC's Chief Executive Officer, who is always eligible for participation in MIP II, and other senior officers of the Company, will make recommendations as to the matters determined by the Committee as listed above. However, the ISO Committee is not compelled to follow any recommendation from the CEO or any senior officer. Corporate goals, eligibility, individual awards and other matters are within the sole discretion of the ISO Committee. Depending upon Lincoln's position (*i.e.*, percentile ranking) with respect to its selected peer group of companies, the amount of each award, expressed as a percentage of the participant's salary, can be determined under the schedule of awards. The ISO Committee can only determine and make individual awards after the end of the three-year Performance Cycle, December 31st of every year, but not later than March 15th.

Awards may be distributed either in cash or shares of restricted stock subject to the ISO Plan discussed below. The conversion of an award is based on the LNC common stock's fair market value on the date of the restricted stock award, which is the average of the highest and lowest price of LNC's common stock on the date next preceding the award date. MIP II awards are not transferable except by will or the laws of descent and distribution.

For those individuals who become participants, the EVS Plan will in effect replace MIP I and MIP II. Participation by these persons in MIP I was discontinued as of December 31, 1991. With respect to Performance Cycles commencing in 1992, they will participate in the EVS Plan rather than MIP II.

C. 1986 Stock Option Incentive Plan

Lincoln created the ISO Plan, a copy of which is attached as Exhibit 4, to provide an incentive to select key management-level employees to continue their employment and to realize a direct proprietary interest in Lincoln's success through newly acquired or increased stock ownership. The ISO Plan was approved by the shareholders of Lincoln in 1986 and is

SUTHERLAND, ASBILL & BRENNAN

William E. Morley, Esq.
March 19, 1992
Page 5

administered by the ISO Committee. The ISO Committee may select salaried employees (including officers who may also be directors) of Lincoln and its subsidiaries, as well as agents or brokers of such subsidiaries, to participate in the Plan.

Up to 2,500,000 shares of Lincoln common stock, \$1.25 par value, are issuable under the ISO Plan (subject to adjustment in the event of stock splits or other changes of capitalization). The ISO Committee may select any key employee of Lincoln or its subsidiaries to participate in the ISO Plan. Within the limits of the ISO Plan (and, to the extent applicable, MIP II and the EVS Plan), the ISO Committee has full discretion to determine the type, amount, terms and conditions of each award. The ISO Plan provides for awards of stock options (both nonqualified and incentive options), stock appreciation rights and restricted stock. However, only the award of restricted stock is relevant to MIP II and the EVS Plan. (MIP I awards are payable only in cash.)

The grant of restricted stock to satisfy MIP II and EVS Plan awards are and will be drawn from shares authorized under the ISO Plan. The stockholders in approving the ISO Plan in 1986 were advised that restricted stock could be issued in conjunction with MIP II, which provides performance-based awards over a three-year cycle to executive officers. The ISO Plan was amended in 1989 to authorize the ISO Committee to grant restricted stock to satisfy MIP II awards and will be further amended to include EVS Plan awards as well. (A copy of the proposed amendment is attached as Exhibit 5.)

The decision to distribute restricted shares of Lincoln common stock in lieu of a cash award under the EVS Plan and MIP II is made by the ISO Committee pursuant to the ISO Plan. In such event, shares with restrictions on transfer may be issued to the participant no earlier than six months after the award. Such shares, once issued, will be deposited with the secretary of Lincoln until delivery can be made free of restrictions or possibility of forfeiture, which, except in the event of death, disability or retirement of the participant, may be no earlier than the first anniversary nor later than the tenth anniversary of the award. It is anticipated that the restricted shares issued in satisfaction of the EVS Plan awards will vest three years after the award date (subject to continued employment), at which time all restrictions lapse. Restricted stock awarded in satisfaction of MIP II awards generally vests three years after the award date. During this three-year period, the ISO Committee is empowered, in its discretion, to credit to the participant any dividends paid on the stock. An amount equivalent to accumulated

William E. Morley, Esq.
March 19, 1992
Page 6

dividends may, in the discretion of the ISO Committee, be paid to the recipient at the time the restrictions lapse.

II. Discussion

A. Participation in and Awards under the EVS Plan Should Not Constitute Derivative Securities

In Release 34-28869 dated February 8, 1991, the Commission adopted amendments to its rules and forms under Section 16 of the Exchange Act, which amendments encompass a new approach to the treatment of derivative securities. Derivative securities are defined in Rule 16a-1(c) as

any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege at a price related to an equity security, or similar securities with a value derived from the value of an equity security.

The right to participate in the EVS Plan and the granting of awards under the Plan do not involve any "exercise or conversion privilege" or any act of volition on the part of the participant. Under the EVS Plan the ISO Committee has the right to deliver cash and/or LNC restricted stock to Pool participants in payment of awards and the participants are obligated to accept the cash and/or stock. The ISO Committee, however, is by no means obligated to make an award to every participant and may choose not to do so in any given case. Hence, the right to participate and the awards under the EVS Plan do not fit within the first part of the foregoing definition of a derivative security.

Pursuant to Rule 16a-1(c), securities that derive their value from the value of an equity security are also considered derivative securities. However, only securities that derive their value from the market price of common stock or similar equity security will be deemed derivative securities. See General Mills (reconsideration available January 31, 1992) in which the Staff found that performance units deriving their value from earnings per share and return on equity are not derivative securities unless their value is tied to the market price of an equity security. A participant in the EVS Plan will derive value based on a number of factors described above, none of which is the market price of the LNC common stock. Because the value of the right to participate and the performance award are not derived from the market price of LNC common stock, neither participation in the EVS Plan nor the award should be deemed a derivative security.

William E. Morley, Esq.
March 19, 1992
Page 7

The right to participate in the EVS Plan is also exempt from the definition of a derivative security under Rule 16a-1(c)(5) which excludes the right to participate in the issuer's employee benefit plan from the derivative security definition. Such exemption extends to the participation right of employees of the issuer's direct and indirect majority-owned subsidiaries. See Chadbourne & Parke (available January 10, 1992).

B. The Award of Restricted Stock under the ISO Plan to Satisfy Awards under the EVS Plan Should Be Exempt under Rule 16b-3

At the time individual awards are finally determined, a participant may be awarded cash or restricted stock or both. No derivative security is created when a cash award (based on Lincoln's book value, not on the market price of its securities) is made by the ISO Committee. However, a derivative security is created when the Committee makes the final determination of the number of shares of restricted stock to be awarded to a Plan participant. Specifically, a derivative security for a particular Performance Cycle is created on the date between (and including) March 1 and March 15 of the fiscal year following the end of the Performance Cycle when the ISO Committee makes its final decision as to the percentage of an individual award that will be paid in restricted stock. The Committee's decision as to the number of shares of restricted stock to be awarded will be made after the average LNC common stock value is ascertained, and will therefore represent the last action needed prior to the actual award. The awarded shares of restricted stock will be issued no earlier than six months after the date following the award date on which the award recipient signs an agreement imposing restrictions on the shares.

We recognize that the six-month delay in issuance of the restricted stock creates a derivative security. The required six-month period is contained in the original ISO Plan and LNC does not propose any change in the Plan's procedures, benefits, or restrictions. However, no change is necessary since the creation of a derivative security (the grant of restricted stock) and the issuance of restricted stock are made under the ISO Plan and thus will be exempt under Rule 16b-3 which exempts transactions in connection with certain employee benefit plans. Actual receipt of restricted stock by EVS Plan participants is exempt under Rule 16b-6(b).

