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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 230, 232, 239, 240, 270, and 274

[**Release Nos. 33-10765; 34-88358; IC-33814; File No. S7-23-18]**

RIN 3235-AK60

Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting rule and form amendments intended to help investors make informed investment decisions regarding variable annuity and variable life insurance contracts. The amendments modernize disclosures by using a layered disclosure approach designed to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly presentation, with access to more detailed information available online and electronically or in paper format on request. New rule 498A under the Securities Act of 1933 will permit a person to satisfy its prospectus delivery obligations under the Securities Act for a variable annuity or variable life insurance contract by sending or giving a summary prospectus to investors and making the statutory prospectus available online. The rule also will consider a person to have met its prospectus delivery obligations for any portfolio companies associated with a variable annuity or variable life insurance contract if the portfolio company prospectuses are posted online. To implement the new disclosure framework, we are also amending the registration forms for variable annuity and variable life insurance contracts to update and enhance the disclosures to investors in these contracts, and to implement the proposed summary prospectus framework, and adopting

amendments to our rules that will require variable contracts to use the Inline eXtensible Business Reporting Language ("Inline XBRL") format for the submission of certain required disclosures in the variable contract statutory prospectus. The Commission is also taking the position that if an issuer of a discontinued contract that is discontinued as of July 1, 2020 that provides alternative disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided with the alternative disclosures or modernized alternative disclosures described below. We are also adopting certain technical and conforming amendments to our rules and forms, including amendments to rules relating to variable life insurance contracts, and rescinding certain related rules and forms.

DATES: *Effective dates:* This rule is effective July 1, 2020, except:

- Amendatory instructions 12, 46, 48, and 50 to 17 CFR 230.498A, Form N-3 (referenced in 17 CFR 239.17a and 274.11b), Form N-4 (referenced in 17 CFR 239.17b and 274.11c), and Form N-6 (referenced in 17 CFR 239.17c and 274.11d), which are effective January 1, 2022; and
- Effective July 1, 2020, amendatory instructions 20, 22, and 24 to Form N-3 (referenced in 17 CFR 239.17a and 274.11b), Form N-4 (referenced in 17 CFR 239.17b and 274.11c), and Form N-6 (referenced in 17 CFR 239.17c and 274.11d), published June 22, 2018, at 83 FR 29158, with an effective date of January 1, 2022, are withdrawn.

Compliance dates: See Section II.G.

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Special Counsel), Investment Company Regulation Office, at (202) 551-6792; or Harry Eisenstein or Michael Kosoff (Senior Special Counsels), Disclosure Review and Accounting Office, at (202) 551-6921, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-8549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is adopting 17 CFR 230.498A (new rule 498A) under the Securities Act. The Commission is also adopting amendments to the following rules:

Commission Reference		CFR Citation (17 CFR)
Organization; Conduct and Ethics; And Information and Requests		§§ 200.1 through 200.800
	Section 800	§ 200.800
Securities Act of 1933 ("Securities Act")[1]	Rule 159A	§ 230.159A
	Rule 431	§ 230.431
	Rule 482	§ 230.482
	Rule 485	§ 230.485
	Rule 496	§ 230.496
	Rule 497	§ 230.497
	Rule 498	§ 230.498
	Form N-14	§ 239.23
Regulation S-T		§§ 232.10 through 232.501
	Rule 11	§ 232.11
	Rule 405	§ 232.405
Securities Exchange Act of 1934 ("Exchange Act")[2]	Rule 14a-16	§ 240.14a-16
	Rule 14a-101	§ 240.14a-101
Investment Company Act of 1940 ("Investment Company Act")[3]	Rule 0-1	§ 270.0-1

[1] 15 U.S.C. 77a *et seq*.

[2] 15 U.S.C. 78a *et seq*.

[3] 15 U.S.C. 80a *et seq*.

	Rule 6c-7	§ 270.6c-7
	Rule 6c-8	§ 270.6c-8
	Rule 6e-2	§ 270.6e-2
	Rule 6e-3 (former rule 6e-3(T))	§ 270.6e-3
	Rule 8b-1	§ 270.8b-1
	Rule 11a-2	§ 270.11a-2
	Rule 14a-2	§ 270.14a-2
	Rule 26a-1	§ 270.26a-1
	Rule 27i-1 (former rule 27c-1)	§ 270.27i-1
Securities Act and Investment Company Act	Form N-3	§§ 239.17a and 274.11b
	Form N-4	§§ 239.17b and 274.11c
	Form N-6	§§ 239.17c and 274.11d

Finally, the Commission is rescinding:

Commission Reference		**CFR Citation (17 CFR)**
Investment Company Act	Rule 26a-2	§ 270.26a-2
	Rule 27a-1	§ 270.27a-1
	Rule 27a-2	§ 270.27a-2
	Rule 27a-3	§ 270.27a-3
	Rule 27d-2	§ 270.27d-2
	Rule 27e-1	§ 270.27e-1
	Rule 27f-1	§ 270.27f-1
	Rule 27g-1	§ 270.27g-1
	Rule 27h-1	§ 270.27h-1
	Form N-27E-1	§ 274.127e-1
	Form N-27F-1	§ 274.127f-1
	Form N-27I-1	§ 274.302
	Form N-27I-2	§ 274.303
Securities Act and Investment Company Act	Form N-1	§§ 239.15 and 274.11

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I. INTRODUCTION

The Securities and Exchange Commission is adopting rule and form amendments that are intended to help investors make informed investment decisions regarding variable annuity[4] and variable life insurance contracts[5] (together, "variable contracts" or "contracts").[6] To improve the current disclosure framework and update the manner in which variable contract investors receive and review prospectuses and related information, we are adopting new rule 498A under the

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4 Variable annuities allow investors to receive periodic payments for either a definite period (*e.g.*, 20 years), or for an indefinite period (*e.g.*, the life of the investor), and also provide a basic death benefit to protect the investor's beneficiaries. The investor may allocate the cash value of the purchase payments to a range of investment options available under the contract, including in some cases, to a fixed account option that pays a fixed or minimum rate of interest. The investor's account value changes depending on the performance of the investment options the investor has selected.

5 Variable life insurance contracts offer a death benefit to the investor that may be significantly larger than the amount of premiums paid, as well as the ability to accumulate cash value. Like variable annuities, a variable life insurance contract permits the investor to allocate their cash value to a variety of investment options. Because an investor will generally allocate the insurance premiums to the investment options, the investor is exposed to market risk and the cash value (and in some cases, the death benefit) will vary with the performance of these investments.

6 The Commission proposed these rule and form amendments in October 2018. *See* Updating Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts, Investment Company Release No. 33286 (Oct. 30, 2018) [83 FR 61730 (Nov. 30, 2018)] ("Proposing Release").

Securities Act that permits the use of a summary prospectus to satisfy statutory prospectus delivery obligations, along with other rule and form amendments intended to implement the summary prospectus framework. Investors will have access to the contract statutory prospectus and other information about the contract online (and could receive paper or electronic copies upon request), which will provide more-detailed information about the contract.

Specifically, the approach under the new rule contemplates the use of two types of summary prospectuses: an "initial summary prospectus" to be provided to new investors, and an "updating summary prospectus" to be provided to existing investors. To help investors make an informed investment decision, each type of summary prospectus uses a layered disclosure approach designed to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly presentation, with website addresses or hyperlinks to more detailed information posted online and delivered electronically or in paper format on request.

To implement this new disclosure framework, we are also amending the registration forms for variable annuity and variable life insurance contracts to update and enhance the disclosures to investors in these contracts, and requiring variable contracts to use the Inline eXtensible Business Reporting Language ("Inline XBRL") format for the submission of certain required disclosures in the variable contract statutory prospectus.

In proposing new rule 498A, the Commission discussed and solicited comment on approaches it was considering that could affect, and raise the possibility of future amendments to, certain parallel provisions of rule 498 and certain of our registration forms applicable to other types of registered investment companies. While we are not taking any such parallel actions in this document, Commission staff is currently considering the comments received and reviewing

the disclosure regime for investment companies as to these and other potential amendments as part of a broader modernization initiative.

A. Background

To meet life insurance needs and retirement or other financial goals, investors may consider variable contracts as a way of combining insurance guarantees with the potential for long-term investment appreciation.[7] Variable contracts are generally more complex than other retail investment products, such as mutual funds, in a variety of ways:

- Structure. Variable contracts combine both investment and insurance features. Investors generally allocate their purchase payments to a range of investment options, and the investor's account value changes depending on the performance of the investment options selected. For most variable contracts, these investment options typically are mutual funds, which are separately registered and have their own prospectuses.[8] In addition, variable contracts frequently offer a menu of optional

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[7] For an overview of variable annuities and variable life insurance contracts, *see* Proposing Release, *supra* note 6, at Section I.A.

The average contract value for individual variable annuities is approximately $106,187. *See* Insured Retirement Institute, *IRI Fact Book 2019* ("IRI Fact Book"), at 167. Americans who own annuities have a median annual household income of $64,000 (80% have total annual household incomes below $100,000). Most individual annuity owners are retired. Although the average age of an annuity owner is 70, the average age at which owners purchased their first annuity is 51. *See* The Gallup Organization and Mathew Greenwald & Associates for The Committee of Annuity Insurers, *Survey of Owners of Individual Annuity Contracts* (2013) ("Gallup Survey"), at 8-9. There is limited data available regarding variable life insurance contracts, but based upon the data that is available, the Commission believes that the demographics of investors for those products are likely comparable.

[8] For purposes of this release, we refer to these entities as "portfolio companies."

benefits that an investor may select to customize the contract to meet his or her individual needs.[9]

- Fees and Expenses. Most variable contracts have two-level fee structures, where fees are assessed at both the contract level by the issuer (including mortality and expense risk charges,[10] administrative fees, and fees for optional benefits selected by the investor) and at the portfolio company level.[11] Transactional charges may also apply, some of which could be substantial, for example, in the case of withdrawals made from a contract prior to a specified number of years.[12] Variable life insurance

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9 Variable contracts commonly offer optional benefit features as riders to the contract with their own terms and conditions, and typically for a separate charge. Riders commonly provide enhanced death benefits, as well as "living benefits" that may be designed to provide protection against declines in account value, longevity risk, or other risks, or to cover financial losses that result from illness, incapacity, or injury. These optional riders have become increasingly popular with variable contract investors. *See, e.g.*, IRI Fact Book, *supra* note 7, at 70 ("Approximately $1.8 trillion of VA assets were held by insurance companies as of the end of the fourth quarter of 2018, with an estimated $800 billion in assets under a guaranteed income benefit."); Gallup Survey, *supra* note 7, at 21 (stating that "[n]early eight in ten annuity owners (79%) who own a variable annuity report that their contract has a guaranteed lifetime withdrawal benefit.").

10 The mortality and expense ("M&E") risk charge, which is based on an investor's account value, compensates the insurance company for offering certain contract features (*e.g.*, death benefit or annuitization) and is sometimes used to pay some or all of the insurance company's costs to sell the contract (*e.g.*, commissions). Typical M&E charges are approximately 1.25% of account value per year for variable annuities, and 0.90% for variable life insurance. *See* Morningstar M&E Risk definition, *available at* https://awgmain.morningstar.com/webhelp/glossary_definitions/va_vl/pol_M_E_Risk.html.

11 Investors indirectly bear the operating fees and expenses of the portfolio companies they select as the underlying investments in their variable contracts.

12 A contract may impose a "surrender charge" if, after purchase payments are made, an investor withdraws money from the contract during a stated period typically ranging from six to ten (or even more) years.

contracts also impose an additional insurance charge to cover the cost of the death benefit.[13]

- Taxes. Special tax rules apply to variable products, with both tax advantages and potential adverse tax impacts in certain circumstances.[14]

Investors should understand the features, risks, and charges associated with any potential investment. Providing investors with key information is particularly important in the context of variable contracts, since their structure is typically more complex than other types of investment products. The operation of and terminology associated with these products can be difficult for investors to understand. Moreover, variable contract prospectuses are often quite lengthy (frequently more than one hundred pages), particularly in the case of products that include optional benefits. It is also common for insurers to describe different versions of the contract in one prospectus, some of which may no longer be available to new investors, leaving investors to wade through a lengthy document to find disclosures relevant to the particular contract that they purchased or are considering purchasing.[15] Because insurers issuing variable contracts typically bundle prospectuses for the underlying portfolio companies together with the variable contract

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[13] These additional insurance charges are determined at the time the contract is written and vary based on the insured's personal characteristics, such as age and health. These charges are in addition to the M&E risk charge discussed above. *See supra* note 10.

[14] For example, assets within a variable contract grow tax-deferred, and transfers between investment options under the contract are not taxable events. However, investors may face a 10% federal income tax penalty if money is withdrawn before the investor reaches 59½ years old. For these and other reasons, a variable contract generally is sold as a long-term investment.

[15] For a discussion of the requirements for variable contract prospectus disclosure and delivery, *see* Proposing Release, *supra* note 6, at Section I.B.1.

prospectus, the disclosures that investors receive at the time of the initial purchase and on an annual basis thereafter can be voluminous.[16]

We are concerned that the volume, format, and content of disclosures in the variable contract context may make it difficult for some investors to find and understand key information that they need to make an informed investment decision. Based on our experience with both layered disclosure (under the mutual fund summary prospectus)[17] and integrated disclosure (enhanced over a decade ago with securities offering reform for corporate issuers),[18] our more than twenty years of experience with the use of the internet as a medium to provide information to investors,[19] and on our investor testing efforts, outreach, and other empirical research

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16 For example, variable annuity contracts offer an average of 60 investment options, with some contracts offering more than 250 investment options. *See* IRI Fact Book, *supra* note 7, at 167. Furthermore, variable life insurance contracts offer an average of 65 investment options, with some contracts offering more than 300 investment options. These variable life figures are based on September 2019 data obtained from Morningstar Direct.

17 Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546 (Jan. 26, 2009)] ("2009 Summary Prospectus Adopting Release") (permitting the use of a summary prospectus by registered open-end management investment companies).

18 Securities Offering Reform, Securities Act Release No. 8591 (July 19, 2005) [70 FR 44722 (Aug. 3, 2005)] ("Securities Offering Reform") at n.202 and accompanying text (allowing the use of free writing prospectuses to provide information to investors and stating that a free writing prospectus is a permitted prospectus for purposes of Section 10(b) of the Securities Act and, as such, can be used without violating Section 5(b)(1) of the Securities Act).

Additionally, Congress recently required the Commission to extend securities offering reform to closed-end funds (*see* Section 509 of the Economic Growth, Recovery Relief, and Consumer Protection Act, Pub. L. 115–174, 132 Stat. 1296 (2018)), and to business development companies (*see* Section 803 of the Small Business Credit Availability Act, Pub. L. 115–141, 132 Stat. 348 (2018)). The Commission proposed such rules in 2019. *See* Securities Offering Reform for Closed-End Investment Companies, Investment Company Act Release No. 33427 (Mar. 20, 2019) [84 FR 14448 (Apr. 10, 2019)] ("Closed-End Offering Reform Release").

19 *See, e.g.*, Use of Electronic Media for Delivery Purposes, Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)] ("1995 Release") (providing Commission views on the use of electronic media to deliver information to investors, with a focus on

concerning investors' preferences, the Commission proposed a summary prospectus framework for variable contracts using summary and layered disclosure principles.[20]

B. Overview of Final Rule and Rule and Form Amendments

We are adopting a new disclosure framework that, among other things, permits the use of summary prospectuses for variable contracts, with additional information available to investors online. To help investors make an informed investment decision, the new framework uses a layered disclosure approach designed to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly presentation, with

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electronic delivery of prospectuses, annual reports, and proxy solicitation materials); Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information; Additional Examples Under the Securities Act of 1933, Securities Exchange Act of 1934, and Investment Company Act of 1940, Investment Company Act Release No. 21945 (May 9, 1996) [61 FR 24644 (May 15, 1996)] ("1996 Release") (providing Commission views on electronic delivery of required information by broker-dealers, transfer agents, and investment advisers); Use of Electronic Media, Investment Company Act Release No. 24426 (Apr. 28, 2000) [65 FR 25843 (May 4, 2000)] ("2000 Release") (providing updated interpretive guidance on the use of electronic media to deliver documents on matters such as telephonic and global consent, issuer liability for website content, and legal principles that should be considered in conducting online offerings).

See also Securities Offering Reform, *supra* note 18 (adopting rule 172 under the Securities Act providing an "access equals delivery" framework under which issuers and intermediaries can satisfy their final prospectus delivery obligations); Shareholder Choice Regarding Proxy Materials, Investment Company Act Release No. 27911 (July 26, 2007) [72 FR 42222 (Aug. 1, 2007)] ("Shareholder Choice Regarding Proxy Materials") (adopting rule amendments requiring issuers to post their proxy materials on a specified website and provide shareholders with a notice of internet availability of the materials); Optional Internet Availability of Investment Company Shareholder Reports, Investment Company Act Release No. 33115 (June 5, 2018) [83 FR 29158 (June 22, 2018)] ("Investment Company Shareholder Reports Release") (adopting 17 CFR 270.30e-3 (new rule 30e-3 under the Investment Company Act) and related rule amendments that, subject to conditions, provide certain registered investment companies, including registrants on Forms N-3, N-4, and N-6, with an optional method to transmit shareholder reports by making such reports and other materials accessible at a website address specified in a notice to investors).

[20] For a discussion of the evolution of layered disclosure and the delivery of information to investors, including the Commission's and the staff's investor testing efforts, outreach, and other empirical research concerning investor preferences, *see* Proposing Release, *supra* note 6, at Section I.B.2.

access to more detailed information available online, or delivered in paper or electronic format on request. We anticipate that the framework will improve investor understanding of variable contracts. The mutual fund industry has widely adopted the use of summary prospectuses, and we expect our proposed prospectus delivery approach similarly will be widely adopted by issuers of variable contracts.[21]

New rule 498A builds upon our experience creating a summary prospectus option for mutual funds in 2009, but with certain differences intended to reflect the nature of variable contracts.[22] Like the Commission's mutual fund summary prospectus rule, the summary prospectus under rule 498A is meant to highlight key information of variable contracts that we believe will help an investor make an informed investment decision.[23]

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21 We estimate that as of December 31, 2018, approximately 93% of mutual funds and ETFs use summary prospectuses. This estimate is based on EDGAR data for the number of mutual funds and ETFs that filed a summary prospectus in 2018 (10,808) and the Investment Company Institute's estimated number of mutual funds and ETFs as of December 31, 2018 (11,656). *See* Investment Company Institute, 2019 Investment Company Fact Book (2019), at 50, *available at* https://www.ici.org/pdf/2019_factbook.pdf.

22 However, the final rule departs from rule 498 in requiring two separate types of summary prospectuses. *See infra* Sections II.A.1 and II.A.2. We designed this framework to distinguish the information we believe new and existing investors need, and to highlight the contract features and risks that are particularly relevant to these two groups of investors, taking into account information that we understand these investors may receive through other channels (*e.g.*, as a result of state insurance law, other regulatory requirements, and industry practice).

23 The mutual fund summary prospectus rule is designed to provide investors with "streamlined and user friendly information that is key to an investment decision." *See* Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Act Release No. 28064 (Nov. 21, 2007) [72 FR 67790 (Nov. 30, 2007)] ("2007 Summary Prospectus Proposing Release"), at Section I; *see also* Richard J. Wirth, *What's Puzzling You…Is the Nature of Variable Annuity Prospectuses*, 34 Western New England Law Review 127 (2012) ("Informed decision-making demands that consumers have enough of an understanding of what's for sale and what trade-offs are being asked of them in order to make an informed decision about whether or not to buy a product.").

Because variable contracts typically include a number of optional benefits and underlying investment options, a summary could not, by its nature, include all relevant aspects and details regarding each of these contract features. The variable contract summary prospectus is designed to be a succinct summary of the contract's key terms and benefits and most significant risks, making it easier to read and more understandable for investors. This summary prospectus will serve as the cornerstone of a layered disclosure framework that alerts investors to the availability of more detailed information in the statutory prospectus and in other locations, and will be tailored to the unique aspects of these products. As a result, investors will have ready access to key information in connection with an investment decision.

The main elements of the new disclosure framework include:

- Option to use summary prospectus.[24] New rule 498A permits the use of two distinct types of contract summary prospectuses: (1) initial summary prospectuses covering variable contracts currently offered to new investors; and (2) updating summary prospectuses for existing investors. The initial summary prospectus will include certain key information about the contract's most salient features, benefits, and risks, presented in plain English in a standardized order. The updating summary prospectus will include a brief description of certain changes to the contract that occurred during the previous year, as well as a subset of the information required to be in the initial summary prospectus. Certain key information about the portfolio companies will be provided in both the initial summary prospectus and updating summary prospectus.

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[24] *See infra* Section II.A.

- Availability of variable contract statutory prospectus and other materials.[25] New rule 498A requires the variable contract statutory prospectus, as well as the contract's statement of additional information ("SAI"), to be publicly accessible, free of charge, at a website address specified on or hyperlinked in the cover of the summary prospectus. An investor who receives a contract summary prospectus may request the contract statutory prospectus and SAI to be sent in paper or electronically, at no cost to the investor.
- Optional method to satisfy portfolio company prospectus delivery requirements.[26] New rule 498A provides an optional method for satisfying portfolio company prospectus delivery obligations by making portfolio company summary and statutory prospectuses available online at the website address specified on or hyperlinked in the variable contract summary prospectus, with certain key information about the portfolio companies provided in the variable contract's summary prospectus.[27] Investors may request and receive those disclosures in paper or electronically at no cost. This new option for satisfying portfolio company prospectus delivery requirements is only available for portfolio companies available as investment options through variable contracts that use contract summary prospectuses.

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25 *See infra* Section II.A.5.

26 *See infra* Section II.B.

27 This option will not apply to Form N-3 registrants, which do not have underlying portfolio companies due to their single-tier investment company structure.

- Form amendments.[28] We are amending Forms N-3, N-4, and N-6—the registration forms for variable contracts—to update and enhance the disclosure regime for these investment products.[29] The amendments are intended to consolidate certain summary information in a condensed presentation, reflect industry developments (*e.g.*, the prevalence of optional benefits in today's variable contracts), and otherwise improve disclosures provided to variable contract investors.
- Inline XBRL.[30] With respect to contracts currently offered to new investors, registrants will be required to use the Inline XBRL format for the submission of certain information. This requirement is intended to harness technology to provide a mechanism for allowing investors, Commission staff, data aggregators, financial analysts, and other data users to efficiently analyze and compare the available information about variable contracts, as required by their particular needs and circumstances.

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28 *See infra* Section II.C.

29 The Commission first adopted the registration form for variable annuities over 30 years ago, and adopted the registration form for variable life insurance over 15 years ago. *See* Registration Forms for Insurance Company Separate Accounts that Offer Variable Annuity Contracts, Investment Company Act Release No. 14575 (June 14, 1985) [50 FR 26145 (June 25, 1985)] ("Forms N-3 and N-4 Adopting Release"); Registration Form for Insurance Company Separate Accounts Registered as Unit Investment Trusts That Offer Variable Life Insurance Policies, Investment Company Act Release No. 25522 (Apr. 12, 2002) [67 FR 19848 (Apr. 23, 2002)] ("Separate Accounts Offering Variable Life Release").

30 *See infra* Section II.D.

- Discontinued Variable Contracts.[31] We are taking the position that if an issuer of a discontinued contract that is discontinued as of July 1, 2020 that provides alternative disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided with the alternative disclosures or modernized alternative disclosures described below.
- Other Amendments.[32] We are adopting certain technical and conforming amendments to our rules to reflect the proposed new regime for variable contract summary prospectuses. We are also adopting certain technical amendments to rules relating to variable life insurance contracts, as well as rescinding certain rules and forms.

Table 1 summarizes the various requirements—under the current prospectus delivery regime, and under the new optional summary prospectus regime—for information to either be (1) delivered to all investors, (2) made available online, or (3) delivered to those investors who so request:

TABLE 1.
INFORMATION AVAILABLE TO VARIABLE CONTRACT INVESTORS

	CURRENT PROSPECTUS DELIVERY REGIME*	OPTIONAL SUMMARY PROSPECTUS REGIME
Contract Statutory Prospectus	Delivered to all investors	Required to be available online and delivered (in paper or electronic format) upon request
Contract SAI	Available upon request	Required to be available online and delivered (in paper or electronic format) upon request

31 *See infra* Section II.E.

32 *See infra* Section II.F.

Contract Part C Information	Not delivered to investors or required to be available online, but is filed with registration statement (available on EDGAR)	Not delivered to investors or required to be available online, but is filed with registration statement (available on EDGAR)
Initial Summary Prospectus	N/A	Delivered to new investors
Updating Summary Prospectus	N/A	Delivered to existing investors
Portfolio Company Prospectuses	Delivered to all investors	Delivered to investors, or, if the new option to satisfy portfolio company prospectus delivery is relied-upon,** required to be available online and delivered (in paper or electronic format) upon request***

* This column assumes that the contract at issue is not providing alternative disclosures to investors in lieu of the statutory prospectus, as described in certain staff no action letters discussed below in Section II.E.

** *See infra* Section II.B.2.

*** Additionally, summary information about portfolio companies is available in the initial summary prospectus and updating summary prospectus. *See infra* Sections II.A.1.c.ii(*i*) and II.A.2.c.ii(c).

II. DISCUSSION

A. New Option to Use a Summary Prospectus for Variable Contracts

We are adopting, substantially as proposed, new rule 498A, which provides a new option for a person to satisfy its prospectus delivery obligations for variable contracts under Section 5(b)(2) of the Securities Act by: (1) sending or giving to new investors key information contained in a variable contract statutory prospectus in the form of an initial summary prospectus; (2) sending or giving to existing investors each year a brief description of certain changes to the contract, and a subset of the information in the initial summary prospectus, in the form of an updating summary prospectus; and (3) providing the statutory prospectus and other materials online. Under the new rule, a registrant (or the financial intermediary distributing the variable contract) relying on the rule must send the variable contract statutory prospectus and other materials to an investor in paper or electronic format upon request.

Commenters broadly supported our proposed layered disclosure approach.[33] One commenter stated that "a layered disclosure approach, as set forth in proposed Rule 498A, will vastly improve investors' experiences with respect to purchasing and owning variable products."[34] Another commenter observed that "the parallel approaches proposed in the rule properly mirror the sensible, constructive approaches adopted in the mutual fund summary disclosure initiative," and predicted that such approach "can be expected to work equally well in the context of variable contracts."[35] A third commenter, finding that the proposal "appropriately balances the goals of investor protection with a better investor experience," endorsed the use of

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33 *See, e.g.*, Comment Letter of Brighthouse Financial (Feb. 15, 2019) ("Brighthouse Comment Letter"); Comment Letter of the American Council of Life Insurers (Feb. 15, 2019) ("ACLI Comment Letter"); Comment Letter of the Committee of Annuity Insurers (Feb. 14, 2019) ("CAI Comment Letter"); Comment Letter of the Investment Company Institute (Feb. 15, 2019) ("ICI Comment Letter"); Comment Letter of the Independent Directors Council (Feb. 15, 2019) ("IDC Comment Letter"); Comment Letter of the Center for Capital Markets Competitiveness (Feb. 15, 2019) ("CCMC Comment Letter"); Comment Letter of Pacific Life Insurance Company (Feb. 15, 2019) ("Pacific Life Comment Letter"); Comment Letter of Jackson National Life (Feb. 15, 2019) ("Jackson Comment Letter"); Comment Letter of Donnelly Financial Solutions (Mar. 12, 2019) ("Donnelly Financial Comment Letter I"); Comment Letter of Donnelly Financial Solutions (Oct. 24, 2019); Comment Letter of Capital Research and Management Company (Mar. 14, 2019) ("Capital Group Comment Letter"); Comment Letter of Transamerica (Mar. 15, 2019) ("Transamerica Comment Letter"); Comment Letter of Lincoln Financial Group (Feb. 13, 2019) ("Lincoln Comment Letter"); Comment Letter of the National Association of Insurance and Financial Advisors (Feb. 14, 2019) ("NAIFA Comment Letter"); Comment Letter of TIAA (Feb. 15, 2019) ("TIAA Comment Letter"); Comment Letter of Wells Fargo Advisors (Mar. 14, 2019) ("WFA Comment Letter"); Comment Letter of the Financial Services Institute (Mar. 15, 2019) ("FSI Comment Letter"); Comment Letter of the Association for Advanced Life Underwriting (Mar. 15, 2019) ("AALU Comment Letter"); Comment Letter of the Insured Retirement Institute (Mar. 15, 2019) ("IRI Comment Letter I").

One commenter asked us to clarify that all insurance products where the value of the contract will vary depending on investment performance are included within the scope of this proposal. *See* Comment Letter of the AARP (Mar. 15, 2019) ("AARP Comment Letter"). Because the scope of our proposal was limited to variable contracts registered on Forms N-3, N-4, and N-6, it does not extend to indexed annuities that register securities on Forms S-1 and S-3.

34 *See* CAI Comment Letter.

35 *See* ACLI Comment Letter.

variable contract summary prospectuses "as the lynchpin of a new variable contract disclosure framework."[36]

Some commenters expressed reservations about key aspects of the proposal. One commenter stated that the initial summary prospectus should provide the information needed to make an investment decision without having to refer to other documents,[37] essentially rejecting the layered disclosure framework. Three commenters were skeptical that certain aspects of the proposed initial summary prospectus would result in better investor comprehension of how a variable contract works, and recommended that we engage in investor testing to validate our assumptions.[38]

After considering the comments received on the proposal, we are adopting rule 498A and the general summary prospectus framework substantially as proposed, with several modifications reflecting considerations raised by commenters. As discussed in the Proposing Release, our proposal built on our experience with both layered disclosure (under the mutual fund summary prospectus) and integrated disclosure (enhanced over a decade ago with securities offering reform for corporate issuers), as well as more than 20 years of experience with the use of the internet as a medium to provide information to investors.[39] We drew on our investor testing

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36 *See* Brighthouse Comment Letter.

37 *See* Comment Letter of Mark Bowler (Feb. 11, 2019) ("M. Bowler Comment Letter").

38 *See* Comment Letter of the Consumer Federation of America (Feb. 27, 2019) ("CFA Comment Letter") (stating that the Commission should test the summary prospectuses to determine whether the proposed disclosure effectively conveys key information to investors before finalizing the rule); NAIFA Comment Letter; AARP Comment Letter. *See also* Comment Letter of Miles Brooks (Nov. 28, 2019) (asserting the Commission should not regulate a disclosure regime on variable contracts).

39 Proposing Release, *supra* note 6, at Section I.B.2.

efforts in developing the proposed summary prospectus framework, and specifically solicited feedback from investors and other market participants on hypothetical initial and updating summary prospectuses, which we received in response to our "feedback form" and in numerous comment letters.[40]

We also received comments on whether the use of the summary prospectus should be mandatory instead of voluntary as proposed. One commenter stated that the use of the summary prospectus should be voluntary to give insurers the flexibility to tailor their disclosure practices to best fit their situations.[41] Two commenters supported mandatory compliance to ensure that variable contract investors receive summary disclosures to aid their investment decisions.[42]

After considering such comments and evaluating our prior experience with the mutual fund summary prospectus, we continue to believe that reliance on rule 498A should be optional. This will give insurers the opportunity to gradually transition to the new summary prospectus regime while minimizing disruption to their current registration and business processes. Although approximately 93% of mutual funds currently use a summary prospectus, it took nearly eight years after the adoption of the mutual fund summary prospectus framework for the industry

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40 *See supra* note 33. The Proposing Release was accompanied by a "Feedback Flier" that solicited investor feedback about the primary components of the initial summary prospectus, which was also generally supported by respondents. *See, e.g.*, Comment Letter of Betsy Nedar ("Nedar Comment Letter") (Nov. 6, 2018); J. Topolski Comment Letter (Nov. 16, 2018); Anonymous Comment Letter (Nov. 11, 2018) ("Anonymous Comment Letter I"); Anonymous Comment Letter (Dec. 26, 2018) ("Anonymous Comment Letter II"); Velazquez Comment Letter (Feb. 8, 2019); Comment Letter of Bernard Mihayo (Nov. 5, 2019); Yinan Ying Comment Letter (Dec. 10, 2019).

41 *See* ACLI Comment Letter.

42 *See* AARP Comment Letter; Comment Letter of Better Markets (Feb. 14, 2019) ("Better Markets Comment Letter").

to reach that threshold.[43] We believe that insurers may similarly need a period of time to transition to the new regime given the diversity of variable contracts (and corresponding diversity of disclosure for variable contracts) and the fact that the variable contract summary prospectus regime will differ from the mutual fund summary prospectus framework in several key ways (*e.g.*, the use of an initial and an updating summary prospectus, and the new layered disclosure approach to satisfying portfolio company prospectus delivery obligations).

Some variable contracts offer few (or no) optional benefits and few investment options. Because these contracts have fairly straightforward disclosure documents, the advantages of the summary prospectus regime may be less compelling for these products, as compared to more complex variable products with numerous optional benefits and investment options (which tend to have longer and more complicated prospectuses). Registrants will likely assess the relative benefit of using a summary prospectus based on the types of products they offer and the length of their current prospectuses—as well as the benefit of more concise disclosure to investors—when evaluating whether to opt into the new layered disclosure regime.[44] An optional approach also preserves flexibility for registrants that may not wish to undertake the costs of the transition to a summary prospectus regime.

Given the almost universal adoption of the summary prospectus regime by mutual funds, and the anticipated cost-savings and other efficiencies available to insurers that rely on the rule, we do not at this time believe a mandatory approach is necessary to achieve the goals of the

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43 *See supra* note 21.

44 *See infra* Section IV.C.1.

variable contract summary prospectus regime. We intend to review the voluntary use of the summary prospectus and to assess whether benefits to investors warrant a future mandate.[45]

1. Initial Summary Prospectus

a. Overview

The new rule requires a person relying on the rule to send or give an initial summary prospectus in connection with sales of variable contracts to new investors.[46] The initial summary prospectus uses a layered disclosure approach that provides investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly presentation, with access to more detailed information available online and electronically or in paper format on request.[47] We designed the initial summary prospectus to simplify and consolidate lengthy and complex disclosures, and to highlight aspects of the contract that may not be emphasized in marketing materials and other disclosures.[48]

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45 *See* 2009 Summary Prospectus Adopting Release, *supra* note 17, at 66-67.

46 Rule 498A(f)(1). For an initial purchase of a variable contract, the initial summary prospectus must be "sent or given no later than the time of the carrying or delivery of the contract security." *See infra* Section II.A.4.

47 One commenter, citing academic research, stated that to the extent summary disclosure reduces information overload, it could, in turn, increase financial literacy. *See* ACLI Comment Letter. This comment letter, together with other similar comment letters discussing the costs and benefits of the proposed rulemaking, are discussed in greater detail in Section IV. *See infra* note 1038 and accompanying and following text.

We believe simplicity and clarity are of heightened importance in a prospectus in connection with an initial purchase decision for a variable contract because of the long-term nature and complexity of these products. We also note that, unlike other investment products, variable contract investors typically have a state-mandated "free look" opportunity to return the contract for a full refund of premiums or purchase payments within a limited number of days following contract issuance. *See* Proposing Release, *supra* note 6, at nn.65 and accompanying text.

48 Another unique aspect of variable contract disclosure practices is the wide variety of information about the contract that we understand investors commonly receive throughout the lifecycle of the contract. *See* Proposing Release, *supra* note 6, at nn.66-69 and accompanying text.

b. Contracts That May Be Included in the Initial Summary Prospectus

As proposed, we are requiring the initial summary prospectus to only describe a single contract that the registrant currently offers for sale.[49] Also as proposed, an initial summary prospectus may describe more than one class of a currently offered contract.[50] For purposes of the rule, we are adopting, as proposed, a definition of "class" to be a class of a contract that varies principally with respect to distribution-related fees and expenses.[51]

The Commission proposed these requirements for the initial summary prospectus because aggregating disclosures for multiple contracts, or currently offered and no-longer-offered features and options of a single contract, can hinder investors from distinguishing between contract features and options that apply to them and those that do not. Currently, and under our amendments to the registration forms, it is industry practice for registrants to describe multiple contracts in a single prospectus (or multiple versions of a particular contract in a prospectus), or include multiple prospectuses in a single registration statement.[52] We also understand that certain contract prospectuses include disclosure about contract features and options that the registrant may no longer offer to new investors.

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49 Rule 498A(b)(1).

50 *Id*.

51 *See* rule 498A(a).

52 *See* General Guidance to Variable Annuity, Variable Life, and Other Insurance Company Investment Contract Registrants, SEC Staff No-Action Letter (Nov. 3, 1995), at Section I.4 (discussing industry practice). As discussed below, we are amending the registration forms to permit insurers to include multiple contracts (or versions thereof) in a single statutory prospectus and multiple prospectuses in a single registration statement subject to certain restrictions. *See infra* text following note 598 (discussing the amended form instructions that provide a prospectus may describe multiple contracts that are "essentially identical," while a registration statement may include multiple prospectuses if the contracts described in those prospectuses are "substantially similar").

We received mixed comments regarding this aspect of the proposal. One commenter supported limiting the initial summary prospectus to a single contract currently offered for sale, but to facilitate reader comprehension, urged us to further limit the initial summary prospectus to only one class of a currently offered contract.[53] In contrast, three commenters urged us to allow an initial summary prospectus to describe multiple variable contracts that differed in ways other than distribution-related fees and expenses.[54] Their suggested approach would permit an initial summary prospectus to describe all contracts currently offered for sale, regardless of how they differed, including with respect to fees and expenses beyond traditional distribution-related fees and expenses (*e.g.*, administrative, insurance, and benefit charges), optional benefits, and other features. These commenters asserted that our proposal would require investors to review multiple initial summary prospectuses to choose between different variable contracts, and suggested that instead permitting multiple contracts to be described in a single document would make it easier for investors to choose between contracts.

We are adopting this aspect of the rule as proposed. The initial summary prospectus is designed to provide investors key information to facilitate an initial investment decision. If we were to expand its scope as suggested by commenters, it could result in initial summary prospectuses that disclose information about contracts and contract features and options not available to the prospective investor. We continue to believe that requiring an initial summary prospectus to describe only one contract will provide more effective disclosure by omitting information that is not relevant to an investor's investment decision.

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53 *See* AARP Comment Letter.

54 *See* Transamerica Comment Letter; ACLI Comment Letter; CAI Comment Letter.

Commenters raised the concern that our approach could result in investors reviewing multiple initial summary prospectuses.[55] We believe, however, that an approach that results in multiple initial summary prospectuses—where each is tailored to present key information about a single contract—will more effectively facilitate an investment decision than a longer or more complex document that may overwhelm investors with information that is not relevant to the investment decision.[56] The summary prospectus regime is designed to reduce the volume and content of variable contract disclosures that may make it difficult for some investors to find and understand key information they need to make an investment decision. Describing multiple contracts in a single initial summary prospectus, as some commenters suggest, conflicts with this goal. Our approach also is consistent with requirements for mutual fund and exchange-traded fund ("ETF") summary prospectuses, where summary prospectuses may only present key information as to a single fund.[57]

c. Preparation of the Initial Summary Prospectus

The chart at the end of this section outlines the information required to appear in an initial summary prospectus. Along with specifying required introductory disclosures on the outside front cover page or the beginning of the initial summary prospectus, the new rule references

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55 *Id*.

56 *See, e.g.*, AARP Comment Letter ("By permitting the disclosures to discuss more than one contract and, indeed, even more than one class per contract, the information becomes unorganized, unfocused, and difficult to understand.").

57 For example, a mutual fund may offer a suite of equity funds that share the same statutory prospectus, but must provide a separate summary prospectus for each fund that has different investment objectives, strategies and risks (*e.g.*, large-cap, mid-cap, small-cap, emerging markets, etc.). This reduces complexity and minimizes the likelihood of overwhelming investors with too much information in a single document.

particular disclosure items from Forms N-3, N-4, and N-6 (as amended).[58] We are adopting, largely as proposed, a standardized presentation to require certain disclosure items that we believe will be most relevant to investors (such as the table that includes key information about the contract and the contract overview section), to appear at the beginning of the initial summary prospectus, followed by supplemental information. The required presentation could also facilitate comparison of different variable contracts.[59]

Largely as proposed, we are requiring an initial summary prospectus to only contain the information specifically required, which must appear in the same order, and under the relevant corresponding headings, as the rule specifies.[60] While we did not receive any comments regarding the proposed order of the substantive contents of the initial summary prospectus, in a change from the proposal, and as discussed below, we are reversing the order of the first two

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58 The amendments to Forms N-3, N-4, and N-6 that facilitate the summary prospectus content requirements, as well as amend the content requirements for the statutory prospectus, are generally discussed in more detail in Section II.C below. However, in order to better explain the initial summary prospectus, we discuss new or amended items in the statutory prospectus, to the extent they will also appear in the initial summary prospectus, in this Section II.A.1.

59 We understand that many investors purchase variable contracts through an intermediary and may not directly compare competing products. A standardized order may nonetheless be useful for investment professionals to compare the products they ultimately recommend to investors with other products, as well as investors considering whether to purchase a new annuity contract to replace an existing one. *See infra* note 194 and accompanying text. Having a more standardized document may ultimately promote greater comparability across products, registrants, and insurance institutions, which could lead to better investor understanding and increased competition.

As discussed below in Section II.D, we are also adopting, as proposed, the requirement to use Inline XBRL format for the submission of certain required disclosures in the variable contract statutory prospectus with respect to contracts currently offered to new investors. The structured data format will allow investors, Commission staff, data aggregators, financial analysts, and other data users to more efficiently analyze and compare these products.

60 Rule 498A(b)(5). While the Commission did not propose (and we are not adopting) page limits for the initial summary prospectus, these provisions are designed to require registrants to produce a document that will present key information in a concise and clear way.

sections,[61] and, for Forms N-3 and N-4 only, merging two sections together.[62] These changes are designed to facilitate investor readership and to streamline the document.

Use of Illustrations and Examples

While not proposed, three commenters suggested that we permit the use of illustrations or examples in summary prospectuses.[63] Illustrations and examples are frequently presented in variable contract sales materials, and may be included in the statutory prospectus.[64]

We are persuaded that illustrations and examples could assist investors in more readily understanding potentially complex or lengthy narrative disclosures. Consequently, the final rule and forms permit the inclusion of illustrations or examples in a summary prospectus to the extent that they are responsive and limited to the particular statutory prospectus items required to be included in the summary prospectus.[65] However, such illustrations and examples generally

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61 *See infra* Section II.A.1.c.ii.(a) (relocating "Important Information You Should Consider About the Contract" before "Overview of the Variable Contract"); *see also* rule 498A(b)(5)(i) through (ii).

62 *See infra* Section II.A.1.c.ii.(c) through (d) (merging the "Standard Death Benefit" into "Benefits Under the Contract"); *see also* rule 498A(b)(5)(iv).

63 *See* Lincoln Comment Letter; Comment Letter of Cardozo School of Law Securities Arbitration Clinic (Mar. 14, 2019) ("Cardozo Clinic Comment Letter"); Comment Letter of Benjamin G. Baldwin, Jr. (Feb. 13, 2019) ("Baldwin Comment Letter").

64 General Instruction C.3.(g) to Forms N-3, N-4, and N-6.

65 As guidance, we generally do not believe that illustrations or examples regarding the operation of optional benefits should be included in the initial summary prospectus because the summary prospectus disclosure requirements regarding those benefits are generally limited to a tabular summary of those benefits. *See* rule 498A(b)(5)(iv) (providing initial summary prospectus disclosure requirements for "(Other) Benefits Available Under the Contract" by referencing the relevant item requirements from the particular registration statement forms). *See also* Item 11(a) of amended Form N-3; Item 10(a) of amended Form N-4; and Item 11(a) of amended Form N-6.

should not, by their nature, quantity, or manner of presentation, obscure or impede understanding of the information that is required to be included in the summary prospectus.[66]

Terminology

Commenters broadly objected to the requirement to use only the headings and terms specified in the proposed rule (and forms).[67] One commenter stated because the industry uses a wide variety of terminology in contract prospectuses, marketing materials, and the contracts themselves, investors may be confused by receiving an initial summary prospectus that uses different terminology than related contract documents.[68] Several commenters identified specific terms they believed should not be required.[69] Another commenter asked that we permit registrants reasonable flexibility to use alternative terms that reflect the substance of the defined terms in the proposed rule, noting that readability should be the top priority.[70] Commenters also stated that providing flexibility in terminology would allow the industry to simplify the complex language commonly used in variable product disclosures,[71] facilitate product evolution and

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66 *See* General Instruction C.3.(b) to amended Forms N-3, N-4, and N-6.

67 *See* CAI Comment Letter; Pacific Life Comment Letter; ACLI Comment Letter; Brighthouse Comment Letter; Jackson Comment Letter; CCMC Comment Letter; ACLI Comment Letter; Transamerica Comment Letter.

68 *See* CAI Comment Letter.

69 Several commenters objected to the terms "death benefit," "mortality and expense risk charges," and "surrender charge." *See* Comment Letter of Jackson National Life (Feb. 15, 2019) ("Jackson Comment Letter"); CCMC Comment Letter. Others did not want to use "contract" on the grounds that investors are used to "policy." *See* Comment Letter of Ameritas Life Insurance Corp. (Mar. 12, 2019) ("Ameritas Comment Letter"); ACLI Comment Letter. One insurer objected to "living benefit rider" because "protected lifetime income benefit" resonates more with investors. *See* Lincoln Comment Letter.

70 *See* ACLI Comment Letter.

71 *See* CAI Comment Letter; Pacific Life Comment Letter; Brighthouse Comment Letter; Jackson Comment Letter.

innovation,[72] and be consistent with current practice as permitted by the staff.[73] Instead of prescribing specific terminology, four commenters asked that we prescribe only the content of the disclosures, giving industry the flexibility to modify headings and terms to better convey certain aspects of a variable contract and make them easier to understand, as long as such terms are substantially similar in meaning to the terms used in the rule and forms and are clearly defined in the prospectuses in which they appear.[74]

We recognize that variable contract and other issuers may use terminology in their disclosure documents other than that used in our rules and forms, and that in many instances, our rules and forms do not prescribe terminology.[75] After considering comments, we are modifying the proposed rule and form requirements to give insurers the flexibility to describe their variable contracts in a manner best suited to their products and business practices, while still requiring the use of certain standardized headings in initial summary prospectuses to allow investors to easily compare the features of different products.

The proposed amendments to the forms would have defined and used certain terminology. However, contrary to certain commenters' concerns, the forms, as proposed, would not have required that registrants use the specific terminology in the forms in preparing a registration statement, other than in certain legends. To respond to these commenters' concerns,

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72 *See* Brighthouse Comment Letter; Transamerica Comment Letter; ACLI Comment Letter; CAI Comment Letter.

73 *See* ACLI Comment Letter.

74 *See* CAI Comment Letter; Pacific Life Comment Letter; Jackson Comment Letter; Brighthouse Comment Letter.

75 However, in certain instances our rules and forms do prescribe specific terminology. *See, e.g.*, Form CRS (generally requiring that investment advisers and broker-dealers use specific headings when responding to each item).

we are adding a clarifying instruction to the forms that explicitly and broadly permits registrants to use alternate terminology in preparing registration statements pursuant to the forms' disclosure requirements, so long as the alternate terminology clearly conveys the meaning of, or provides comparable information as, the terms used in the forms.[76] Notwithstanding this instruction, we are adding an additional instruction, which was not included in the proposed amendments to the forms, that a registrant must prepare the Key Information Table using the headings and sub-headings specified by the form.[77]

Because the initial summary prospectus (and as discussed below, the updating summary prospectus) draw from disclosures in the statutory prospectus, insurers will similarly have flexibility in preparing those documents with one exception. With respect to the initial summary prospectus, we are generally requiring, as proposed, that the initial summary prospectus use the standardized headings required by the rule.[78] We believe that the use of standardized headings will provide a consistent framework to allow investors to more easily navigate through variable product summary prospectuses and also facilitate the ability of investors to compare information across different variable contract products.

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76 *See* General Instruction C.3.(d)(ii) of Forms N-3, N-4, and N-6. *See also infra* note 598 and accompanying text.

77 *See* General Instruction 1(a) to Item 2 of Forms N-3, N-4, and N-6. We discuss the Key Information Table below in Section II.A.1.c.ii.(a).

78 However, registrants are provided with limited flexibility as to certain bracketed terms. For example, information about buying a contract must be disclosed under the heading "Buying the [Contract]." Registrants could substitute "Policy" for the bracketed term "Contract." *See* rule 498A(b)(5)(v).

Commenters generally objected to the proposed use of "surrender charges" and "death benefits" in the initial summary prospectus headings.[79] Regarding "surrender charges," we believe that the term "withdrawal" both sufficiently encompasses surrenders and other types of withdrawals and is a more intuitive term for investors, and have modified the heading regarding surrenders and withdrawals to no longer require the term "surrender."[80] We decline, however, to permit the use of alternate terms for "death benefits" in the case of initial summary prospectuses for variable life insurance, because we believe that "death benefits" is a more intuitive term than "legacy benefits" or other terms.[81] Additionally, the terms "mortality and expense risk charges" and "living benefit rider" do not appear in the standardized headings required by the rule, so insurers will have flexibility with respect to those terms.

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79 *See* Jackson Comment Letter; CCMC Comment Letter.

80 *See* rule 498A(b)(5)(vii) (requiring the heading "Making Withdrawals: Accessing the Money in Your [Contract]" when disclosing the information required by Item 13(a) of Form N-3, Item 12(a) of Form N-4, or Item 12(a) of Form N-6).

Similarly, we are modifying the sub-heading in the Key Information Table regarding surrenders and withdrawals to eliminate the proposed use of the term "surrenders." *See* Item 2 of Forms N-3, N-4, and N-6. We discuss the Key Information Table below in Section II.A.1.c.ii.(a).

81 Although information about standard death benefits offered by variable life insurance contracts must be disclosed under the heading "Standard Death Benefits," the disclosures provided under that heading could, for example, explain that "death benefits" are referred to as "legacy benefits" under the contract and could use the term "legacy benefits" in providing the disclosures required under that heading. *See* rule 498A(b)(5)(iii).

TABLE 2. OUTLINE OF THE INITIAL SUMMARY PROSPECTUS

	Heading in Initial Summary Prospectus	*Item of Amended Form N-3*	*Item of Amended Form N-4*	*Item of Amended Form N-6*
Cover Page	Identifying Information	-	-	-
	Legends	-	-	-
	EDGAR Contract Identifier	-	-	-
	Table of Contents (optional)	-	-	-
Content	Important Information You Should Consider About the [Contract]	2	2	2
	Overview of the [Contract]	3	3	3
	Standard Death Benefits	-	-	10(a)
	[Other] Benefits Available Under the [Contract]	11(a)	10(a)	11(a)
	Buying the [Contract]	12(a)	11(a)	9(a)-9(c)
	How Your [Contract] Can Lapse	-	-	14(a)-14(c)
	Making Withdrawals: Accessing the Money in Your [Contract]	13(a)	12(a)	12(a)
	Additional Information About Fees	4	4	4
	Appendix: [Investment Options/Portfolio Companies] Available Under the [Contract]	18 or 19[82]	17	18

[82] Registrants on Form N-3 may omit the Appendix specified by Item 18 of amended Form N-3, and instead provide the more detailed disclosures about the investment options offered under the contract required by Item 19 of amended Form N-3. *See infra* note 788 and accompanying text.

i. Cover Page and Table of Contents

Identifying Information. We are adopting, largely as proposed, the requirement that the following information appear on the front cover page or the beginning of the initial summary prospectus:

- The depositor's name;
- The name of the contract, and the class or classes if any, to which the initial summary prospectus relates;
- A statement identifying the initial summary prospectus as a "Summary Prospectus for New Investors"; and
- The approximate date of the first use of the initial summary prospectus.[83]

Several commenters suggested that instead of requiring the document to be identified as a "Summary Prospectus," we should permit different titles, such as "Key Information Document" or "Summary Information."[84] A prospectus, however, is a legal term with specific legal implications. It is also a term that is understood in the marketplace. We believe it is important that investors understand that an initial summary prospectus is, in fact, a prospectus, and that it therefore contains important required regulatory disclosures. However, in a change from the proposal, the cover page will not be required to include the registrant's name. We agree with a commenter's suggestion that the registrant's name is of limited value to investors because it is

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83 Rule 498A(b)(2)(i) through (iv).

84 *See, e.g.*, NAIFA Comment Letter; Comment Letter of VIP Working Group (Dec. 4, 2018) ("VIP Working Group Comment Letter"); Comment Letter of Jack Breacher (Jan. 27, 2019) ("Breacher Comment Letter").

largely a legal convention,[85] and believe investors are more likely to be interested in the names of the depositor (or insurer) and the variable contract.

Legends. We are requiring, largely as proposed, the cover page or beginning of the initial summary prospectus to include the following legends:

> This Summary Prospectus summarizes key features of the [Contract]. Before you invest, you should also review the prospectus for the [Contract], which contains more information about the [Contract's] features, benefits, and risks. You can find this document and other information about the [Contract] online at [___]. You can also obtain this information at no cost by calling [____] or by sending an email request to [___].[86]

> You may cancel your [Contract] within 10 days of receiving it without paying fees or penalties. In some states, this cancellation period may be longer. Upon cancellation, you will receive either a full refund of the amount you paid with your application or your total contract value. You should review the prospectus, or consult with your investment professional, for additional information about the specific cancellation terms that apply.[87]

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85 *See* VIP Working Group Comment Letter (stating that the separate account name "is jargon and an accounting fiction"). In addition, mutual funds are not required to include the registrant's name on the summary prospectus cover page.

We are making a conforming change to the cover page requirements for the updating summary prospectus. *See infra* Section II.A.2.c.i.

86 The legend is required to provide an internet address, other than the address of the Commission's electronic filing system, toll-free telephone number, and email address that investors can use to obtain the statutory prospectus and other materials, request other information about the variable contract, and make investor inquiries. Rule 498A(b)(2)(v)(B).

The website address must be specific enough to lead investors to a direct link to the statutory prospectus and other required information, rather than to the home page or another part of the website. The website could host other relevant disclosure documents with prominent links to each required document. *Id*.

The legend could indicate, if applicable, that the statutory prospectus and other information are available from a financial intermediary (such as a broker-dealer) through which the contract may be purchased or sold. *Id*.

For purposes of this requirement, documents available on the website address must be publicly accessible and free of charge. Rule 498A(h)(1); *see also infra* Section II.A.5.

87 The paragraph of the legend regarding cancellation of the contract may be omitted if not applicable. If this paragraph is included in the legend, the paragraph must be presented in a manner reasonably calculated to draw investor attention to that paragraph. *See infra* note 95.

> Additional general information about certain investment products, including [variable annuities/variable life insurance contracts], has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.[88]

These legends are designed to provide identifying information about the variable contract to which the initial summary prospectus relates, as well as certain general information applicable to all variable contracts.[89] Pursuant to the requirements of new rule 30e-3,[90] the initial summary prospectus may include the legend designed to alert investors that beginning on a specified date, shareholder reports for Form N-3 variable annuities and for portfolio companies available under Form N-4 variable annuity and Form N-6 variable life insurance contracts will no longer be sent by mail (unless paper copies are specifically requested), and will instead be posted on a website, subject to notification by mail of their location and availability.[91]

One commenter stated that the initial summary prospectus would be more approachable if the cover page had more white space with fewer legal disclaimers and suggested that we

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88 Rule 498A(b)(2)(v). The Commission's Office of Investor Education and Advocacy maintains the website as an online resource to help investors make sound investment decisions and avoid fraud. The website includes investor bulletins, alerts, guidance and tools designed to assist investors, including those considering variable contracts, in obtaining additional information and resources on understanding and managing their investments. *See, e.g.*, Updated Investor Bulletin: Variable Annuities (Oct. 30, 2018), *available at* https://www.investor.gov/additional-resources/news-alerts/alerts-bulletins/updated-investor-bulletin-variable-annuities; Investor Bulletin: Variable Life Insurance (Oct. 30, 2018), *available at* https://www.investor.gov/additional-resources/news-alerts/alerts-bulletins/investor-bulletin-variable-life-insurance.

89 A registrant will be able to modify the legends so long as the modified statements contain comparable information. Rule 498A(b)(2)(v)(A).

90 Rule 30e-3; *see also* Investment Company Shareholder Reports Release, *supra note* 19. This rule became effective January 1, 2019.

91 Rule 498A(b)(2)(v)(E) through (F); *see also* rule 498A(b)(2)(v)(B) (requiring, if applicable, cover page legend to include the website address required by rule 30e-3, if different from the website address provided for variable contract and related documents). The legends required by rule 30e-3 will be removed from variable contract registration forms on January 1, 2022.

eliminate the legend urging investors to review the statutory prospectus before investing and describing how to obtain further information about the contract.[92] We are retaining the legend and have streamlined it in consideration of this comment, but are otherwise adopting the legend largely as proposed because we believe that it concisely informs investors that the statutory prospectus is available and how to obtain it. Providing investors information about the statutory prospectus and where to find it will facilitate the layered disclosure approach we are adopting in this document.

Another commenter stated that because the free look period is one of the most crucial rights available to variable contract purchasers, investors should receive a separate, one-page disclosure describing this unique, time-limited revocation right.[93] The commenter also suggested that we require insurers to draw more attention to free look disclosure by requiring it to be in a larger font size, bolded, and boxed.

We are not requiring insurers to provide a stand-alone document describing the free look period, but rather are requiring, as proposed, that the legend on the cover page or beginning of the summary prospectus retain all disclosures of key information in one document. We also understand that state laws typically mandate free look disclosures in the variable contract application, investor education materials (*e.g.*, the NAIC Buyer's Guide), and the variable contract itself, and investors therefore already receive multiple notices regarding this unique revocation right. We agree, however, that this is important information that should be highlighted to investors because it is unique to variable contracts and time limited. We are

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92 *See* WFA Comment Letter.

93 *See* AARP Comment Letter.

therefore revising the rule to require that insurers present the "free-look" legend in a manner reasonably calculated to draw an investor's attention.[94] In response to comments, the new rule also clarifies that this legend is required only if applicable.[95]

Taking into account the comments urging that we streamline the legends where possible, we are relocating one legend and eliminating two others. Specifically, the Commission proposed that, if any information is incorporated by reference into the initial summary prospectus, the front cover page would include a legend with certain disclosures related to that information.[96] Incorporation by reference is a technical legal doctrine that may not be understandable to many investors. To reduce the length of the legends on the cover page of the initial summary prospectus, we are relocating this legend to the back cover page or last page of the initial summary prospectus.[97] However, we are not eliminating the legend because our rules on incorporation by reference require registrants to provide disclosure about what information is incorporated into a document.[98]

We are also eliminating the proposed legend stating "You should read this Summary Prospectus carefully, particularly the section titled Important Information You Should Consider

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94 Rule 498A(2)(v)(C).

95 *See* rule 498A(b)(2)(v)(C); *see also* ACLI Comment Letter (stating that some types of group annuity contracts, such as those used to fund Section 403(b) retirement plans, are not required to have a free look provision under state law).

96 Proposed rule 498A(b)(2)(vi)(C).

97 Rule 498A(b)(3)(i).

98 *See, e.g.*, 17 CFR 230.411(e) (rule 411(e) under the Securities Act); 17 CFR 270.0-4(e) (rule 0-4(e) under the Investment Company Act).

About the Contract." We believe that legend is no longer necessary because the section referenced by that legend is now the first item in the initial summary prospectus.[99]

One commenter suggested that we remove the proposed legend stating that the Securities and Exchange Commission has not approved or disapproved of the contract or passed upon the accuracy or adequacy of the disclosure in the summary prospectus and that any contrary representation is a criminal offense, on the basis that this legend was "legalese."[100] We agree that this legend may not communicate as effectively as the other legends and that removing it will streamline the cover page, potentially increasing the likelihood that investors will read the remaining legends. Removing the requirement to include that legend also treats variable contract summary prospectuses similarly to mutual fund summary prospectuses, which are permitted, but not required, to include that legend on their cover page.

EDGAR Contract Identifier. We are adopting, as proposed, the requirement to include the contract's EDGAR contract identifier on the bottom of the back cover page or last page of the initial summary prospectus in a type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).[101] This requirement is intended to enable Commission staff and others to more easily link the initial summary prospectus with other filings associated with the contract. We received no comments regarding the EDGAR contract identifier.

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99 *See* text following note 121.

100 *See* Breacher Comment Letter.

101 Rule 498A(b)(3)(ii); *see also* Proposing Release, *supra* note 6, at n.87 (describing an EDGAR contract identifier).

Table of Contents. Likewise, we are adopting, as proposed, the rule provision permitting an initial summary prospectus to include a table of contents.[102] A table of contents must show the page number of the various sections or subdivisions of the summary prospectus, and immediately follow the cover page in any initial summary prospectus delivered electronically.[103] We received no comments on this aspect of the proposal.

ii. Content of the Initial Summary Prospectus

We are adopting, generally as proposed but with some modifications, specifications in the rule regarding the content and order required in an initial summary prospectus.[104] An initial summary prospectus must contain the information required by the rule, and only that information, in the order specified by the rule.[105] Adhering to these content requirements is one condition that an initial summary prospectus must satisfy in order to be deemed to be a prospectus that is permitted under Section 10(b) of the Securities Act and Section 24(g) of the Investment Company Act for the purposes of Section 5(b)(1) of the Securities Act.[106]

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102 Rule 498A(b)(4).

103 17 CFR 230.481(c) (Rule 481(c)).

104 Rule 498A(b)(5); *see also* Section II.A.1.c.

105 *Id*.

106 Rule 498A(b); *see also infra* Section II.A.4.

Section 10(b) of the Securities Act authorizes the Commission to adopt rules deemed necessary or appropriate in the public interest or for the protection of investors that permit the use of an "omitting prospectus" for the purposes of Section 5(b)(1) that omits or summarizes information contained in the statutory prospectus. Section 24(g) of the Investment Company Act authorizes the Commission to permit the use of a prospectus under Section 10(b) of the Securities Act to include information the substance of which is not included in the statutory prospectus. 15 U.S.C. 77j(b); 15 U.S.C. 77e(b)(1); 15 U.S.C. 80a-24(g); *see also* 2009 Summary Prospectus Adopting Release, *supra* note 17, at n.70.

Key Information Table

The initial summary prospectus will include a table (the "Key Information Table") that will provide a brief description of key facts about the variable contract in a specific sequence and in a standardized presentation that is designed to be easy to read and navigate.[107] Specifically, it will include a summary of five topic areas: (1) fees and expenses; (2) risks; (3) restrictions; (4) taxes; and (5) conflicts of interest. This is intended to highlight, in a consolidated location, important considerations related to these products, including certain unique aspects of the variable contract that might be unfamiliar to investors who have experience with mutual funds or other types of investment products.[108] We are adopting the Key Information Table substantially as proposed, with some modifications made in response to comments.

Commenters were broadly supportive of the proposed Key Information Table,[109] which was identified by respondents to the Feedback Flier as the "most useful" section in the hypothetical initial summary prospectus that accompanied the Proposing Release. One commenter said the information in the Key Information Table was most relevant to investors,

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107 *See* rule 498A(b)(5)(i); Item 2 of Forms N-3, N-4, and N-6.

108 As discussed in the Proposing Release, we considered investor complaints received by the Commission's Office of Investor Education and Advocacy and the results of the 2012 Financial Literacy Study. *See* text accompanying note 1041 (regarding investor complaints). Office of Investor Education and Advocacy of the U.S. Securities and Exchange Commission, *Study Regarding Financial Literacy Among Investors* (Aug. 2012), *available at* https://www.sec.gov/news/studies/2012/917-financial-literacy-study-part1.pdf ("2012 Financial Literacy Study"). We also considered various regulatory and industry sources. *See, e.g.*, FINRA Rule 2330(b)(1)(A)(i) (variable annuity investors must be informed, "in general terms, of various features of deferred variable annuities, such as the potential surrender period and surrender charge; potential tax penalty if consumers sell or redeem deferred variable annuities before reaching the age of 59½; mortality and expense fees; investment advisory fees; potential charges for and features of riders; the insurance and investment components of deferred variable annuities; and market risk").

109 *See, e.g.*, ACLI Comment Letter; CAI Comment Letter.

particularly if standardized to compare annuities,[110] while another noted approvingly that it broke the information down in a simplified way.[111]

Given the positive response to the Key Information Table, in a change from the proposal, we are relocating it so it will be the first substantive section of the initial summary prospectus, followed by the Overview of the Contract instead of the second section following Overview of the Contract, as proposed. We believe that investors of different levels of financial sophistication may benefit from receiving this information early in the initial summary prospectus, as it was designed to provide a contextual baseline to help inform investors' understanding of disclosure about more detailed aspects of the variable contract that are described later on.

The Key Information Table includes a number of prescribed disclosures and is designed to complement the "Overview" section, discussed below. As proposed, we are placing these two disclosure sections at the beginning of the initial summary prospectus because we believe they contain certain basic information that is critical for variable contract investors to read. We are also requiring, as proposed, that this information be provided in a standardized tabular presentation because we believe that, as compared to the narrative-type presentation of corresponding disclosures in the statutory prospectus, a summary tabular presentation will be easier to read and better convey the importance of the information to investors.[112] This

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110 *See* Comment Letter of Christopher Viscomi (Dec. 4, 2018).

111 *See* Comment Letter of Anthony Harrison (Dec. 7, 2018).

112 As discussed in the Proposing Release, we considered mutual fund disclosure research that supported the view that a tabular presentation would be an effective disclosure delivery method. *See, e.g.*, John Kozup, Elizabeth Howlett, & Michael Pagano, *The Effects of Summary Information on Consumer Perceptions of Mutual Fund Characteristics*, The Journal of Consumer

presentation may also facilitate comparisons of certain disclosure topics among variable contract prospectuses.

We are requiring, as proposed, that a registrant provide the Key Information Table under the heading "Important Information You Should Consider About the [Contract]." We are not requiring the proposed legend that would have followed this heading, because we believe that legend is largely redundant with similar language on the cover page or beginning of the summary prospectus.[113]

As proposed, specified headings are required for each of the five topic areas included in the table, and under each heading will be two columns. The left column lists the required disclosure line-items for each of the five topic areas, and the right column provides a brief description for each corresponding line-item, according to the respective instructions for each proposed line-item. Registrants will also provide a cross-reference to the location in the statutory prospectus where further information can be found for each line-item.[114] One commenter expressed a preference for allowing registrants the discretion to use a one or two

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Affairs 42, 37-59 (2008) (concluding that summary information, particularly using graphical presentation, is an effective way to facilitate the processing of information for investors evaluating mutual funds).

Experts in disclosure effectiveness for consumer-facing communications also have encouraged the use of a "strong design grid" (such as the tabular presentation we propose) to clarify concepts to consumers and to organize disclosure elements. *See, e.g.*, Susan Kleimann, *Making Disclosures Work for Consumers*, Presentation to the SEC's Investor Advisory Committee (June 14, 2018), *available at* https://www.sec.gov/spotlight/investor-advisory-committee-2012/iac061418-slides-by-susan-kleimann.pdf ("Kleimann Presentation").

[113] We proposed that the following legend would precede the Key Information Table: "An investment in the Contract is subject to fees, risks, and other important considerations, some of which are briefly summarized in the following table. You should review the prospectus for additional information about these topics." *See also* text following *supra* note 85 (discussing the legend that appears on the cover page or beginning of the summary prospectus).

[114] *See infra* text following note 201.

column format based on specific formatting and design preferences.[115] While we recognize there are many ways to effectively provide the required information, requiring all registrants to adhere to the same presentation standards facilitates comparability. The overall format of the Key Information Table is depicted below:

FEES AND EXPENSES	
Charges for Early Withdrawals	
Transaction Charges	
Ongoing Fees and Expenses (annual charges)	
RISKS	
Risk of Loss	
Not a Short-Term Investment	
Risks Associated with Investment Options	
Insurance Company Risks	

115 *See* ACLI Comment Letter (stating that "[t]he priority should emphasize readability and clarity of presentation, rather than stipulating the number of appropriate columns.").

RESTRICTIONS	
Investment Options	
Optional Benefits	
TAXES	
Tax Implications	
CONFLICTS OF INTEREST	
Investment Professional Compensation	
Exchanges	

(i) Fees and Expenses

Variable contracts typically have multiple layers of fees, expenses, and charges that can be confusing to investors. While the Fee Table currently required in variable contract prospectuses provides comprehensive fee and expense information,[116] that information is frequently presented over a span of two or more pages when a prospectus is printed on paper.[117] We believe that investors may benefit from a shorter, more tailored discussion in the Key Information Table that is intended to convey how an investor's elections under the contract (*e.g.*,

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116 *See* Item 3 of current Forms N-3, N-4, and N-6 ("Fee Table").

117 *See* VIP Working Group Comment Letter (observing that the Fee Tables in some statutory prospectuses "[a]re quite long (pushing 7 pages) . . . [one] has a fee table with its own table of contents.").

as to classes, optional benefits, portfolio companies, etc.) will impact the fees and expenses he or she will experience under his or her contract.[118] As discussed below, we are requiring, as proposed, that the initial summary prospectus also include the Fee Table from the statutory prospectus.[119] This framework will allow an investor to determine the level of fee information that best suits his or her informational needs.

We received mixed comments regarding the proposed Key Information fee tables. One commenter approved of the summary fee tables, stating "they are well- conceived."[120] Two commenters opposed presenting fee information in the Key Information Table (and certain other sections of the initial summary prospectus) as repetitive and potentially confusing to investors, and instead recommended that all fee and expense information be disclosed in a single location in the initial summary prospectus (*i.e.*, the full Fee Table, described in the section titled "Additional Information About Fees.").[121] One commenter stated that numerical fee information should not be in the Key Information Table because the investor would not have sufficient context to understand specific dollar figures or percentages at that point of the document, and

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118 Although the presentation of fees and expenses in the Key Information Table is shorter and more tailored relative to what is included in the Fee Table, many of the calculations and instructions in the Key Information Table directly reference parallel provisions in the Fee Table. This should increase efficiency and comparability between the disclosures, and also help ensure that updates and amendments to the calculations and instructions in the Fee Table are appropriately reflected in the Key Information Table.

119 *See infra* Section II.A.1.c.ii.(h).

120 *See* VIP Working Group Comment Letter. In addition, almost all of the respondents to our Feedback Flier agreed that the examples reflecting how much an investor would pay for a variable annuity, including upfront fees and future costs were clear.

121 *See* CAI Comment Letter; Lincoln Comment Letter; *see also* CFA Comment Letter (expressing skepticism that most investors would be able to pull together disparate information about the contract features and fees that is scattered throughout the initial summary prospectus to make an informed choice).

that a narrative explanation of the types of fees and expenses associated with the investment, accompanied by a cross-reference to the Fee Table, would be most useful to investors.[122]

While we acknowledge that some fee information presented in the Key Information Table may be duplicative of information in the Fee Table, we believe that this is consistent with our general layered disclosure approach. Investors can receive preliminary fee-related information in the Key Information Table, and more detailed information in the Fee Table later in the document. Moreover, we are not persuaded, as one commenter suggests, that providing only a narrative description of the charges, without corresponding numerical costs, would as effectively communicate to new investors the costs associated with a variable product as a presentation that includes numeric information. Accordingly, we are adopting, as proposed, the requirement to include specific dollar figures and percentages in the Key Information Table.

Charges for Early Withdrawals. It is important that investors understand that if they make a withdrawal in the first several years following an investment in their contract, they may pay a significant charge that will reduce the value of their investment. We believe, however, that investors frequently do not understand, or may be surprised by, surrender charges associated with early withdrawals.[123] For that reason, the Commission proposed that the Key Information Table require information intended to alert investors about the potential impact of surrender charges imposed on early withdrawals.

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122 *See* CAI Comment Letter.

123 The Commission's Office of Investor Education and Advocacy frequently receives investor inquiries about variable contract surrender charges, suggesting that many investors may be confused about how surrender charges work.

Comments were mixed on this issue. Two commenters urged us to de-emphasize the surrender charges in the summary prospectus, suggesting that their prominence overemphasizes the risk they present.[124] However, another commenter stressed the need for prominent disclosure of surrender charges, stating that older investors might not understand that long surrender periods may limit their ability to access money in their account.[125] Other commenters requested more flexibility in the terminology used for this heading, and objected to the use of the term "surrender charges."[126]

Given the consequences of misunderstanding the impact of a surrender charge for early withdrawals, we are requiring, largely as proposed, the first line-item in the table, "Charges for Early Withdrawals," to state that if the investor withdraws money from the contract within [x] years following his or her last premium payment, he or she will be assessed a surrender charge. This statement will include the maximum surrender charge, and the maximum number of years that a surrender charge may be assessed since the last payment was made under the contract.[127] In response to commenters' concerns regarding the term "surrender charges," we believe that the term "withdrawal" both sufficiently encompasses surrenders and other types of withdrawals and is a more intuitive term for investors, and have modified the heading accordingly.

In addition, we are requiring, as proposed, an example of the maximum surrender charge an investor could pay (in dollars) under the contract assuming a $100,000 investment (*e.g.*, "[i]f

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124 *See* VIP Working Group Comment Letter; NAIFA Comment Letter.

125 *See* AARP Comment Letter.

126 *See supra* note 79.

127 *See* rule 498A(b)(5)(i); *see also* Instruction 2(a) to Item 2 of Forms N-3, N-4, and N-6. The maximum surrender charge must be expressed as a percentage of the purchase payment or premium or the amount surrendered, whichever is applicable.

you make an early withdrawal, you could pay a surrender charge of up to $9,000 on a $100,000 investment.").[128] The Commission proposed to use $100,000 as the basis for the surrender charge example because the value of the average variable annuity contract exceeds $100,000.[129] For purposes of the Key Information Table, we believe that providing a dollar figure may better communicate to investors the impact of surrender charges than a surrender charge schedule that shows the applicable surrender charge per year as a percentage, as reflected elsewhere in the document.[130]

One commenter objected to a surrender charge example in the Key Information Table based on an assumed investment of $100,000,[131] while several others generally opposed using $100,000 as the basis for any fee examples in the initial summary prospectus, preferring the current $10,000 assumed investment level.[132] As we noted in the Proposing Release, $100,000 more closely approximates the current average value of a variable annuity, and therefore we continue to believe that figure is more likely to result in cost projections that align with actual investor expectations and experience.[133] For this reason, and as discussed in more detail below,

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128 *Id*.

129 S*ee also* IRI Fact Book, *supra* note 7.

130 Registrants will continue to disclose the surrender fee as a percentage in the "Transaction Expenses" section of the Fee Table. *See* Item 4 of amended Forms N-3, N-4, and N-6.

131 *See* ACLI Comment Letter ("The assumed $100,000 average for variable contracts overstates the impact of surrender charges for contracts that are below that average.").

132 *See* CAI Comment Letter; Lincoln Comment Letter; Transamerica Comment Letter; ACLI Comment Letter.

133 *See* Proposing Release, *supra* note 6, at n.9.

we are requiring $100,000 as the baseline investment assumption for all fee examples in a variable contract prospectus, including the Key Information Table's surrender charge example.[134]

Transaction Charges. As proposed, the second line-item in the "Fees and Expenses" section of the table, "Transaction Charges," requires a statement explaining that in addition to surrender charges, the investor may also be charged for other transactions, accompanied by a brief description of the types of such charges (*e.g.*, front-end loads, charges for transferring cash value between investment options, charges for wire transfers, etc.).[135] This requirement is designed to provide a simple narrative description to alert investors that surrender charges are not the only transaction charges they could pay. We received no comments regarding this line-item.

Ongoing Fees and Expenses. We are adopting, largely as proposed, the third line-item in the "Fees and Expenses" section of the Key Information Table, "Ongoing Fees and Expenses (annual expenses)," which is designed to alert investors that they also will bear recurring fees on an annual basis.[136] In Forms N-3 and N-4, the disclosure in this line-item will begin with the legend: "The table below describes the fees and expenses that you may pay *each year*, depending on the options you choose."[137]

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134 *See infra* Section II.C.2.d.iv; *see also* Item 4 of amended Forms N-3, N-4, and N-6 (requiring registrants to reflect the consequence of any surrender fee in the "Example" to the Fee Table, which, based on a $100,000 assumed investment, shows in dollar figures how much an investor would pay if the contract were surrendered after 1 year, 3 years, 5 years, and 10 years).

135 *See* rule 498A(b)(5)(i); *see also* Instruction 2(b) to Item 2 of Forms N-3, N-4, and N-6. Although surrender charges are a type of transaction charge, we are requiring surrender charges be separately disclosed in the Key Information Table to highlight to investors the significant costs associated with early withdrawals.

136 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c) to Item 2 of amended Forms N-3, N-4, and N-6.

137 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(i)(A) to Item 2 of amended Forms N-3 and N-4.

Largely as proposed, Form N-4 registrants will disclose, in a tabular presentation in the order specified, the minimum and maximum annual fees for: (1) base contract expenses;[138] (2) investment options (*e.g.*, portfolio company fees and expenses);[139] and (3) optional benefits available for an additional charge (for a single optional benefit, if elected).[140] Since Form N-3 registrants have a single-tier structure and consolidate fees and expenses for investment options into base contract expenses, they will disclose the same information as Form N-4 registrants, except fees for base contract expenses and investment options will be consolidated into a single entry labeled "annual contract expenses."[141]

The minimum annual fee column will show the lowest fee for each annual fee category (*i.e.*, the least expensive contract class, the lowest annual portfolio company expense or management fee, and the single least expensive optional benefit that is available for an additional

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138 The Commission did not propose to require and we are not adopting minimum and maximum annual fees for base contract expenses for Form N-6 registrants because life insurance charges are based on underwriting and can vary significantly from one insured person to another depending on various demographic characteristics. This could lead to significant variations between these amounts, which may be confusing to investors.

139 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(i)(D) to Item 2 of amended Form N-4. Registrants will use the gross expense ratio disclosed in the Fee Table of a portfolio company's current prospectus, which is the same basis for calculating portfolio company expense ratios as Items 4 (Fee Table) and 17 (Portfolio Companies Available Under the Contract) of Form N-4.

140 The disclosure will also require, in a parenthetical or footnote to the table or each caption, an explanation of the basis for each percentage (*e.g.*, as a percentage of separate account value or benefit base, or percentage of net asset value). *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(i)(C) to Item 3 of amended Form N-4 (percentage of net asset value).

In a change from the proposal, we are revising the line-item heading for optional benefits available for an additional charge to clarify that the minimum and maximum fees disclosed for that line-item relate to a single optional benefit, if elected.

141 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(i)(B) to Item 2 of amended Form N-3. In a conforming change, we are revising the instructions to this item to clarify that optional benefits charges should not be included in the calculation of annual contract expenses, because optional benefits charges are separately displayed in a line-item titled "optional benefits available for an additional charge (if elected)." *See* Instruction 2(c)(i)(D) to Item 2 of amended Form N-3.

charge).[142] The maximum annual fee column will show the highest fees for these categories (and will reflect the single most expensive optional benefit). Additionally, a legend preceding the minimum and maximum annual fee table will refer investors to their contract specifications page for information about the specific fees they would pay each year based on the options elected.[143]

This presentation will consolidate the more detailed information in the Fee Table, in an effort to minimize the need for investors to perform complex calculations to understand the fees they will pay.[144] For example, like the "Ongoing Fees and Expenses" line-item in the Key Information Table, the Fee Table will also include information about the contract's base contract

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142 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(i) to Item 2 of amended Form N-3; Instruction 2(c)(i) to Item 2 of amended Form N-4. In a conforming change, we are revising this instruction in amended Form N-3 to mirror the parallel instruction in amended Form N-4 in order to identify the specific categories for which lowest and highest fees should be shown, as opposed to simply stating that the lowest and highest contract fees should be shown.

Because the table showing minimum and maximum annual fees is intended to inform investors about the types and ranges of fees associated with a variable contract, we are excluding certain assumptions from the calculations. For example, although some registrants do not charge extra for certain optional benefits (*e.g.*, portfolio rebalancing and dollar-cost averaging), we believe investors should be alerted to the costs associated with optional benefits that are available for an additional charge. *See* Instruction 2(c)(i)(B) to Item 2 of amended Form N-3 (stating that disclosures should be provided for optional benefits available for an additional charge); Instruction 2(c)(i)(B) to Item 2 of amended Form N-4 (same). Accordingly, the disclosure should reflect the minimum cost associated with an optional benefit that has a fee. If the registrant offers any optional benefits for an additional charge, the minimum fee should not be zero. For example, if the registrant offers three optional benefits, with additional charges of 0%, 0.50%, and 1.50%, then the minimum and maximum annual fees reflected in the table would be 0.50% and 1.50%.

143 Instruction 2(c)(i)(A) to Item 2 of amended Forms N-3 and N-4. Many states require a contract specifications page that contains information about the purchase payments, fees, annuitization date and other information specific to an investor's variable annuity contract. *See, e.g.*, the Insurance Compact's Individual Deferred Variable Annuity Contract Standards, *available at* https://www.insurancecompact.org/rulemaking_records/080911_stds_annuity_individual_deferred_variable.pdf.

144 This reflects the principle, which experts in disclosure effectiveness for consumer-facing communications have encouraged, of "eliminat[ing] most complex calculations" for consumers. *See* Kleimann Presentation, *supra* note 112.

fee, portfolio company fees and expenses, and optional benefits.[145] However, the Fee Table will include a separate response for each contract class.[146] In order to condense this information, the parallel disclosure in the Key Information Table will be presented as fee ranges.

As described in the Proposing Release, we also designed an example in Forms N-3 and N-4 to provide a high-level cost illustration that will give an investor a tool to understand the basic cost framework of the contract. To emphasize that an investor's choices have a significant impact on the costs associated with his or her investment, we are requiring a two-column tabular presentation in the order specified reflecting the lowest and highest annual cost estimates for the variable contract.[147] The following legend will precede this table: "Because your contract is customizable, the choices you make affect how much you will pay. To help you understand the cost of owning your contract, the following table shows the lowest and highest cost you could pay *each year*. This estimate assumes that you do not take withdrawals from the contract, **which could add surrender charges that substantially increase costs**."[148]

As proposed, the lowest and highest annual dollar costs in this table are based on certain prescribed assumptions (*i.e.*, a $100,000 investment) with no additional contributions, transfers, or withdrawals, no sales charges, and a 5% annual return over a hypothetical 10-year period.[149]

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145 *See* Item 4 of amended Forms N-3 and N-4.

146 *See* Instruction 7 to Item 4 of amended Forms N-3 and N-4.

147 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(ii) to Item 3 of Forms N-3 and N-4.

148 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(ii)(A) to Item 3 of Forms N-3 and N-4.

149 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(ii)(C)(a) to Item 3 of Forms N-3 and N-4.

The prescribed assumptions largely mirror the Fee Table, with the exception of the sales load, which is not reflected because we are seeking to highlight the contract's ongoing expenses. Because registrants may charge different fees in different years (which may have the effect of making fees appear small under certain circumstances), we are basing the cost estimate on the

The lowest annual cost estimate is based on the least expensive combination of contract classes and portfolio company charges or management fees, and excludes optional benefits. The highest annual cost estimate reflects the most expensive combination of contract classes, portfolio company charges or management fees, and optional benefits.[150] Excluding optional benefits from the lowest annual cost estimate, and including them in the highest annual cost estimate, is intended to illustrate the cost impact of adding optional benefits to a contract.[151] With this information, the investor will be able to roughly estimate further costs,[152] and may be able to obtain additional information about costs in the statutory prospectus if needed.[153]

Despite advocating for the removal of numerical fee information in other sections of the Key Information Table, one commenter stated that "[a]n investor would benefit from the

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average cost of a contract over a 10-year period to level-set the calculation. *See* Instruction 2(c)(ii)(C)(a) to Item 3 of Forms N-3 and N-4.

150 *See* rule 498A(b)(5)(i); *see also* Instruction 2(c)(ii)(C)(a) to Item 2 of amended Forms N-3 and N-4. In a conforming change, we are revising this instruction in amended Form N-3 to mirror the parallel instruction in amended Form N-4 in order to identify the specific categories for which lowest and highest fees should be shown, as opposed to simply stating that the lowest and highest contract fees should be shown. Instruction 2(c)(ii)(C)(e) to Item 3 of amended Forms N-3 and N-4 direct that, unless otherwise stated, the least and most expensive combination of annual contract expenses and optional benefits available for an additional charge should be based on the disclosures provided in the Example in Item 4 (Fee Table), and that if a different combination of these items would result in different maximum or minimum fees in different years, the registrant must use the least or most expensive combination of these items each year.

151 While the example in the Fee Table would include a similar cost estimate, it would reflect the most expensive combination of annual portfolio company expenses and optional benefits available for each contract class available under the contract. The Fee Table example also includes estimated costs for 1-, 3-, 5- and 10-year periods (not just for one year), and reflects different scenarios based on whether the contract is surrendered or annuitized. *See* Item 4 of amended Forms N-3 and N-4.

152 For example, since he or she would know the range of costs to be paid over one year, he or she could estimate the costs to be paid over five years.

153 We also encourage registrants to use design features (*e.g.*, multiple colors or shading patterns) that visually distinguish minimum and maximum fees, and lowest and highest annual cost estimates.

proposed annual cost estimates, which are easy for an investor to understand and would not be repeated elsewhere in the [Initial Summary Prospectus]" and supported including the cost estimates in this Key Information Table fee table.[154] We received two comments reiterating concerns with the $100,000 assumed investment amount,[155] but as previously discussed, we are requiring this amount for all examples in variable contract summary and statutory prospectuses because $100,000 more closely approximates the current average value of a variable annuity, and therefore we continue to believe that figure is more likely to result in cost projections that align with actual investor expectations and experience.[156] We received no other comments on the cost estimate in the Key Information Table, and are adopting it as proposed.

For Form N-6, the Commission proposed a variation of the "Ongoing Fees and Expenses" section of the Key Information Table that was proposed for Forms N-3 and N-4. Because the costs associated with variable life insurance contracts are largely based on the personal characteristics of the insured (*e.g.*, age, sex, health history), the Commission did not propose to require specific numeric information about the fees covering the cost of insurance and optional benefits,[157] but instead proposed to require this section of the Key Information Table to include: (1) a brief statement that investment in a variable life insurance contract is subject to certain ongoing fees and expenses that are set based on characteristics of the insured; and (2) the

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154 *See* CAI Comment Letter.

155 *See* CAI Comment Letter; ACLI Comment Letter.

156 *See supra* note 133 and accompanying text.

157 In addition, maximum expenses for a variable life insurance contract could potentially exceed 100% of contract value based on the underwriting of the variable life insurance contract, which could potentially confuse investors.

minimum and maximum annual fees for the investment options in a tabular presentation.[158] One commenter who addressed this aspect of the proposal supported our approach,[159] and we are adopting this requirement as proposed.

Fund Facilitation Fees. Two commenters asked how fund facilitation fees would be presented for purposes of the "Ongoing Fees and Expenses" section of the Key Information Table.[160] Currently, although our registration forms do not specifically reference fund facilitation fees, insurers that charge the fees disclose them in the prospectus. In our staff's experience, however, such practices vary.[161]

To ensure that registrants disclose these fees in a consistent manner, in a change from the proposal, the final rules and forms include provisions in the registration forms covering such fees. First, consistent with our understanding of these fees, the forms define "platform charge" as any fee charged by the registrant to make a portfolio company available as an investment

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158 Instruction 2(c) to proposed Item 3 of Form N-6.

159 *See* ACLI Comment Letter.

160 *See* VIP Working Group Comment Letter; Comment Letter of Lisa LeRoy (Nov. 9, 2018). We understand that some contracts registered on Forms N-4 and N-6 charge a fee, often referred to as "fund facilitation fees," to make portfolio companies available as investment options under the contract. This fee varies solely on the basis of the portfolio company selected, and offsets the lack of distribution fees provided by certain low or no-cost portfolio companies, or provides revenue sharing from portfolio companies that wish to be included in the investment options under the variable contract. Because registrants on Form N-3 have a single tier structure and do not offer third-party portfolio companies as investment options, registrants on Form N-3 do not charge fund facilitation fees.

161 As reflected by recent registration statement filings, insurers reflect fund facilitation fees in a number of ways, including as a separate account expense, as optional expenses, or under their own expense heading. Insurers typically include fund facilitation fees when calculating the Example to the Fee Table (some provide explanation in the footnotes) and the accumulation unit value tables. Insurers may also describe fund facilitation fees in the general description of the contract.

option under the contract, and that varies solely on the basis of the portfolio company selected.[162] To allow investors to see the lowest and highest charges associated with the range of available portfolio company options, we are modifying the proposed instructions to the Key Information Table to require the minimum (or maximum, if applicable) portfolio company expense ratio reflected in the table to include any platform fee charges to invest in that option.[163] The final rule and forms also require certain additional disclosures regarding platform charges in the Fee Table and in the portfolio company/investment option Appendix as described below.[164]

(ii) Risks

As proposed, the Key Information Table includes a condensed discussion of contract risks. Current risk disclosures in variable contract statutory prospectuses typically span multiple pages. While this level of disclosure may be appropriate for a statutory prospectus, we believe that a more-concise overview presentation of contract risks is better suited for the Key Information Table in light of the goals of the summary prospectus. Like the summary of fee and expense information that will appear in the Key Information Table, these risk summaries are intended to provide a concise overview, with additional information available for an investor who desires or requires additional details.

Specifically, the table will include four line-items under the heading "Risks," each of which includes disclosure about a risk that we believe investors should be alerted to: (1) risk of

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162 *See* General Instruction A of amended Forms N-4 and N-6.

163 *See* rule new 498A(b)(5)(i); *see also* Instruction 2(c)(i)(E) to Item 2 of amended Form N-4; Instruction 2(c)(i)(E) to Item 2 of amended Form N-6. Because we understand that Form N-3 registrants do not charge fund facilitation fees, we are not including this instruction in Form N-3.

164 *See, e.g.*, *infra* notes 300 (discussing platform charges in the context of the portfolio company/investment option Appendix) and 661 (discussing platform charges in the context of the Fee Table).

loss; (2) risks that could occur if an investor believes a variable annuity is a short-term investment; (3) risks associated with the contract's investment options; and (4) insurance company risks.[165] Each of these line-items will include succinct descriptions of the respective risk.

The first line-item is intended to convey that although variable contracts have elements of insurance, unlike most traditional forms of insurance, these products are subject to the risk of loss.[166] This could help prevent any misunderstanding if, for example, an investor confused a variable annuity contract and a fixed annuity contract and did not understand that the contract value in a variable annuity could decline.

One commenter thought the "risk of loss" disclosure might be confusing because variable contracts should be held for the long term and that it would be more appropriate to state that the contract may be subject to market fluctuations or risks.[167] Another commenter stated that the disclosure should include the fact that high fees increase the risk of loss.[168] While risk of loss manifests in many different ways, we believe the proposed language serves its intended purpose of putting investors on notice that they can lose money by investing in the contract, and therefore we are adopting the requirement as proposed.

The second line-item is intended to emphasize to investors that variable contracts are generally long-term investments and not appropriate for an investor who needs ready access to

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165 *See* rule 498A(b)(5)(ii); *see also* Instruction 3 to Item 3 of amended Forms N-3, N-4, and N-6.

166 *See* rule 498A(b)(5)(ii); *see also* Instruction 3(a) to Item 3 of amended Forms N-3, N-4, and N-6 ("State that an investor can lose money by investing in the Contract.").

167 *See* ACLI Comment Letter.

168 *See* AARP Comment Letter.

cash, particularly in view of the impact of surrender charges and/or tax penalties for early withdrawals.[169] The third line-item is intended to focus on the general risk of poor investment performance (as opposed to the details of the specific risks associated with each of the particular investment options available under the contract).[170] We received no comments on these line-items and are adopting them largely as proposed, although we have added a reference related to general or "fixed account" investment options to clarify for investors who might not understand that fixed account investment options have their own unique risks (such as credit risk).

The fourth line-item is meant to alert investors that any obligations, guarantees, or benefits under the contract that may be subject to the claims-paying ability of the insurance company (as opposed to the separate account, which is insulated from the claims of the insurance company's creditors) will depend on the financial solvency of the insurance company. One commenter noted that this line-item is especially important because variable annuity products bear liquidity and single entity credit risk of the insurance company.[171] We agree and are adopting this line-item largely as proposed, but have added a reference to obligations related to

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169 *See* rule 498A(b)(5)(ii); *see also* Instruction 3(b) to Item 2 of amended Forms N-3, N-4, and N-6 ("State that a Contract is not a short-term investment and is not appropriate for an investor who needs ready access to cash, accompanied by a brief explanation.").

170 *See* rule 498A(b)(5)(ii); *see also* Instruction 3(c) to Item 2 of amended Forms N-3, N-4, and N-6 (*e.g.*, from Form N-4, "State that an investment in the Contract is subject to the risk of poor investment performance and can vary depending on the performance of the investment options available under the Contract (*e.g.*, Portfolio Companies), that each investment option (including any fixed account investment option) will have its own unique risks, and that the investor should review these investment options before making an investment decision.").

Because most variable annuity contracts typically offer fifty or more portfolio companies to which investors can allocate their purchase payments, we are not requiring that the Key Information Table include risk information specific to each portfolio company, as to do so would undermine the goal of brevity for this disclosure item.

171 *See* Comment Letter of Chris Tobe (Nov. 1, 2018).

general or "fixed account" investment options to clarify this point for investors who might not understand that any fixed account investment options may still be subject to the insurer's solvency and claims-paying ability.[172]

As part of these disclosures, the registrant is required to state that additional information about the insurance company, including, if applicable, its financial strength ratings, may be obtained upon request, and indicate how such requests can be made (*e.g.*, via toll-free telephone number).[173] In lieu of providing the portion of this statement regarding the availability of the insurance company's financial strength ratings, a registrant could include the insurance company's financial strength rating(s).[174] One commenter suggested requiring a brief description of the insurer that includes the identification of the entity that is responsible for the insurance obligations under the contract.[175] Although that and other related information can be helpful to investors, and is required to be disclosed in variable contract statutory prospectuses, we do not believe that this line-item in the Key Information Table is the appropriate location for

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172 *See* rule 498A(b)(5)(ii); *see also* Instruction 3(d) to Item 2 of Forms N-3, N-4, and N-6 (*e.g.*, from Form N-4, "State that an investment in the Contract is subject to the risks related to the Depositor, including the extent to which any obligations (including under any fixed account investment options), guarantees, or benefits are subject to the claims-paying ability of the Depositor.").

173 *See* rule 498A(b)(5)(ii); *see also* Instruction 3(d) to Item 2 of amended Forms N-3, N-4, and N-6 (*e.g.*, from Form N-4, "Further state that more information about the Depositor, including if applicable its financial strength ratings, is available upon request, and indicate how such requests can be made (*e.g.*, via toll-free telephone number)"). *See also* Item 1(b)(1) of amended Form N-3, amended Form N-4, and amended Form N-6 (requiring the back cover page of the statutory prospectus to include a toll-free (or collect) telephone number for investor inquiries); rule 498A(b)(2)(v)(B) (requiring the front cover page of the initial summary prospectus to include a toll-free telephone number and email address for investor inquiries).

174 *See* Instruction to Instruction 3(d) to Item 2 of amended Forms N-3, N-4, and N-6.

175 *See* VIP Working Group Comment Letter.

such disclosures.[176] As discussed above, the risks section of the Key Information Table is intended to provide succinct descriptions of certain key risks, as opposed to providing general factual information that is redundant with disclosures provided elsewhere in the prospectus and the registration statement.

A fifth line-item, which will only appear in the "Risks" section for variable life insurance contracts, is meant to focus on contract lapse, which is a key risk for variable life insurance investors (but not relevant to variable annuity contracts).[177] For example, a variable life insurance contract may lapse when sufficient premium payments are not made by the investor. Since inadvertent contract lapse could negate the insurance benefit of the variable life insurance contract, we believe this risk should be included in the Key Information Table. We received no comments on this line-item and are adopting it as proposed.

Some commenters identified other risks relevant to certain subsets of investors and contracts and suggested those risks be added to the Key Information Table.[178] We decline to revise the Key Information Table to include those additional risks because the required disclosures in the Key Information Table are intended to identify key risks that are common to

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176 *See, e.g.*, Item 6 of amended Form N-4 ("General Description of Registrant, Depositor, and Portfolio Companies"); Item 26(g) of amended Form N-4 ("Reinsurance Contracts").

177 *See* rule 498A(b)(5)(i); *see also* Instruction 3(e) to Item 32 of amended Form N-6 ("Briefly state (1) the circumstances under which the Contract may lapse (*e.g.*, insufficient premium payments, poor investment performance, withdrawals, unpaid loans or loan interest), (2) whether there is a cost associated with reinstating a lapsed Contract, and (3) that death benefits will not be paid if the Contract has lapsed.").

178 *See* Comment Letter of Jill Lydos (Jan. 2, 2019) (stating that other important risks are not included in the initial summary prospectus, such as the risk of divorce affecting insurance benefits in a joint contract and the risk that, for an investor in a qualified contract with a withdrawal benefit, the withdrawal amount may not be sufficient to cover the required minimum distributions); *see also* Breacher Comment Letter.

all variable insurance contracts, and we do not believe that any of the suggested additional risks are necessarily common across all variable insurance contracts. As discussed further below, we are also adopting, as proposed, a new requirement in Forms N-3 and N-4 that, like the current parallel requirement in Form N-6, requires the registrant to summarize the principal risks of purchasing a contract in a consolidated risk section within the statutory prospectus.[179] Registrants have the flexibility to discuss any principal risks when responding to this requirement, including principal risks relevant to specific subsets of investors and contracts.

(iii)Restrictions

As proposed, the Key Information Table requires registrants to briefly disclose those features of a variable contract that commonly include restrictions or limitations, namely the investment options and optional benefits that the contract offers. We designed this section of the table to include separate line-items for each of these topics under the heading "Restrictions."[180] For example, many variable annuity contracts have optional benefits that restrict the percentage of assets that investors can allocate to certain investment options, such as more volatile categories of equity funds, in order to facilitate the insurance company's ability to reserve for the guarantees under the benefit.

The "Investments" line-item requires registrants to disclose whether there are any restrictions that may limit the investments that an investor may choose and/or limitations on the

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179 *See* rule 498A(b)(5)(i); *see also* Instruction 1(c) to Item 2; Item 5 of amended Forms N-3, N-4, and N-6. While we understand that variable annuity statutory prospectuses today commonly discuss contract risks (although Form N-3 and Form N-4 do not currently require them to do so), this discussion can be dispersed throughout the prospectus.

180 *See* rule 498A(b)(5)(i); *see also* Instruction 4 to Item 2 of amended Forms N-3, N-4, and N-6. We recognize that there may be overlap between the line-items for "Investments" and "Optional Benefits," since many optional benefits limit the investments available to investors.

transfer of contract value among portfolio companies, and if applicable, that the insurer reserves the right to remove or substitute portfolio companies as investment options.[181] The "Optional Benefits" line-item requires registrants to disclose whether there are any restrictions or limitations relating to optional benefits, as well as whether the registrant may modify or terminate an optional benefit.[182] We included these line-items in the Key Information Table to put investors on notice of restrictions and limitations associated with different options that are available under the contract.

One commenter recommended placing greater emphasis on the investment restrictions associated with portfolio company options by renaming this section of the Key Investment Table "Investment Restrictions," which would focus solely on benefit-related investment restrictions and the impact of not complying with such investment restrictions (including contract

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181 *See* rule 498A(b)(5)(i); *see also* Instruction 4(a) to Item 2 of amended Forms N-3, N-4, and N-6 ("State whether there are any restrictions that may limit the investments that an investor may choose, and/or whether there are any limitations on the transfer of Contract value among Portfolio Companies. If applicable, state that the insurer reserves the right to remove or substitute Portfolio Companies as investment options.").

As a conforming change, we are changing the name of this line-item from "Investment Options" as proposed in Forms N-4 and N-6 to "Investments" to match the name of this line-item in amended Form N-3. *See* Item 2 of amended Forms N-3, N-4, and N-6.

182 *See* rule 498A(b)(5)(ii); *see also* Instruction 4(b) to Item 2 of amended Forms N-3, N-4, and N-6 ("State whether there are any restrictions or limitations relating to optional benefits, and/or whether an optional benefit may be modified or terminated by the Registrant. If applicable, state that withdrawals that exceed limits specified by the terms of an optional benefit may affect the availability of the benefits by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate the benefit."). In a change from the proposal, registrants must state that this restriction or limitation may be triggered when withdrawals exceed limits specified by the terms of an optional benefit, which we believe will help investors better understand the circumstances under which this may occur.

termination), and requiring all disclosure regarding restrictions or limitations related to optional benefits to be described in other sections of the initial summary prospectus.[183]

We are adopting the Restrictions line-items in the Key Information Table as proposed. As explained in the Proposing Release, we chose not to require a description of the specific restrictions and limitations associated with each of the available investment options and optional benefits because doing so would likely add significant length to the table, and such information will be provided in other parts of the initial summary prospectus, as well as the statutory prospectus.[184] Requiring a short description of these restrictions or limitations in the Key Information Table will alert investors of their existence. Investors looking for detailed descriptions of each such restriction or limitation may then review the "[Other]" Benefits Available Under the Contract" section. Finally, we decline to place greater emphasis on investment related restrictions in the Restrictions line-item, such as by renaming it "Investment Restrictions," as this section is intended to cover all types of limitations or restrictions, including any non-investment related limitations or restrictions.

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183 *See* CAI Comment Letter.

184 *See, e.g.*, rule 498A(b)(5)(iv), Item 12(a) of amended Form N-3, and Item 11(a) of amended Forms N-4 and N-6 (all referencing the requirement that the table summarizing certain benefits available under the contract, which would appear in both the initial summary prospectus and the statutory prospectus, will be required to include a brief description of restrictions/limitations associated with each benefit); *see also* rule 498A(b)(5)(ix), Item 19 of amended Form N-3, and Item 18 of amended Forms N-4 and N-6 (all referencing the requirement that, if the availability of one or more portfolio company varies by benefit offered under the contract, the Appendix that would appear in the initial summary prospectus, updating summary prospectus, and statutory prospectus will be required to include a separate table indicating which portfolio companies are available under each of the benefits offered under the contract).

(iv) Taxes

Because variable contracts are subject to different tax rules than other investment products, with both tax advantages and potential tax impacts in certain circumstances, we are requiring that the Key Information Table include tax-related disclosures. The "Tax Implications" line-item of the table, which will appear under the heading "Taxes," requires a statement that investors should consult with a tax professional to determine the tax implications of an investment in, and payments received under, the variable contract.[185] A registrant must also state that there is no additional tax benefit to the investor if the contract is purchased through a tax-qualified plan or individual retirement account (IRA), and that withdrawals will be subject to ordinary income tax and may be subject to tax penalties.[186]

One commenter stated that the tax consequences of purchasing a variable contract should be explained, and provided a list of six examples to include in the Key Information Table.[187] Another recommended adding disclosure regarding required minimum distributions for group contracts.[188]

As discussed in the Proposing Release, the tax disclosure in the Key Information Table is meant to alert investors to tax implications of their investment in a location using a presentation we believe investors are most likely to see and understand. While we agree that additional tax

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185 *See* rule 498A(b)(5)(i); *see also* Instruction 5 to Item 2 of amended Forms N-3, N-4, and N-6.

186 *Id*.

187 *See* AARP Comment Letter (recommending disclosure that, among other things, purchasing an annuity in an IRA in order to defer income is unnecessary since the IRA already is tax-deferred; funding an annuity with tax-deferred dollars gives the investor no additional tax benefits; and funding an annuity with after-tax money provides that all future gains are tax-deferred, but any gains are taxed at a higher ordinary income tax rate than capital gains rates).

188 *See* Breacher Comment Letter.

information could provide context for investors, it would also add length to what is intended to be a brief and targeted description in a summary document. Moreover, similar to the other line-items in the Key Information Table, additional detail about the tax implications of an investment in a variable contract will also be available in the statutory prospectus.[189] Finally, the tax disclosure is meant to include tax considerations that are generally applicable across all variable contracts, rather than a discussion of all tax considerations that may be relevant to a particular contract or investor. For these reasons we decline to add to the list of tax disclosures in the Key Information Table, and are adopting this requirement as proposed.

(v) Conflicts of Interest

As proposed, the Key Information Table must include, if applicable,[190] line-items regarding conflicts of interest that may arise in the context of variable contracts, specifically with regards to investment professional compensation and exchanges. The "Investment Professional Compensation" line-item requires registrants to disclose, if applicable, that an investment professional may be paid for selling the contract to investors.[191] A registrant must describe the basis upon which such compensation is typically paid (*e.g.*, commissions, revenue sharing, compensation from affiliates and third parties). A registrant providing the required disclosure also must state that investment professionals may have a financial incentive to offer or recommend the contract over another investment for which the investment professional is not

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189 *See, e.g.*, Item 15 of amended Form N-3, Item 14 of amended Form N-4, and Item 15 of amended Form and N-6.

190 A registrant may omit these line-items if neither the registrant nor any of its related companies pay financial intermediaries for the sale of the contract or related services. *See* Instruction to Instruction 6 to Item 2 of amended Forms N-3, N-4, and N-6.

191 *See* rule 498A(b)(5)(i); *see also* Instruction 6(a) to Item 2 of amended Forms N-3, N-4, and N-6.

compensated (or compensated less). This requirement reflects analogous disclosure that appears in mutual fund summary prospectuses[192] and is designed to address similar concerns – namely to alert investors to the existence of compensation arrangements for investment professionals and the potential conflicts of interest arising from these arrangements.

The "Exchanges" line-item requires the registrant to state, if applicable, that some investment professionals may have a financial incentive to offer a new contract in place of the one owned by the investor.[193] A registrant must further state that investors should only exchange their contract if they determine, after comparing the features, fees, and risks of both contracts, that it is preferable for them to purchase the new contract rather than continue to own the existing contract. When a contract owner purchases a new annuity contract to replace an existing one, the new contract is referred to as a replacement contract.[194] We understand that a significant proportion of variable contract sales stem from exchanges, and these disclosures are intended to alert investors to potential conflicts of interest that may arise in that context.

Several commenters sought to expand the scope of the conflicts of interest disclosure,[195] while others asked us to narrow it.[196] We are adopting this line-item as proposed. As noted

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192 *See* Item 8 of Form N-1A (requiring disclosure alerting investors who purchase a fund through a broker-dealer or other financial intermediary (such as a bank) that the fund and its related companies may pay the intermediary for the sale of fund shares and related services, and such payments may create a conflict of interest by influencing the broker-dealer or other intermediary and your salesperson to recommend the fund over another investment).

193 *See* rule 498A(b)(5)(i); *see also* Instruction 6(b) to Item 2 of amended Forms N-3, N-4, and N-6.

194 Replacement contracts usually occur in connection with a tax-free exchange of non-qualified contracts under section 1035 of the Internal Revenue Code, or because of a rollover or direct transfer of a qualified plan contract (*e.g.*, an individual retirement annuity) from one life insurance company to another. *See* 26 U.S.C. 1035; *see also* 26 CFR 1.1035-1.

195 *See* CAI Comment Letter (asking that insurers be permitted to disclose other specific conflicts of interest that may be applicable to their products or services); Cardozo Clinic Comment Letter

above, the variable contract summary prospectus conflict of interest disclosures were modeled on the parallel requirement for mutual fund summary prospectuses. Based on our experience with the mutual fund summary prospectus regime we believe the required disclosure strikes the right balance of alerting investors to certain conflicts in a summary document, while accommodating additional detail that may be described in the statutory prospectus.

(vi) General Instructions

In addition to the proposed instructions specific to each line-item in the Key Information Table, we are adopting a set of general instructions to the table. As proposed, to streamline the disclosure and encourage registrants to use plain-English, investor-friendly principles when drafting the disclosures, the general instructions require registrants to disclose the required information in the tabular presentation reflected in the form, in the order specified.[197] However, registrants are permitted to exclude any disclosures that are not applicable or modify any of the statements required to appear in the table so long as the modified statement contains comparable information.[198]

In a change from the proposal, notwithstanding this instruction and a General Instruction permitting the use of alternate terminology under certain conditions, the title, headings, and sub-headings for this tabular presentation may not be modified or substituted with alternate

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(recommending that conflicts of interest be removed from the Key Information Table and included in a separate section immediately following Key Information Table); AARP Comment Letter (recommending a requirement to disclose whether the person selling the variable contract is acting in the best interest of the investor.).

196 *See* ACLI Comment Letter (stating that because investment professional fees are not traditionally part of the contract, disclosure of those types of fees should not be required).

197 *See* rule 498A(b)(5)(i); *see also* Instruction 1(a) to Item 2 of amended Forms N-3, N-4, and N-6.

198 *See* Instruction 1(a) to Item 2 of amended Forms N-3, N-4, and N-6.

terminology unless otherwise provided.[199] We believe having a standardized title, headings, and sub-headings for the Key Information Table facilitates the ability of investors to easily compare key information and features for different variable contracts. Several commenters acknowledged the importance of an investor's ability to compare variable contracts across different insurance companies,[200] and we believe the use of standardized terms in this manner within the Key Information Table could facilitate comparability.

The general instructions require registrants to provide cross-references or links in electronic versions of the summary prospectus to the location in the statutory prospectus where the subject matter required by the line-item is described in greater detail.[201] As explained in the Proposing Release, we believe that providing cross-references and links (or similar technological access) will help investors who seek additional information quickly find more detailed information that may be important to them.[202] The cross-reference or link need not necessarily be a page number or page range;[203] instead, a registrant could cross-reference or link to a particular section or sub-section, or heading or sub-heading, in the statutory prospectus.

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199 *Id*. *See also* General Instruction C.3.(d)(ii) to amended Forms N-3, N-4, and N-6.

200 *See, e.g.*, Jackson Comment Letter; Pacific Life Comment Letter.

201 *See* rule 498A(b)(5)(i); *see also* General Instruction 1(b) to Item 2 of amended Forms N-3, N-4, and N-6. The instruction specifies that the cross-reference should be adjacent to the relevant disclosure, either within the table row, or presented in an additional table column.

We also separately proposed that any cross-reference that is included in an electronic version of a summary prospectus must be an active hyperlink. *See* proposed rule 498A(i)(4). As discussed below, we are not adopting this requirement. *See also infra* Section II.A.6.

202 *See* Proposing Release, *supra* note 6, at nn.162 and accompanying text.

203 We recognize that there may be operational challenges in syncing page numbers, especially between lengthy documents. *See* CAI Comment Letter (stating that page numbers are often in flux until the last moments prior to finalization).

In response to comments,[204] we are modifying this general instruction in the context of the Key Information Table to allow registrants to provide another means of facilitating access through equivalent methods or technologies that lead directly to the relevant cross-referenced information.[205] In the context of the Key Information Table, this gives registrants the flexibility to provide a continuously visible sidebar in the summary prospectus that includes hyperlinks to sections in the statutory prospectus, as an alternative to providing a separate link for each line-item in the Key Information Table that links directly to the section in the statutory prospectus where the subject matter of that line-item is discussed in additional detail. Registrants who choose this option generally should provide a cross-reference for each line-item in the Key Information Table that directly corresponds to the appropriate heading in the sidebar (because otherwise an investor may find it difficult to determine which of the headings in the sidebar will provide more detailed information regarding that line-item).

Finally, in keeping with our goal of providing a brief tabular presentation of key facts that can be easily digested by investors, the instructions provide that all disclosures in the Key

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204 *See* CAI Comment Letter (stating that proposed rule 498A(h)(1)(iii), which was modeled on parallel provisions in rule 498(e)(2)(iii) and applies to the summary prospectus as a whole, provides greater flexibility than the proposed form instruction, which would require direct links between the Key Information Table and the statutory prospectus with no alternative means); ACLI Comment Letter (recommending that the proposed requirement for additional embedded links be removed, and parallel the practices currently required in mutual fund summary disclosure).

205 *See* rule 498A(i)(4) ("[A]ny website address or cross-reference that is included in an electronic version of the Summary Prospectus must include an active hyperlink or provide another means of facilitating access through equivalent methods or technologies that lead directly to the relevant website address or cross-referenced information."); Instruction 1(b) to Item 2 of amended Forms N-3, N-4, and N-6 ("Cross-references in electronic versions of the Summary Prospectus and/or Statutory Prospectus should link directly to the location in the Statutory Prospectus where the subject matter is discussed in greater detail, or should provide a means of facilitating access to that information through equivalent methods or technologies.").

Information Table should be short and succinct, consistent with the limitations of a tabular presentation.[206]

Overview of the Contract

We are adopting, largely as proposed, the requirement that an initial summary prospectus include a section describing certain basic and introductory information about the contract and its benefits, under the heading "Overview of the [Variable Annuity/Life Insurance] Contract."[207] We are making only one substantive modification from the proposal related to this section. As proposed, this section would have appeared as the first substantive section of the initial summary prospectus, but as discussed above, this section will follow the Key Information Table under the final rule.

Purpose of Contract. As proposed, the requirement to briefly describe the purpose(s) of the contract in general terms[208] is intended to provide the reader with information on what financial objectives that contract could help the investor achieve, as well as the profile of an investor for whom the contract may be appropriate (*e.g.*, by discussing a representative investor's time horizon, liquidity needs, and financial goals). This requirement could be satisfied, for example, by stating that the contract is meant to help the investor accumulate assets through an investment portfolio, to provide or supplement the investor's retirement income, or to provide

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206 *See* rule 498A(b)(5)(i); *see also* Instruction 1(c) to Item 3 of amended Forms N-3, N-4, and N-6.

207 *See* rule 498A(b)(5)(ii); *see also* Item 3 of amended Forms N-3, N-4, and N-6; *infra* Section II.C.2.c.

208 *See* rule 498A(b)(5)(ii); *see also* Item 3(a) of amended Forms N-3, N-4, and N-6.

death benefits and/or other benefits, and that the contract may not be appropriate for an investor that intends to access his or her invested funds within a short-term timeframe.[209]

Phases of Contract (for Variable Annuity Contracts). As proposed, the requirement to include a brief description of the accumulation (savings) phase and annuity (income) phases of the contract[210] is meant to provide basic information about how the variable annuity contract functions, which in turn will help highlight how the contract differs from other types of investment products. It also is designed to address common areas of confusion among variable annuity investors. For example, it highlights the effect of annuitization on the ability to make withdrawals and the continuation of contract benefits.[211]

This discussion requires a brief overview of the investment options available under the contract (that is, portfolio companies and any general or fixed account option).[212] The registrant also must prominently disclose that additional information on the portfolio companies is provided in an Appendix to the summary prospectus (or elsewhere in the case of registrants on Form N-3 that chose to omit the Appendix from the initial summary prospectus in favor of more

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209 One commenter recommended that to provide greater context for investors, this section should provide comparative information, stating "for example, if the purpose of the contract is 'to provide or supplement the investor's retirement income,' the purpose should also state that other types of investments or products can achieve the same result." *See* AARP Comment Letter. We decline to require this type of disclosure because it would not provide enough contextual information about the other products to permit comparison, and we do not require this type of disclosure for any other investment product.

210 *See* rule 498A(b)(5)(ii); *see also* Item 3(b) of amended Forms N-3 and N-4.

211 *See* Cardozo Clinic Comment Letter (describing retail investors that failed to understand consequences of annuitizing, the adverse impact of withdrawals on optional benefits, and the fact that certain benefits can only be elected during the accumulation phase).

212 However, a detailed explanation of the separate account, sub-accounts, portfolio companies, and any "fixed account" (general account) investment options is not required. *See* Instruction 2 to Item 2(b)(1) of amended Forms N-3 and N-4.

detailed information about investment options as required by Item 19 of amended Form N-3), and provide a cross-reference to the Appendix.[213] Finally, the registrant must state, if applicable, that if an investor annuitizes, he or she will receive a stream of income payments, but he or she will be unable to make withdrawals, and death benefits and living benefits will terminate.[214]

Premiums (for Variable Life Insurance Contracts). For the same reasons discussed in the Proposing Release, instead of requiring a description of the phases of the contract as with variable annuities, Form N-6 requires the "Overview" section to briefly describe the payment of premiums under the variable life insurance contract. This description of premiums must include: (1) whether premiums may vary in timing and amount (*e.g.*, flexible premiums); (2) whether restrictions may be imposed on premium payments (*e.g.*, by age of insured, or by amount); (3) how premiums may be allocated (this discussion should include a brief overview of the investment options available under the contract, as well as any general (fixed) account options); and (4) a statement that payment of insufficient premiums may result in a lapse of the contract.[215]

Unlike variable annuities, variable life insurance generally requires the investor to make continuing premium payments in order to avoid a lapse of the contract. We therefore believe the "Overview" section should prominently explain the role of premium payments in the contract,

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213 *See* rule 498A(b)(5)(ii); *see also* Instruction 1 to Item 3(b)(1) of amended Forms N-3 and N-4.

214 *See* rule 498A(b)(5)(ii); *see also* Item 3(b)(2) of amended Forms N-3 and N-4.

215 *See* rule 498A(b)(5)(ii); *see also* Item 3(b) of amended Form N-6. The instructions will require the registrant to disclose that additional information on the portfolio companies is provided in an Appendix to the summary prospectus, and provide a cross-reference to the Appendix. In addition, the instructions note that a detailed explanation of the separate account, sub-accounts, portfolio companies, and any "fixed account" (general account) investment options is not required. *See* rule 498A(b)(5)(ii); *see also* Instructions to Item 3(b)(3) of amended Form N-6.

and highlight for investors a key risk that non-payment (or insufficient payment) of premiums could result in contract lapse.

Contract Features. Finally, this section will include a summary of the contract's primary features, including annuity benefits, death benefits, withdrawal options, loan provisions, and any available optional benefits.[216] If applicable, the registrant must state that the investor will incur an additional fee for selecting a particular benefit. Because registrants will discuss many of these subjects in other sections of the initial summary prospectus in greater detail (and will discuss each of these subjects in more detail in the contract statutory prospectus), this paragraph is intended to be summary in nature.

One commenter suggested that the proposed list of overview topics was reasonable, but requested flexibility to allow registrants to prepare appropriate disclosures based on their products, markets, and customers.[217] A second commenter suggested that the contract's primary features and options should be listed in order of importance.[218] Because we believe the item requirements for the "Overview" section focuses on the most important features and options of a contract, while also giving registrants sufficient flexibility to tailor the disclosures in the manner best designed to briefly explain each product's features, we are adopting the substantive requirements for this section as proposed.

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216 *See* rule 498A(b)(5)(ii); *see also* Item 3(c) of amended Forms N-3, N-4, and N-6.

217 *See* ACLI Comment Letter.

218 *See* Breacher Comment Letter.

Standard Death Benefits

We are modifying our proposed approach to death benefit disclosures in the initial summary prospectus. To highlight standard death benefit limitations and the possibility of its termination, the Commission proposed to require a section briefly describing the contract's standard death benefit,[219] immediately followed by a separate section describing any optional death benefits, as well as standard and optional living benefits.

We received several comments suggesting that we eliminate the standard death benefit as a standalone section of the initial summary prospectus for variable annuities because, as one commenter explained, "investors typically don't purchase variable annuities for their death benefits, which don't generally require an additional fee."[220] Instead, commenters recommended that for variable annuities standard death benefits should be discussed in conjunction with the "Other Benefits Available Under the Contract."[221]

After considering these comments, in a change from the proposal, we are not requiring variable annuity registrants to include a separate section of the initial summary prospectus briefly describing the standard death benefit. Registrants will instead provide standard death benefit information with all other standard and optional benefits, as discussed below.

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219 *See* proposed rule 498A(b)(5)(iii); *see also* proposed Item 11(a) of Form N-3; proposed Item 10(a) of Form N-4; proposed Item 10(a) of Form N-6.

220 *See* CAI Comment Letter; Comment Letter of Yassi Abdullah (Dec. 31, 2019) ("the standard death benefit isn't such a big deal under my contract."); Comment Letter of Kristin Bowler (Feb. 11, 2019) (stating that the standard death benefit is "not that important."). The respondents to our Feedback Flier collectively identified the standard death benefit as the "least useful" section of the hypothetical initial summary prospectus.

221 *See* CAI Comment Letter.

One commenter stated that "the concept of a 'standard' death benefit generally does not apply to [variable life insurance] contracts." The commenter noted that instead, variable life insurance contracts generally offer a choice of two or three death benefit options, none of which is standard.[222] This commenter recommended retaining a standalone section of the initial summary prospectus to describe variable life insurance contract death benefits, but suggested eliminating "Standard" from the heading, to be simply re-titled "Death Benefits." This commenter also stated that the initial summary prospectus should summarize death benefit information rather than requiring almost all the information about death benefits in the variable life insurance contract's statutory prospectus.

In response to these comments, we are revising the rule to clarify that "standard death benefits" exclude optional or supplemental death benefits available for a separate charge.[223] To the extent that variable life insurance contracts present investors with a choice among several death benefit options whose costs are already reflected in the base contract, we believe that those options should be disclosed as part of the "standard death benefit" disclosures. To the extent that death benefits are available for a separate charge, those benefits should be presented as part of the section "Other Benefits Available Under the Contract."[224] We are retaining the heading "Standard Death Benefits" in the initial summary prospectus to distinguish the standard variable life insurance contract death benefits from any optional death benefits.

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222 *See* CAI Comment Letter (stating that "these death benefits generally are: (a) face amount (the "level" death benefit); (b) face amount plus cash or contract value (the "increasing" death benefit); and in some cases, (c) return of (net) premium.")

223 *See* rule 498A(b)(5)(iii); Item 10(a) of amended Form N-6; s*ee also infra* Section II.C.2.k.

224 *See* rule 498A(b)(5)(iv); Item 11(a) of amended Form N-6; *see also infra* Section II.C.2.l.

As proposed, the rule requires disclosure of the forms the benefit may take and the form of benefit that will be provided if a particular form has not been selected, which should address the issue raised by the commenter regarding the various death benefit options that are generally offered by variable life insurance contracts. We are adopting the rule, as proposed, to require an initial summary prospectus for variable life insurance contracts to include certain key information regarding those standard death benefits.[225] Among other things, the initial summary prospectus requires, for each standard death benefit, when the insurance coverage is effective, when the death benefit is calculated and payable, how the death benefit is calculated, who has the right to choose the form of benefit and the procedure for choosing the form of benefit, the forms the benefit may take, and whether there is a minimum death benefit guarantee associated with the contract.

Finally, as proposed, under the registration form amendments, variable life insurance registrants will include in the statutory prospectus more detailed disclosures relating to standard death benefits, including how an investor may change the face amount of the death benefit, and how contract values and death benefits are affected by the investment performance of the portfolio companies, expenses, and deduction of charges. This additional information may help an investor who wants to understand the mechanics of how standard death benefits operate later in the contract lifecycle. However, we are not requiring that additional information to be included in the initial summary prospectus because we believe it would not be as critical to a basic initial understanding of the benefits, including any risks and limitations.

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225 *See* rule 498A(b)(5)(iii); Item 10(a) of amended Form N-6; s*ee also infra* Section II.C.2.k.

[Other] Benefits Available Under the Contract

We are requiring, largely as proposed, registrants to summarize standard and optional benefits available to the investor under the contract. We understand that insurers commonly consider these types of benefits to be primary features of variable contracts.[226] Because these benefits are also often key differentiators between competing products, we are requiring, largely as proposed, specific disclosures in both the statutory prospectus and the initial summary prospectus.

As discussed above, variable annuity contracts will not have a standalone section for standard death benefits, so we are retitling the heading for this section "Benefits Available Under the Contract" and requiring this summary table to include information about any standard and optional annuity or other living benefits, as well as any standard and optional death benefits that the variable annuity contract offers.[227] Since variable life insurance contracts will disclose standard death benefits in a separate section of the prospectus, in this section they will disclose non-standard death benefits (*i.e.*, optional or supplemental death benefits available for a separate charge) as well as living contract benefits (such as income benefits, disability riders, long-term care insurance) under the heading "Other Benefits Available Under the Contract."[228] For purposes of this discussion, we refer to this table in the variable annuity and variable life insurance contract registration forms as the Benefits Table.

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226 *See* Proposing Release, *supra* note 6, at n.17 and accompanying text (regarding the prevalence of optional benefits).

227 *See* rule 498A(b)(5)(iv); *see also* Item 11(a) of amended Form N-3; Item 10(a) of amended Form N-4.

228 *See* Item 11(a) of amended Form N-6.

Because benefit terms can be complex, we are requiring the information to be provided in a uniform tabular presentation to make these important disclosures easier for investors to read, understand, and compare. Largely as proposed, the Benefits Table requires the name of each benefit, its purpose, whether the benefit is standard or optional, and a brief description of limitations or restrictions.[229]

In a change from the proposal, we are requiring the Benefits Table in Forms N-3 and N-4 to disclose the maximum fees (as a stated percentage of contract value, benefit base, etc.) associated with each benefit listed in the table(s), and revising the table heading to state "Maximum Fee."[230] Our proposal would have required disclosure of "associated fees," but several commenters asked for clarification regarding whether registrants should disclose the maximum or current fees associated with the benefits, and whether fees could change over time.[231]

Variable contracts typically include provisions that allow insurers to increase the fees associated with benefits up to a maximum charge, which can be significantly higher than the current fee. To help investors understand how much fees can be raised over time, we are revising the proposed instructions to the Benefits Table to clarify that registrants must disclose

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229 For example, the description of limitations or restrictions could include statements like "benefit limits investment options available" or "withdrawals could terminate benefit." *See* Instruction 6 to Item 11(a) of amended Form N-3; Instruction 6 to Item 10(a) of amended Form N-4; Instruction 6 to Item 11(a) of amended Form N-6.

230 *See* Instruction 5 to Item 11(a) of amended Form N-3; Instruction 5 to Item 10(a) of amended Form N-4; Instruction 5 to Item 11(a) of amended Form N-6.

231 *See* [Feedback Flier] Comment Letters (seeking clarification regarding whether the "Fee" in the "Other Benefits Under the Contract" table was the current or maximum fee); *see* also VIP Working Group Comment Letter; Nedar Comment Letter; LeRoy Comment Letter.

the maximum charge that investors could pay for each benefit.[232] Also in a change from the proposal, the final instructions to this table in Forms N-3 and N-4 will permit registrants to disclose the current charge in a separate column, if the disclosure of the current charge is no more prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge.[233] Collectively, this parallels the presentation of these charges in the Fee Table included in Forms N-3 and N-4.[234]

For variable life products registered on Form N-6, where fees are based in part on the personal characteristics of the insured, we recognize that a maximum fee applicable to an insured in the highest possible mortality risk category (*e.g.*, an elderly smoker) may not be relevant to a typical investor. For these reasons, this item in Form N-6 does not require disclosure of maximum fees, but instead requires a statement explaining that the Fee Table contains information about the fees for each benefit.[235] We are adopting this requirement as proposed.

Under the form amendments, a registrant must include in the statutory prospectus the Benefits Table, as well as additional disclosures in narrative form relating to benefits, such as further descriptions of each benefit, whether it is standard or optional, descriptions of the benefits' limitations, restrictions and risks, and one or more examples illustrating the operation

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232 For example, the table could disclose "up to 1.5%" or provide similar disclosure. *See* Instruction 5 to Item 11 of Form N-3; Instruction 5 to Item 10 of Form N-4. Where an insurer reserves the right to charge a fee, the table must include the maximum amount that may be charged, even if the insurer does not currently charge the fee.

233 *See* Instruction 6 to Item 11 of Form N-3; Instruction 6 to Item 10 of Form N-4.

234 *See* Instruction 5 to Item 4 of amended Forms N-3 and N-4.

235 As discussed above, the Fee Table includes the minimum fee, maximum fee, and fee for a representative investor for each benefit. *See supra* note 652 and accompanying text. This information should help provide better context for investors to understand the fees for the other benefits available under the contract.

of each benefit.[236] We believe that requiring the initial summary prospectus to include only the Benefits Table and not the additional narrative disclosures is appropriate for the scope of the initial summary prospectus.[237] Consistent with the layered disclosure approach, investors who want more information about benefits may refer to the more extensive narrative disclosures in the contract statutory prospectus. Because the initial summary prospectus is intended for new investors and limited to features that are currently offered, benefits that are no longer available should not be included in the Benefits Table in the summary prospectus, but should be described in the statutory prospectus.[238]

We are also adopting, as proposed, instructions that allow registrants offering multiple benefits of the same type (*e.g.*, death benefit, accumulation benefit, withdrawal benefit, long-term care benefit, etc.) to use multiple tables to provide the required information, if doing so might better permit comparisons of those benefits.[239] Registrants may also include appropriate titles, headings, or other information that might promote clarity and facilitate

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236 *See* Items 11(b) and (c) of amended Form N-3 and instruction to same; Items 10(b) and (c) of amended Form N-4 and instruction to same; Items 11(b) and (c) of amended Form N-6 and instruction to same.

237 Registrants may, but are not required to, provide in the initial summary prospectus cross-references or links to these additional narrative disclosures in the contract statutory prospectus.

238 *See* CAI Comment Letter (requesting that the Commission clarify that benefits (including versions and iterations of a single benefit) that are owned by existing contract owners but no longer for sale should not appear in an initial summary prospectus.").

239 *See* Instruction 1(b) to new Item 11(a) of amended Form N-3; Instruction 1(b) to amended Item 10(a) of amended Form N-4; Instruction 1(b) to Item 11(a) of amended Form N-6. Registrants that choose to use a single table should consider whether grouping together multiple benefits of the same type, with appropriate headings, might similarly permit better comparisons of those benefits.

understanding of the table(s).[240] For example, if certain benefits are only available to certain investors, or are mutually exclusive, the table could include headings to identify which benefits are affected and to whom they are available. These instructions are designed to accommodate the variety of benefits currently offered or that might be offered in the future, and provide registrants flexibility in presenting this information.

One commenter suggested that a one-page description of each rider may be more appropriate than the proposed Benefits Table.[241] In reacting to the Benefits Table contained in the hypothetical initial summary prospectus, some commenters also asked for more information, including how much a benefit pays, the likelihood that a benefit will pay out, and how much can be withdrawn annually.[242] While we recognize that the information in the Benefits Table only provides a brief description of the benefits, we believe that because variable contract features are typically complex, even a short description of each benefit available under the contract could significantly expand the length of what is designed to be a short and concise document. Because we believe retail investors are more likely to read a shorter document that briefly tells them about benefits available under the contract, and since more information will be available in the full contract prospectus,[243] we are not requiring the Benefits Table in the initial summary prospectus to include more information about those benefits.

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240 *See* Instruction 1(c) to new Item 11(a) of amended Form N-3; Instruction 1(c) to new Item 10(a) of amended Form N-4; Instruction 1(c) to Item 11(a) of amended Form N-6.

241 *See* VIP Working Group Comment Letter.

242 *See* Comment Letter of Jake Sleder (Nov. 5, 2018) ("Sleder Comment Letter"); Breacher Comment Letter; M. Bowler Comment Letter; Nedar Comment Letter; Anonymous Comment Letter (Dec. 28, 2018) ("Anonymous Comment Letter III").

243 *See infra* Section II.C.2.l.

Buying the Contract (for Variable Annuity Contracts) and Premiums (for Variable Life Insurance Contracts)

We are adopting, largely as proposed, the requirement that the initial summary prospectus include a brief description of the procedures for purchasing the variable contract (and premiums, in the case of variable life insurance contracts), under the heading "Buying the Contract" for variable annuity contracts, and "Premiums" for variable life insurance contracts.[244] We believe this information should be included in the initial summary prospectus so investors have a clear understanding of how they can purchase the variable contract.

For variable annuity contracts, this will include a concise explanation of the minimum initial and subsequent purchase payments required, any limitations on the amount of purchase payments (such as when the selection of certain optional benefits may limit additional purchase payments), as well as a statement of when such payments are credited.[245] For variable life insurance contracts, this will include a description of the purchase procedures, premium amount, and premium due dates.[246]

One commenter noted that as proposed, the initial summary prospectus for variable life insurance contracts would include virtually all of the information required to be in the Premiums section of the variable life insurance statutory prospectus, and asked that we instead permit a

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244 *See* rule 498A(b)(5)(v); *see also* Item 12(a) of amended Form N-3; Item 11(a) of amended Form N-4; Item 9(a) through (c) of amended Form N-6. With the exception of renumbering certain provisions, we made no other changes to this item as presented in current Forms N-3 and N-4.

245 *See* rule 498A(b)(5)(v); *see also* Item 12(a) of amended Form N-3; Item 11(a) of amended Form N-4.

246 *See* rule 498A(b)(5)(v); *see also* Item 9(a) through (c) of amended Form N-6.

brief summary of the specified premium information.[247] In response to the commenter's suggestion, we are revising the rule to require an initial summary prospectus for variable life insurance contracts to include only certain key information regarding premiums.[248] Among other things, the initial summary prospectus requires registrants on Form N-6 to describe the provisions of the contract that relate to premiums and the procedures for purchasing a contract, the factors that determine the amount of any required premiums, and the provisions of the contract that relate to premium due dates and the operation of any grace period.

We believe this information should be included in the initial summary prospectus so investors have a clear understanding of how they can purchase the variable contract, but we are persuaded by the commenter that a more concise summary that is limited to key information regarding premiums is more likely to be useful to investors and is appropriate for the initial summary prospectus. We also note that, as proposed, additional information on purchases and premiums will appear in the statutory prospectus. For example, the statutory prospectus will also include information on the manner in which purchase or premium payments are credited, and the identity of each principal underwriter.[249]

Contract Lapse (for Variable Life Insurance Contracts)

We are adopting, largely as proposed, the requirement that the initial summary prospectus for a variable life insurance contract include certain information about the possibility of contract

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247 *See* CAI Comment Letter; *see also* Proposing Release, *supra* note 6, at n.181.

248 *See* rule 498A(b)(5)(v); *see also* Item 9(a) through (c) of amended Form N-6; *see infra* Section II.C.2.m.

249 *See* Item 12 of amended Form N-3; Item 11 of amended Form N-4; Item 9 of amended Form N-6.

lapse, under the heading "How Your Contract Can Lapse."[250] Specifically, the initial summary prospectus must briefly describe when and under what circumstances a variable life insurance contract will lapse, any lapse options, the effect of the lapse and under what circumstances such a contract may be reinstated. Because inadvertent contract lapse could negate the insurance benefit of a policy to an investor, possibly at significant cost,[251] understanding the risk of contract lapse is important when deciding whether to invest in a variable life insurance contract.

The Commission proposed that the initial summary prospectus would include the same information on contract lapse that would appear in the contract statutory prospectus. One commenter suggested that, consistent with a layered disclosure approach, the initial summary prospectus should only include a brief summary of the lapse and reinstatement information required in the full statutory prospectus.[252] In response to comments and consistent with our layered disclosure approach, we are revising the rule to require an initial summary prospectus for variable life insurance contracts to include only certain key information regarding contract lapse.[253] We were persuaded by the commenter that a more concise summary that is limited to key information regarding premiums is more likely to be useful to investors and is appropriate for the initial summary prospectus. Among other things, the initial summary prospectus requires

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250 *See* rule 498A(b)(5)(vi); *see also* Item 14(a) of amended Form N-6 (requiring a brief summary of the disclosures required by paragraphs (b) through (e) of amended Item 14); *see infra* Section II.C.2.p.

251 For example, costs could occur in the form of premium payments that the investor previously paid into the policy, and which the investor cannot retrieve following contract lapse.

252 *See* CAI Comment Letter.

253 *See* rule 498A(b)(5)(vi); *see also* Item 14(a) through (c) of amended Form N-6; *see infra* Section II.C.2.p.

registrants on Form N-6 to state when and under what circumstances a contract can lapse, the effect of lapse, and under what circumstances a contract may be reinstated.

Surrenders or Withdrawals

Largely as proposed, the initial summary prospectus must include certain information about contract surrenders or withdrawals, under the heading "Making Withdrawals: Accessing the Money in Your Contract."[254] This will include a brief summary on how to surrender (or partially surrender or make withdrawals from) a variable contract, including any limits on the ability to surrender, how withdrawal and surrender proceeds are calculated, and when they are payable.

Several commenters observed that investors would also benefit from a description of the negative consequences of partial withdrawals on death and living benefits.[255] We agree that such information would be useful for investors, and have revised the relevant form requirements to additionally require the initial summary prospectus to briefly describe the potential impact of such surrenders or withdrawals.[256] Given that variable contracts are long-term investments that may entail high surrender fees, it is important to clearly explain the withdrawal and surrender terms to new variable contract investors, including the consequences of withdrawals on death and living benefits. To clarify the scope of paragraph (a), and to simplify this item in general, we are also removing references to "partial surrender" and "partial withdrawal" (which both

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254 *See* rule 498A(b)(5)(vii); *see also* Item 13(a) of amended Form N-3; Item 12(a) of amended Form N-4; Item 12(a) of amended Form N-6.

255 *See* CAI Comment Letter; Transamerica Comment Letter; AARP Comment Letter.

256 *See* rule 498A(b)(5)(vii); *see also* Item 13(a) of amended Form N-3; Item 12(a) of amended Form N-4; Item 12(a) of amended Form N-6; *see also infra* Section II.C.2.n.

have the same meaning as "withdrawal") so that this item will only refer to "surrender" and "withdrawal," which we believe are more plain English.[257]

Additional information on surrenders and withdrawals will appear in the statutory prospectus. For example, the statutory prospectus must include more detailed information on surrenders and withdrawals, sub-account allocation, involuntary redemptions, and revocation rights (free look period).[258]

Additional Information About Fees

As proposed, the initial summary prospectus must include the Fee Table (including, for variable annuity contracts, the expense example), that will appear in the statutory prospectus, under the heading "Additional Information About Fees."[259] The Fee Table provides detailed information on the fees and expenses investors will pay when buying, owning, and surrendering

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257 For example, as proposed, references to "surrender" appeared in paragraph (a) while references to "partial surrender" appeared in paragraphs (a) through (d). As amended, references to "surrender" appear in paragraphs (a) through (d) while all references to "partial surrender" are removed from this item. Among other things, this change clarifies that only the most important information about surrenders is required to be included in the summary prospectus pursuant to paragraph (a), while other information about surrenders should be disclosed in the statutory prospectus. This is consistent with the layered disclosure approach embodied in the summary prospectus and helps to ensure that the information in the summary prospectus regarding surrenders is not simply a full recitation of the same information contained in the statutory prospectus.

258 *See* Item 13(b) through (d) of amended Form N-3; Item 12(b) through (d) of amended Form N-4; Item 12(b) through (d) of amended Form N-6.

259 *See* rule 498A(b)(5)(viii); *see also* Item 4 of amended Forms N-3, N-4, and N-6.

The initial summary prospectus fee information will be the same as the Fee Table included in the contract statutory prospectus, modified as necessary to describe only a single contract that the registrant currently offers for sale. *See infra* Section II.A.1.b.

the contract, as well as those paid each year during the time the investor owns the contract.[260] We are also adopting, largely as proposed, certain amendments to the Fee Table for each type of variable contract, as discussed below in Section II.C.2.d.

We are requiring the Fee Table in both the statutory prospectus and the initial summary prospectus because investor understanding of variable contract fees is particularly important given these products' layered fee structure and typically higher costs relative to other investment products. The Fee Table is intended to complement and build upon the high-level summary of contract fees and expenses in the Key Information Table by providing additional detail for those investors who may wish to review more comprehensive fee and expense information.[261]

We understand that some registrants currently prepare supplements to the contract prospectus that detail and modify certain fees and rates under the variable contract applicable to new investors ("rate sheets"). Current fees, withdrawal rates, and crediting rates associated with various contract benefits (for new sales) can change so frequently as to make filing of post-effective amendments to the registration statement with each change impractical. Instead, updated disclosure of current levels of these fees and rates is accomplished by filing a rate sheet as a supplement under rule 497 under the Securities Act. Because a rate sheet is no different than a change to any other term in the prospectus, the rate sheet approach permits the filing of a 497 filing instead of a rule 485(a) filing to implement that material change.

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260 In addition, the Fee Table details the minimum and maximum total operating expenses the portfolio companies charge annually, as well as an example intended to help the investor compare the cost of investing in different variable contracts.

261 *See supra* Section II.A.1.c.ii.(a).

Several commenters sought clarification regarding when a change to the contract would require the filing of a rate sheet supplement for an initial summary prospectus, and about the corresponding delivery obligations for rate sheet supplements.[262] As we noted in the proposal, we do not believe that the summary prospectus framework will affect the current practice of using rate sheets. When a rate (relating to fees, withdrawal rates, crediting rates, etc.) disclosed in any prospectus (initial, updating, or statutory) changes, the prospectus must be updated with the new rate and the update filed with the Commission, and the revised disclosures must be provided to investors affected by the rate change.[263]

Two commenters suggested that instead of filing rate sheets, insurers should provide current rates to investors as marketing materials at the point of sale.[264] Because a variable contract's fees and rates are material information, we do not believe relegating this information to marketing materials is sufficient, and are not making the suggested change.

Appendix: Portfolio Companies/Investment Options Available Under the Contract

We are requiring, largely as proposed, an initial summary prospectus to include an appendix, under the heading "Appendix: Portfolio Companies/Investment Options Available Under the Contract," that provides summary information in a tabular form about the portfolio

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262 *See* CAI Comment Letter; VIP Working Group Comment Letter; Transamerica Comment Letter.

263 For example, if the rate sheet is updating information in a summary prospectus or the statutory prospectus, the document should describe how the rate sheet process works, and the rate sheet supplement should be affixed to the front of the document. In addition, the rate sheet supplement should be available on the website where current prospectuses and certain other documents must be posted online under rule 498A(h). As a best practice, all current rates should be separately posted on the website.

264 *See* CAI Comment Letter; Transamerica Comment Letter.

companies or investment options offered under the contract.[265] Commenters generally supported our proposal to include this Appendix in the initial summary prospectus.[266] While no commenters opposed the Appendix, we did receive a number of recommendations to modify certain aspects of the Appendix, some of which we are incorporating into the final version. In addition, we are making certain other changes discussed below.

Format/Scope. Because the investment experience of a variable contract investor will largely depend on his or her selection of portfolio companies (or investment options in the case of a variable annuity registered on Form N-3), we believe it is important for investors to receive an overview of the portfolio companies and investment options available under the contract in a uniform tabular presentation that promotes comparison, and are requiring, as proposed, the format specified in the introductory sentence of the relevant form item.[267] The Commission also proposed an instruction that registrants only include portfolio companies that are currently

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265 *See* rule 498A(b)(5)(ix); *see also* Item 18 of amended Form N-3; Item 17 of amended Form N-4; Item 18 of amended Form N-6.

266 *See, e.g.*, ICI Comment Letter; AARP Comment Letter (commending the "proposal for a summary disclosure for the underlying portfolio companies. We submit that a concise disclosure is needed."); Capital Group Comment Letter; ACLI Comment Letter; Comment Letter of American International Group (Mar. 15, 2019) ("AIG Comment Letter"). In addition, the respondents to our Feedback Flier collectively identified the Appendix as the second "most useful" section of the hypothetical initial summary prospectus (after the Key Information Table).

267 *See* Item 17 of amended Form N-4; Item 18 of amended Form N-6. In the context of participant-directed individual account plans under the Employee Retirement Income Security Act of 1974 (which, similar to variable contracts, are long-term, tax-advantaged investment vehicles whereby the investor may direct his or her investment among investment alternatives), a similar disclosure requirement applies. *See* 29 CFR 2550.404a-5(d).

offered under the contract, and we are adopting this instruction with a modification, as described below.[268]

One commenter asked us to clarify whether the "currently offered" standard includes portfolio company options in which current, but not new, investors are permitted to invest ("soft closed" fund options).[269] This commenter suggested that an instruction be added to the Appendix specifying that soft closed fund options should not be included in the Appendix appearing in an initial summary prospectus, but should be included in the Appendix appearing in an updating summary prospectus and in a Statutory Prospectus, with an explanation (in a footnote or otherwise) of the limited availability of the options.

We are modifying the form instruction to state that the Appendix must only include portfolio companies that are investment options under the contract (not just those that are "currently offered," as proposed), and clarifying that registrants must indicate if investments in any of the portfolio companies offered under the contract are subject to a restriction (because of a "soft" or "hard" close).[270] This change is designed to require summary and statutory prospectuses to include all of the portfolio companies available under the contract in the Appendix, not just those that are currently offered. However, because the initial summary

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268 *See* Instruction 1(b) to proposed Item 19 of Form N-3; Instruction 1(a) to proposed Item 18 of Form N-4; Instruction 1(a) to proposed Item 18 of Form N-6.

269 *See* CAI Comment Letter (explaining that "the Portfolio Company associated with a soft closed fund option may or may not be issuing new shares. Instead, when a Portfolio Company option is soft closed, the insurer limits the ability of some or all contract owners to invest in the subaccount corresponding to that Portfolio Company.").

270 S*ee* Instruction 1(a) to Item 18 of amended Form N-3, Item 17 of amended Form N-4, and Item 18 of amended Form N-6; *see infra* Section II.C.2.t.

prospectus may describe only a single contract currently offered for sale,[271] the Appendix will only list the portfolio companies that are investment options under that particular contract.

Contents. The Commission proposed that the Appendix include separate columns for each portfolio company's type (*e.g.*, money market fund, bond fund, balanced fund, etc.) or investment objective; the name of the portfolio company and its adviser or subadviser (as applicable); the portfolio company's expense ratio (expenses/average assets and, in the case of Form N-3, explicitly excluding optional benefit expenses); and its average annual total returns over the past 1-year, 5-year, and 10-year periods (in the case of Form N-3, explicitly excluding optional benefit expenses).[272]

Type or Investment Objective

Regarding the proposed requirement that the Appendix include the portfolio company's type or investment objective, one commenter recommended that we require only the investment type (or primary asset class), which is similar to 401(k) fee disclosures, and not the investment objective.[273] Another commenter, which conducted its own online survey of variable annuity investors regarding certain aspects of the proposed Appendix, stated that its testing indicates that "if either 'Investment Objective' information or 'Investment Type' (*i.e.*, one of these data fields, but not both) were to be included in the Appendix, "Investment Objective" would be more useful

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271 *See* rule 498A(b)(1).

272 *See* Instructions 2-4, 7 to Item 18 of amended Form N-3; Instructions 2-4, 7 to Item 17 of amended Form N-4; Instructions 2-4, 7 to Item 18 of amended Form N-6.

For purposes of this discussion, we use the term "portfolio company" throughout, even though the Appendix for Form N-3 registrants will use the term "investment option."

273 *See* AARP Comment Letter.

to investors."[274] In light of these varying comments, we continue to believe that it is appropriate to permit registrants the flexibility to choose the approach they believe most clearly and effectively communicates a portfolio company's investment category to retail investors, and are adopting this aspect of the Appendix as proposed.[275]

Name of Portfolio Company and its Adviser or Subadviser

In response to our proposal to include a column with the name of each portfolio company and its adviser or subadviser, one commenter stated that that the Appendix should only identify sub-advisers "whose actions are likely to impact the fund significantly," and an instruction should limit the requirement to sub-advisers that are responsible for a significant portion of a portfolio company's net assets, consistent with the approach for mutual funds.[276] We agree, and have modified the relevant instruction to mirror the approach in Form N-1A for consistency between the forms.[277]

Portfolio Company Expenses and Performance

A number of commenters opposed our proposal to require the Appendix to include each portfolio company's expense ratio and/or performance information.[278] One commenter stated

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274 *See* Comment Letter of Broadridge Financial Solutions, Inc. (Mar. 15, 2019) ("Broadridge Comment Letter") (reporting that based on a 4-day online survey of 120 individuals that self-identified as current variable annuity investors and were asked to review a modified version of the proposed Appendix that replaced information on "investment type" with "investment objective, "nearly 90% said "Investment Objective" was more helpful than "Investment Type.").

275 *See* Instruction 2 to Item 18 of amended Form N-3, Instruction 2 to Item 17 of Form N-4, and Instruction 2 to Item 18 of Form N-6.

276 *See* ICI Comment Letter (citing Instruction 2 to Item 5(b) of Form N-1A).

277 *See* Instruction 3 to Item 18 of amended Form N-3, Instruction 3 to Item 17 of Form N-4, and Instruction 3 to Item 18 of Form N-6; *see also* Instruction 2 to Item 5(a) of Form N-1A.

278 *See* CAI Comment Letter (opposing fee and performance information); Brighthouse Comment Letter (opposing fee and performance information); Transamerica Comment Letter (opposing fee

that insurers should not be responsible for disclosing specific data that is in each portfolio company's prospectus, and would be available at the website specified in the legend for the summary prospectus.[279] Several recommended eliminating this requirement, and replacing it with a legend or cross-reference stating where and how up-to-date portfolio company data can be obtained (*e.g.*, on portfolio company and insurance company websites).[280] Two commenters suggested that electronic versions of the summary prospectus should be required to include direct links to the portfolio company summaries in the Appendix.[281]

Commenters also opposed this requirement asserting that gathering the information for each portfolio company offered under a contract would be administratively burdensome (and in some cases, potentially infeasible given filing-related timing constraints).[282] They explained that insurers must rely on the portfolio companies to transmit their current expense ratios to them in time to meet the variable contracts' registration statement filing (and printing and mailing) deadlines. They noted that because portfolio companies often do not finalize their expense information until shortly before they file their annual registration statement updates, there is a very narrow window of time for insurers to collect, verify, and incorporate current portfolio company expense ratios into the variable contract prospectuses, which, like portfolio company

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and performance information); Lincoln Comment Letter (opposing performance information); Ameritas Comment Letter (opposing performance information).

279 *See* CAI Comment Letter.

280 *See* CAI Comment Letter; Lincoln Comment Letter; Brighthouse Comment Letter; Transamerica Comment Letter.

281 *See* AIG Comment Letter; CFA Comment Letter.

282 *See* CAI Comment Letter; Lincoln Comment Letter; Ameritas Comment Letter; Brighthouse Comment Letter; ACLI Comment Letter.

prospectuses, must be filed by May 1.[283] Several commenters suggested there would also be operational and timing challenges associated with obtaining portfolio company performance data.[284]

Commenters also expressed concern about being dependent on the cooperation of third-parties (particularly unaffiliated portfolio companies) to obtain the required portfolio company data in time to include the information in their variable contract initial summary (and other) prospectuses.[285] One commenter recalled that Form N-4 previously required expense ratios for each portfolio company in the Fee Table, stating "that requirement was later eliminated, and in this respect, the proposed requirement represents a step backwards."[286]

Two commenters also opposed including portfolio company performance in the Appendix on the grounds that performance would be quickly become outdated, whereas more current and frequently updated performance data is generally available online.[287] They expressed concern that having to disclose portfolio company performance, in addition to the expense ratios, would further exacerbate the timing and operational challenges associated with disclosing this information in the Appendix.

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283 *See* Lincoln Comment Letter; Ameritas Comment Letter; Brighthouse Comment Letter; CAI Comment Letter; ACLI Comment Letter; AIG Comment Letter; Transamerica Comment Letter.

284 *See* ACLI Comment Letter; Brighthouse Comment Letter.

285 *See* CAI Comment Letter; ACLI Comment Letter (asking us to encourage portfolio companies to share the required information with them in a timely manner); Lincoln Comment Letter; Ameritas Comment Letter; Brighthouse Comment Letter; AIG Comment Letter; Transamerica Comment Letter.

286 *See* CAI Comment Letter (citing Disclosure of Costs and Expenses by Insurance Company Separate Accounts Registered as Unit Investments Trusts, Investment Company Act Release No. 25802 (Nov. 13, 2002) [67 FR 69973 (Nov. 19, 2002)] ("2002 Adopting Release")).

287 *See* Brighthouse Comment Letter; CAI Comment Letter.

We recognize these timing and coordination concerns, and that these challenges increase for variable contracts that offer contracts with a large number of portfolio companies. Regarding portfolio expense information, however, insurers currently must obtain current expense ratios for each portfolio company to ensure the accuracy of the range of lowest and highest portfolio company expenses in the Fee Table – a requirement that we leave undisturbed in this document. In addition, the fact that some insurers provide expense information for each portfolio company shows that it is currently feasible to obtain and disclose this information,[288] and may soon be easier with the aid of new technology solutions.[289]

We acknowledge, as one commenter noted, that Form N-4 previously required expense ratios for each portfolio company in the Fee Table. However, as explained in the 2002 Adopting Release, the Commission removed the requirement in an effort to streamline the Fee Table, which had grown lengthy and complex, and instead required Form N-4 registrants to disclose a range showing the lowest and highest expenses for portfolio companies available under the contract.[290] We are now once again requiring disclosure of portfolio company expense information – but in the Appendix, as opposed to the Fee Table. As discussed below we believe that it is appropriate to require this disclosure, particularly in light of the portfolio company prospectus delivery option we are adopting.

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288 *See* Brighthouse Comment Letter (stating that "[it] has continued to include fund-by-fund expense ratios (but not performance data) in our prospectuses even after such requirement was eliminated from Form N-4 (which requires only the highest and lowest fund expense ratios to be disclosed).").

289 As discussed below, we recently required mutual funds to use Inline XBRL to tag their risk/return summaries, which may make it easier for insurers to "scrape" the data they need to populate their variable contract Appendixes. *See infra* Section II.D. *See also infra* note 892.

290 *See* 2002 Adopting Release, *supra* note 286.

Regarding the concern that obtaining portfolio company performance data may also present operational and timing challenges for insurers, we note that a portfolio company's performance information must be included in its annual report that is typically filed and publicly available by early March,[291] which should provide sufficient time for a registrant to obtain such information before the variable contracts' registration statement annual update must be filed. As is the case with the portfolio company expense information, the portfolio company performance information is also part of the risk/return summary that will be tagged using the Inline XBRL format.

We are also concerned that eliminating portfolio company fee and performance data from the Appendix, as commenters suggest, will not benefit investors. We believe it is important for investors to receive an overview of the portfolio companies and investment options available under the contract in a uniform tabular presentation that promotes comparison, and designed the Appendix with that in mind. A portfolio company's expense ratio and performance provide key information that, if eliminated from the Appendix, would significantly reduce its usefulness to investors. We do not believe an Appendix that provides a legend or cross-reference stating where a portfolio company's prospectus may be found allows investors to as efficiently and effectively compare investment options as one that includes expense and performance information. Moreover, once an investor has purchased a variable contract, information about portfolio companies is the most important information he or she needs when considering how to

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[291] *See* 17 CFR 270.30e-1 (rule 30e-1 under the Investment Company Act). All insurance product portfolio companies have a December 31 fiscal year-end, and must transmit their annual reports to shareholders within 60 days after that date. Form N-CSR, which must be filed no later than 10 days after the transmission of the annual report, must contain a copy of the annual report to shareholders, which is made publicly available on EDGAR.

invest new premiums and whether to reallocate current contract values to different investment options.[292] In a layered disclosure regime, including portfolio company expense and performance information in the updating summary prospectus is the type of key information that we believe should be provided to investors.

In addition, the Appendix is designed to help facilitate the new optional portfolio company delivery option. Investors in contracts registered on Forms N-4 and N-6 currently receive portfolio company prospectuses at or shortly after the point of sale, as well as each portfolio company's updated prospectus each year. As discussed below, under rule 498A, portfolio company prospectus delivery obligations may be satisfied if the portfolio company summary and statutory prospectuses are posted at the website address specified on the variable contract summary prospectus.[293]

The Appendix is designed to complement the portfolio company prospectuses in a layered disclosure approach to provide the investor with an ability to choose the amount and type of information he or she prefers to review. For investors that do not choose to review portfolio company prospectuses posted at the specified website, the Appendix may contain all the information they receive about their investment options. If we were to eliminate fee and performance information from the Appendix, as some commenters suggest, a new investor (who would have previously received the prospectuses) would have the burden of locating, obtaining, and reviewing the prospectus for each portfolio company available under the contract to discern

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292 *See* Appendix A of the Memorandum from the Division of Investment Management regarding a May 29, 2019 Meeting with Representatives of the Committee of Annuity Insurers (materials provided by Committee of Annuity Insurers participants state that "the ongoing information most relevant to existing contract owners relates to their investment options").

293 *See infra* Section II.B.

the very information we are proposing to require insurers to include in the Appendix. We believe that instead of shifting more responsibility to the investor, registrants should supply the portfolio company fee and performance information in the Appendix. Accordingly, we are requiring, largely as proposed, the Appendix to include portfolio company expense and performance information, with certain modifications as discussed below.

Several commenters asked that, consistent with parallel requirements for open-end funds set forth in Form N-1A, we permit insurers to disclose, in addition to the gross expense ratio, a portfolio company's net expense ratio, and require those that choose to do so to include a footnote explaining the effect of waivers on portfolio company expenses.[294] One commenter, in viewing the Appendix in the hypothetical initial summary prospectus, asked whether the expense ratio was gross or net, and if the expense ratio was derived from the portfolio company prospectus, which would reflect the current fee, or its annual report, which would reflect the previous year's expense ratio.[295]

After considering these comments, in a change from the proposal, we are requiring registrants to disclose under the column heading "Current Expenses," the expense ratio currently charged by each portfolio company offered under the contract.[296] We believe that current expenses provide more pertinent information to investors than gross expenses in the case of portfolio companies operating pursuant to an expense reimbursement or fee waiver

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294 *See* CAI Comment Letter; ICI Comment Letter; Brighthouse Comment Letter.

295 *See* Breacher Comment Letter.

296 *See* Instruction 4 to Item 18 of amended Form N-3; Instruction 4 to Item 17 of amended Form N-4; Instruction 4 to Item 18 of Form N-6. The expense ratio we proposed would not have reflected any waivers and reimbursements that reduce the portfolio company's rate or return. "Current Expenses," as adopted, reflects these waivers and reimbursements.

arrangement.[297] To alert investors that the costs for some portfolio companies could increase, we are requiring registrants, in a change from the proposal, to identify each portfolio company subject to an expense reimbursement or fee waiver arrangement, and provide a footnote stating that annual expenses reflect temporary fee reductions.[298]

We are also modifying the Appendix requirements to account for fund facilitation fees, or "platform charges" as they may more commonly be understood by investors.[299] We believe that all the charges associated with choosing a particular portfolio company should be presented in the Appendix, not just those charged at the portfolio company level. If a registrant charges a platform charge for any portfolio company, the Appendix must include a separate column that discloses the current platform charge associated with any portfolio company offered under the contract, along with a separate column that sums the portfolio company's current expenses plus any platform charge.[300] In addition, the column that discloses each portfolio company that has a

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297 For portfolio companies that are not operating under expense reimbursement or fee waiver arrangements, current expenses will be the same as gross expenses.

298 *Id*.

299 *See generally supra* note 160 and accompanying and following text (discussing fund facilitation fees and comments received regarding those fees).

Fund facilitation fees, or platform charges, were not explicitly addressed in the proposal, but one commenter questioned how insurers should treat them. *See* VIP Working Group Comment Letter. We believe it is appropriate to incorporate them into the forms and provide instructions on their treatment as part of the Appendix requirements.

300 *See* Instructions 5 and 6 to Item 17 of amended Form N-4; Instructions 5 and 6 to Item 18 of amended N-6. Form N-3 registrants do not have platform charges because they have a one tier structure, as discussed above. *See supra* note 160.

platform charge must include a footnote indicating the highest level to which any relevant platform charge may be increased.[301]

To help investors identify the most relevant disclosures among the various combinations of portfolio company expenses and platform charges, the column displaying the sum of the portfolio company's current expenses plus platform charges must be presented in a manner reasonably calculated to draw investor attention to that column.[302] In addition, the legend preceding the table in the Appendix must also state that the current expenses and performance columns displayed in the table do not reflect the other fees and expenses that the contract may charge, such as platform charges.[303]

One commenter recommended that we remove the proposed Annual Contract Expenses column from the Investment Option Appendix for Form N-3 registrants because it duplicates information in the Fee Table.[304] We believe some duplication is warranted to ensure that investors have key data, including expense information, about the available investment options located in one place. In addition, because the updating summary prospectus does not include a Fee Table, providing expense information in the Appendix ensures that current investors also receive the information. For these reasons, we are not making the requested change.

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301 *See* General Instruction 5 to Item 17 of amended Form N-4; General Instruction 5 Item 18 of amended Form N-6.

302 Platform charges were not explicitly addressed in the proposal. *See supra* note 299.

303 *See supra* notes 300-301 (discussing the requirement to include a column displaying platform charges separately from current expenses, as well as a column displaying platform charges plus current expenses); *infra* note 327.

304 *See* CAI Comment Letter.

In a change from the proposal, we are revising the disclosure requirements for registrants on Form N-3 to clarify that if the registrant is a multiple class fund, the registrant only needs to disclose expenses and performance for one class.[305] Investors who wish to obtain more information about portfolio company expenses for other classes can consult the information presented in the Fee Table.[306] The Appendix is intended to facilitate the ability of investors to compare the portfolio companies available under the contract, and therefore changes that would equally affect the expenses and performance of all portfolio companies, such as changes due to class, would not be helpful in facilitating the ability of investors to select a particular portfolio company. This issue is not relevant for registrants on Forms N-4 and N-6 because those are two-tiered products with separate expenses at the contract level and the portfolio company level (*e.g.*, changes in expenses due to class will not be reflected in the expenses of portfolio company).

Some commenters had specific suggestions or concerns regarding the performance information. One commenter recommended permitting variable contracts to include a statement telling investors where and how they could obtain more current portfolio company performance information.[307] We agree that this information is useful for investors and consistent with our

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305 *See* Instructions 4-5 to Item 18 of amended Form N-3. Additionally, Instructions 4-5 cross-reference instructions in Form N-3 regarding calculation of expenses and performance as opposed to instructions in Form N-1A, as proposed. However, because those instructions in Form N-3 mirror the parallel instructions in Form N-1A, this change in cross-references does not affect the substantive disclosure requirements for the Appendix in Form N-3.

306 *See* Instruction 7 to Item 4 of amended Form N-3 (providing that for a contract with more than one class, the registrant must provide a separate response for each class); *see generally supra* Section II.A.1.c.ii.(h) (discussing the Fee Table).

307 *See* ICI Comment Letter; *see also supra* note 287 and accompanying text.

layered disclosure approach, and are modifying the form instructions to permit such information to be included in the legend immediately preceding the table in the Appendix.[308]

Three commenters stated that portfolio company performance data could be misleading or confusing because it would not reflect recurring separate account or contract charges, and it could conflict with the variable contract performance information contained in other materials that do include these charges.[309] To address these concerns, we are modifying the item requirements to clarify what is (and is not) included in the performance and expense information in the Appendix.[310]

Two commenters asked that the performance information be permitted to include returns for the life of the fund if in existence for more than 10 years, to align with mutual fund disclosure requirements.[311] Because we believe that presenting performance over 1, 5, and 10 year periods makes it easier for investors to compare fund performance, and because as part of the layered disclosure framework returns for the life of the fund are in a portfolio company's summary prospectus, which will be available online or upon request, we are not making this suggested change.

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308 *See* Instruction 1(e) to Item 17 of amended Form N-4; Instruction 1(e) to Item 18 of amended Form N-6; *see also* Item 4(b)(2) of Form N-1A (parallel instruction); *see infra* note 324.

309 *See* Lincoln Comment Letter; Brighthouse Comment Letter; Ameritas Comment Letter.

310 *See* Item 18 of amended Form N-3, Item 17 of amended Form N-4, and Item 18 of amended Form N-6. *See infra* note 327 and following text.

311 *See* ICI Comment Letter; Capital Group Comment Letter.

Several commenters asked for the Appendix to convey information about the risks associated with investment options.[312] To make the Appendix more approachable for investors, we designed it to be concise, including only certain information about the available portfolio companies. Because variable contracts commonly offer hundreds of portfolio companies, and each portfolio company may have many risks, requiring risk information could quickly expand the length of the Appendix, which would make it less useful for investors and therefore we are not adopting this suggestion.

The Commission proposed that if the availability of one or more portfolio companies varies by benefit offered under the contract, registrants would be required to include another table that showed which portfolio companies were available under each of those benefits.[313] One commenter strongly opposed this second tabular presentation, stating it would be difficult, and in some cases infeasible, for insurers to distill the numerous possible variations in investment restrictions, clearly and concisely, into the simple table suggested by the proposed forms and the hypothetical initial summary prospectus.[314] This commenter also stated that the proposed disclosure about benefit-related investment restrictions in "Other Benefits Available under the Contract" provides investors with a clear understanding that not all portfolio companies or investment options may be available for investment, with additional information about such restrictions in the statutory prospectus. Another commenter stated that the investment option table could be lengthy, especially since the restrictions change over time (even for the same

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312 *See* Comment Letter of Barry Iris (Jan. 17, 2019); Anonymous Comment Letter II (suggesting that the Appendix include a measure of relative risks for each fund, *i.e.*, low, medium, high).

313 *See* Instruction 1(c) to proposed Item 19 of Form N-3; Instruction 1(c) to proposed Item 18 of Form N-4; Instruction 1(c) to proposed Item 18 of Form N-6.

314 *See* CAI Comment Letter.

contract benefit), and recommended removing this disclosure requirement if the insurer imposes guardrails that prevent an investor from violating these investment restrictions.[315]

We are requiring the Appendix in the initial summary prospectus (as well as the updating summary and statutory prospectuses) to indicate which portfolio companies are subject to benefit-related investment restrictions.[316] We recognize that providing a reader-friendly tabular depiction of the investment limitations associated with certain variable contracts may be challenging for certain insurers, particularly those that offer multiple optional benefits, or benefits that have complicated investment restrictions. However, we believe the initial summary prospectus should alert investors which portfolio companies are (or are not) available for investment depending on the optional benefit they choose, as that information could affect their investment decisions. The initial summary prospectus will be limited to a single contract currently available for sale, which by its nature will limit the number of variations, and thus complexity, of the benefit-related investment restrictions insurers will be required to disclose to new purchasers.[317]

In contrast, we believe it may be more difficult to succinctly condense all the investment-related restrictions associated with multiple optional benefits for multiple contracts over a period of years in an updating summary prospectus, which, as discussed below, may describe multiple

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315 *See* VIP Working Group Comment Letter.

316 Instruction 1(f)(2) to Item 17 of amended Form N-4; Instruction 1(f)(2) to Item 18 of amended Form N-6.

317 We understand that many insurers currently use sales materials to illustrate the benefits-related investment restrictions to potential purchasers in a manner that is similar to our proposed approach.

contracts.[318] However, because a current investor's optional benefits may be voided if he or she inadvertently fails to comply with certain investment limitations, we believe the updating summary prospectus should, at a minimum, alert investors that restrictions apply.

Accordingly, and in response to comments,[319] we are revising the instruction to provide greater flexibility to registrants in depicting such information to investors.[320] In addition, we are requiring additional disclosure in the legend preceding the Appendix alerting investors that, depending on the optional benefits they choose, they may not be able to invest in certain portfolio companies.[321] This approach is designed to minimize the Appendix's length and complexity, while addressing investor protection concerns. Accordingly, this flexibility may encourage issuers to develop more concise and effective ways to present the information to investors.

Legends. We are requiring, largely as proposed, certain legends to precede the table in the Appendix. We are modifying certain aspects of the proposed legends to provide a more straightforward presentation, as suggested by several commenters, as well as to highlight investor attention to potential investment limitations, as discussed above.[322]

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318 *See infra* Section II.A.2.b.

319 *See* CAI Comment Letter (seeking clarification that the language in the proposed instruction permitting "any other presentation that might promote clarity and facilitate understanding" would allow multiple tables, narrative explanations, annotations, and other approaches or combinations).

320 Instruction 1(f)(2) to Item 17 of amended Form N-4; Instruction 1(f)(2) to Item 18 of amended Form N-6. The proposed instructions would have required a separate table indicating these investment-related restrictions without this added flexibility.

321 *See* Instruction 1(f)(1) to Item 17 of amended Form N-4; Instruction 1(f)(1) to Item 18 of amended Form N-6. *See infra* note 324.

322 *See* AARP Comment Letter; CAI Comment Letter; ICI Comment Letter.

The first paragraph of the legend must state, as proposed: "The following is a list of [Investment Options/Portfolio Companies] available under the Contract."[323] In a change from the proposal, for registrants on Forms N-4 and N-6 for which the availability of portfolio company options varies by benefit offered under the contract, the legend will also state, "[d]epending on the optional benefits you choose under the Contract, you may not be able to invest in certain Portfolio Companies."

As proposed, the legend will provide an internet address to a landing page, toll-free telephone number, and email address that investors could use to obtain portfolio company statutory and summary prospectuses.[324] For registrants on Form N-3, the legend will direct investors to the cover page of the initial summary prospectus to request the statutory prospectus for the registrant containing more information about the investment options.[325] The legend also

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323 *See* rule 498A(b)(5)(ix); Item 18 of amended Form N-3; Item 17 of Form N-4; Item 18 of amended Form N-6.

324 For registrants on Forms N-4 and N-6, the legend will read as follows:

"The following is a list of Portfolio Companies available under the Contract. More information about the Portfolio Companies is available in the prospectuses for the Portfolio Companies, which may be amended from time to time and can be found online at [___]. You can request this information at no cost by calling [____] or by sending an email request to [___]."

Registrants that offer portfolio companies that are subject to benefits-related investment restrictions must add the statement, "Depending on the optional benefits you choose, you may not be able to invest in certain Portfolio Companies." *See* Instruction 1(f)(1) to Item 17 of amended Form N-4 and Instruction 1(f)(1) to Item 18 of amended Form N-6.

Registrants that are not relying upon rule 498A(j) with respect to the portfolio companies that are offered under the contract may, but are not required to, provide the next-to-last sentence of the first paragraph of the introductory legend to the table regarding online availability of the prospectuses. *See* Instruction 1(d) to Item 17 of amended Form N-4 and Instruction 1(d) to Item 18 of amended Form N-6.

325 For registrants on Form N-3, the legend will read as follows:

"The following is a list of Investment Options available under the Contract. More information about the Investment Options is available in the Statutory Prospectus for the Contract, which can

could indicate, if applicable, that prospectuses and other information are available from a financial intermediary (such as an insurance agent or broker-dealer) distributing the contract.[326]

We had proposed the second paragraph of the legend to state:

> The performance information below reflects fees and expenses of the [Portfolio Companies], but does not reflect the other fees and expenses that your contract may charge. Performance would be lower if these charges were included. Each [Portfolio Company's] past performance is not necessarily an indication of future performance.

We are requiring, with some modifications from the proposal, the second paragraph of the legend for variable contracts registered on Forms N-4 and N-6 to state as follows:

> The expense and performance information below reflects fees and expenses of the Portfolio Companies, but does not reflect the other fees and expenses that your Contract may charge [, such as platform charges].[327] Expenses would be higher and performance would be lower if these charges were included. Each Portfolio Company's past performance is not necessarily an indication of future performance.[328]

These revisions are intended to streamline the legends in response to commenters' concerns, to clarify which charges are, and are not, included in the performance calculation, and to tell investors where they can find current performance information.

In contrast, because insurance charges are already reflected in the expenses and performance of the investment options for contracts registered on Form N-3, the second

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be requested at no cost by following the instructions on [the front cover page or beginning of the Summary Prospectus]."

See rule 498A(b)(5)(ix); Item 18 of amended Form N-3.

326 *See* rule 498A(b)(5)(ix); Instruction 1(c) to Item 17 of amended Form N-4; Instruction 1(c) to Item 18 of amended Form N-6.

327 *See* General Instruction 5 to Item 17 of amended Form N-4; General Instruction 5 to Item 18 of Form N-6. This additional phrase is only required for registrants that charge platform fees.

328 *See* Item 17 of amended Form N-4; Item 18 of amended Form N-6.

paragraph of the legend for variable annuities registered on Form N-3 will state, largely as proposed:[329]

> The current expenses and performance information below reflects contract fees and expenses that are paid by each investor. Each Investment Option's past performance is not necessarily an indication of future performance.[330]

Form N-3. For variable contracts registered on Form N-3, registrants may omit the required Appendix and instead provide more detailed disclosures for the investment options offered under the contract required by Item 19 of amended Form N-3.[331] Item 19 requires narrative disclosure for each investment option regarding its investment objectives and principal investment strategies, and principal risks of investing in the investment option, and a bar chart and table showing the performance of the investment option modeled after the risk/return bar chart and table that Form N-1A currently requires.[332]

2. Updating Summary Prospectus

a. Overview

Today, variable contract investors are typically sent a copy of the updated current contract statutory prospectus each year.[333] New rule 498A permits a person to satisfy contract

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329 The proposed legend did not include "current expenses."

330 *See* Item 18 of amended Form N-3.

331 *See* rule 498A(b)(5)(ix); Item 19 of amended Form N-3.

332 *See* text following note 797 (discussing Item 19 of amended Form N-3); *see also* Item 4(b)(2) of Form N-1A.

333 Investors generally must be provided with a prospectus when they make additional purchase payments or reallocate variable contract value. *See* Proposing Release, *supra* note 6, at nn.27-29 and accompanying text. As proposed, an updating summary prospectus that complies with rule 498A will be deemed to be a prospectus that is permitted under Section 10(b) of the Securities Act and Section 24(g) of the Investment Company Act for the purposes of Section 5(b)(1) of the Securities Act.

prospectus delivery obligations with respect to existing investors by sending or giving an updating summary prospectus in lieu of the statutory prospectus.[334]

The comments we received relating to the updating summary prospectus were generally supportive.[335] Although commenters did not raise broad objections to this aspect of our proposal, they raised concerns with and/or requested clarification on specific issues, as discussed in more detail below. We are adopting the proposed updating summary prospectus framework substantially as proposed, with some modifications in response to issues raised by commenters.

As discussed in the Proposing Release, we are not requiring that registrants send a current initial summary prospectus to investors each year, due in part to the cost to maintain and update separate initial summary prospectuses for currently offered variable contracts and those no longer offered to new investors. Additionally, we believe that existing investors would benefit more from a brief summary of the changes to the contract reflected in the statutory prospectus than from the disclosures in the initial summary prospectus, which is designed for someone making an initial investment decision.

We have therefore designed the updating summary prospectus to provide a brief description of any important changes with respect to the contract that occurred within the prior year, which will allow investors to better focus their attention on new or updated information relating to the contract. Additionally, as proposed, the updating summary prospectus will

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334 *See* rule 498A(c).

335 *See, e.g.*, CAI Comment Letter; Lincoln Comment Letter; ACLI Comment Letter. Many commenters elected to provide detailed comments on the initial summary prospectus, stating that their comments also applied to the updating summary prospectus. *See, e.g.*, CAI Comment Letter; AARP Comment Letter.

include certain of the information required in the initial summary prospectus that we consider most relevant to investors when considering additional investment decisions.

Finally, as proposed, a registrant may only use an updating summary prospectus if it uses an initial summary prospectus for each currently offered contract described under the contract statutory prospectus to which the updating summary prospectus relates.[336] We believe that making the use of the updating summary prospectus contingent on use of the initial summary prospectus for each currently offered contract will encourage registrants to utilize the summary prospectus framework and provide a more consistent disclosure experience to investors.

Several commenters sought clarification regarding whether insurers could use an updating summary prospectus even if the insurer did not provide an initial summary prospectus to existing investors that previously received a full statutory prospectus.[337] Under new rule 498A, an insurer could use an updating summary prospectus even if the insurer did not provide an initial summary prospectus to an existing investor that previously received a full statutory prospectus. The rule only requires an insurer to use an initial summary prospectus for each currently offered contract described in the statutory prospectus if the insurer wishes to use an updating summary prospectus.[338]

b. Contracts That May Be Included in the Updating Summary Prospectus

As proposed, the new rule permits the updating summary prospectus to describe one or more contracts covered in the statutory prospectus to which the updating summary prospectus

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336 Rule 498A(c)(1).

337 *See* ACLI Comment Letter; CAI Comment Letter; Transamerica Comment Letter.

338 Thus, if each contract in a registration statement is no longer offered to new investors (and therefore the insurer would no longer have a need to use an initial summary prospectus), an insurer may continue to use an updating summary prospectus.

relates.[339] This scope is different than that of the initial summary prospectus, which may only cover a single contract that the registrant currently offers for sale.[340] Similar to the initial summary prospectus, however, the new rule also permits an updating summary prospectus to describe more than one class of a contract.[341]

Given the limited subset of information provided in the updating summary prospectus, we believe permitting registrants to combine multiple contracts will not cause investor confusion in the same way that combining disclosure about multiple contracts in the initial summary prospectus might.[342] Furthermore, we understand that there are generally not a significant number of changes that occur to an individual contract year-over-year, and many of those changes (such as changes to the available portfolio companies or the addition of new optional benefits) typically apply across multiple contracts described in the same prospectus. We therefore believe the section describing contract changes, even if changes to multiple contracts are included, will not be overly lengthy, and will not prevent investors from reading or understanding the applicable disclosures.[343] Finally, combining multiple contracts could make the updating summary prospectus significantly more efficient for registrants to produce and distribute.

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339 *See* rule 498A(c)(2). If there are multiple statutory prospectuses in a registration statement, a separate updating summary prospectus would be required for each such statutory prospectus.

340 *See supra* Section II.A.1.b.

341 Rule 498A(c)(2); *see also supra* Section II.A.1.b (an initial summary prospectus also can describe more than one class of a currently offered contract).

342 *See infra* text following note 598 (discussing new General Instruction C.3.(e)(i) to Forms N-3, N-4, and N-6 regarding the permitted inclusion of multiple contracts in a single prospectus).

343 A registrant must indicate in this section, to the extent appropriate, whether certain described contract changes are only applicable to certain contracts in the statutory prospectus. *See* rule 498A(c)(6)(i)(B).

Commenters widely agreed with the proposed approach, and supported the optionality to allow the updating summary prospectus to include multiple contracts under the statutory prospectus to which the summary prospectus relates.[344] Accordingly, we are adopting this approach as proposed.

c. Preparation of the Updating Summary Prospectus

The following chart outlines the information required in an updating summary prospectus under new rule 498A. As proposed, along with specifying required cover page disclosures, the rule references particular disclosure items from Forms N-3, N-4, and N-6. The required information must appear in the same order, and under the relevant corresponding headings, as specified by the rule.[345]

TABLE 3.
OUTLINE OF THE UPDATING SUMMARY PROSPECTUS

	Heading in Updating Summary Prospectus	*Item of Amended Form N-3*	*Item of Amended Form N-4*	*Item of Amended Form N-6*
Cover Page	Identifying Information	-	-	-
	Legends	-	-	-
	EDGAR Contract Identifier	-	-	-
	Table of Contents (optional)	-	-	-
Content	Updated Information About Your [Contract]	-	-	-
	Important Information You Should Consider About the [Contract]	2	2	2

344 *See, e.g.*, ACLI Comment Letter.

345 *See* rule 498A(c)(6).

	Appendix: [Investment Options/Portfolio Companies] Available Under the [Contract]	18 or 19[346]	17	18

i. Cover Page and Table of Contents

Identifying Information. As proposed, the following information will be required to appear on the front cover page or at the beginning of the updating summary prospectus:

- The depositor's name;
- The name of the contract(s), and the class or classes, if any, to which the updating summary prospectus relates;
- A statement identifying the document as an "Updating Summary Prospectus"; and
- The approximate date of the first use of the updating summary prospectus.[347]

Legend. The cover page or beginning of the updating summary prospectus is required to include the following legend:

> The prospectus for the [Contract] contains more information about the [Contract], including its features, benefits, and risks. You can find the current prospectus and other information about the [Contract] online at [___]. You can also obtain this information at no cost by calling [____] or by sending an email request to [___].[348]
>
> Additional general information about certain investment products, including [variable annuities/variable life insurance contracts], has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.[349]

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346 Registrants on Form N-3 may omit the Appendix specified by Item 18 of amended Form N-3, and instead provide the more detailed disclosures about the investment options offered under the contract required by Item 19 of amended Form N-3. *See infra* note 788 and accompanying text.

347 *See* rule 498A(c)(3)(i) through (iv). We are not requiring the cover page of the updating summary prospectus to include the registrant's name. *See supra* Section II.A.1.c.i.

348 *See supra* note 86 (discussing requirements of the registrant's internet address and contact information).

349 *See* rule 498A(c)(3)(v).

Like the cover page or beginning of the initial summary prospectus, the cover page or beginning of the updating summary prospectus will be required to include identifying information about the variable contract, as well as a legend including certain general information that will be applicable to all variable contracts. The portions of the legend that describe how to obtain further information about the contract, as well as the Investor.gov website, are identical to the parallel portions of the legend that will appear on the cover page or beginning of the initial summary prospectus.[350] As with the initial summary prospectus, a registrant could modify this required legend so long as the modified legend includes comparable information.[351] Likewise, the updating summary prospectus will also include a legend informing investors about the optional internet availability of shareholder reports, if applicable, pursuant to the requirements of rule 30e-3.[352]

Similar to the initial summary prospectus, if a registrant incorporates any information by reference into the updating summary prospectus, the rule requires the registrant to include in the legend certain information about the document(s) from which the information was incorporated.[353] The free look period legend that will appear on the cover page or beginning of the initial summary prospectus is not appropriate in the context of the updating summary prospectus, because the free look period is not applicable to additional investments after the initial purchase.

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350 *See* rule 498A(b)(2)(v); *see also supra* note 86. The legend in the updating summary prospectus will note that "an updated prospectus" is available online, whereas the initial summary prospectus will note that it summarizes key features of the contract.

351 *See* rule 498A(c)(3)(v); *see also* rule 498A(b)(2)(v)(A).

352 *See infra* note 623.

353 *See infra* Section II.A.7.

In response to requests from commenters urging that we streamline the legends where possible, the legend on the cover page or beginning of the updating summary prospectus also reflects certain streamlining changes that mirror revisions made to the parallel legend in the initial summary prospectus.[354]

EDGAR Contract Identifier. As proposed, we are also requiring that the EDGAR contract identifier for each contract covered by the updating summary prospectus be included on the bottom of the back cover page or last page of the updating summary prospectus in a type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).[355]

Table of Contents. As proposed, the new rule permits an updating summary prospectus, like the initial summary prospectus, to include a table of contents.[356] A table of contents must show the page number of the various sections or subdivisions of the prospectus and must immediately follow the cover page in any prospectus delivered electronically.[357]

ii. Content of the Updating Summary Prospectus

New rule 498A specifies the content and order required in an updating summary prospectus.[358] Similar to the initial summary prospectus and the summary prospectus for mutual funds, adhering to these content requirements is one condition that an updating summary prospectus must satisfy in order to be deemed to be a prospectus that is permitted under Section

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354 *See* text following note 95.

355 *See* rule 498A(c)(4)(ii). As in the case of the initial summary prospectus, this requirement is designed to allow Commission staff and others to more easily link the updating summary prospectus with other filings associated with the contract.

356 *See* rule 498A(c)(5).

357 Rule 481(c).

358 *See* rule 498A(c)(6).

10(b) of the Securities Act and Section 24(g) of the Investment Company Act for the purposes of Section 5(b)(1) of the Securities Act.[359]

(a) Description of Changes to the Contract

The updating summary prospectus is required to include a concise description of certain changes to the contract made after the date of the most recent updating summary prospectus or statutory prospectus that was sent or given to investors.[360] As proposed, these changes include those that relate to (1) the availability of portfolio companies (or investment options under a variable annuity registered on Form N-3) under the contract,[361] (2) the Fee Table,[362] (3) the standard death benefit (for variable life insurance contracts),[363] and (4) the benefits available under the contract.[364]

In a change from the proposal, we are also requiring the updating summary prospectus to include a concise description of changes to other items that are included in an initial summary prospectus. Specifically, we are requiring a discussion of changes that relate to the Key Information Table,[365] the overview of the contract,[366] purchases and contract value (premiums

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359 *See supra* note 106.

360 *See* 17 CFR 230.423 (rule 423 under the Securities Act) (regarding the date of the prospectus).

361 *See* rule 498A(c)(6)(i). A change that has affected availability of portfolio companies (or investment options) includes changes in the portfolio companies (or investment options) offered under the contract or available in connection with any optional benefit. *See also* Item 18 of amended Form N-3; Item 17 of amended Form N-4; Item 18 of amended Form N-6.

362 *See* rule 498A(c)(6)(i); *see also* Item 4 of amended Forms N-3, N-4, and N-6.

363 *See* rule 498A(c)(6)(i); *see also* Item 10 of amended Form N-6. *See supra* Section II.A.1.c.ii.(c).

364 *See* rule 498A(c)(6)(i); *see also* Item 11 of amended Forms N-3 and N-6; Item 10 of amended Form N-4.

365 *See* rule 498A(c)(6)(i); *see also* Item 2 of amended Forms N-3, N-4, and N-6.

366 *See* rule 498A(c)(6)(i); *see also* Item 3 of amended Forms N-3, N-4, and N-6.

for variable life insurance contracts),[367] surrenders and withdrawals,[368] and lapse (for variable life insurance contracts).[369] Although we would not expect these additional items to change very frequently (for example, many relate to terms that are set by the contract or reflect Commission or state insurance regulatory requirements), given their importance, we believe that investors should be notified of any changes with respect to these items.

The updating summary prospectus also could include a concise description of any other changes to the contract that the registrant wishes to disclose, provided they occurred within the same time period.[370] We believe that permitting—but not requiring—a concise description of any additional changes will provide flexibility to registrants to highlight for investors any additional changes.

These contract changes will be described under the heading "Updated Information About Your [Contract]."[371] This legend will be required to follow the heading:

> The information in this Updating Summary Prospectus is a summary of certain [Contract] features that have changed since the [Updating Summary Prospectus] dated [date]. This may not reflect all of the changes that have occurred since you entered into your [Contract].[372]

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367 *See* rule 498A(c)(6)(i); *see also* Item 12 of amended Form N-3; Item 11 of amended Form N-4; Item 9 of amended Form N-6.

368 *See* rule 498A(c)(6)(i); *see also* Item 13 of amended Form N-3; Item 12 of amended Forms N-4 and N-6.

369 *See* rule 498A(c)(6)(i); *see also* Item 14 of amended Form N-6.

370 *See* rule 498A(c)(6)(ii). Any additional information included should not, by its nature, quantity, or manner of presentation, obscure or impede understanding of the information that the rule requires.

371 *See* rule 498A(c)(6)(i).

372 *See* rule 498A(c)(6)(i)(A).

We designed this disclosure requirement in light of the fact that disclosures in a contract statutory prospectus do not change frequently, and we believe providing investors with notice and a brief description of any changes that do occur may be more informative than repeating all the disclosures each year. We believe that notice of these changes is particularly helpful, given that currently investors must determine which, if any, disclosures relevant to their particular contract have changed each year they receive the contract statutory prospectus. After receiving notice and a brief description of certain changes, an investor who then wishes to obtain more information on specific changes can consult the contract statutory prospectus to review related disclosures in more detail. We believe that highlighting certain key changes with respect to the contract in the updating summary prospectus will provide important information to investors that they can use in considering whether to continue making additional purchase payments or reallocate contract value.

The requirement to disclose contract-related changes to investors is particularly relevant for variable contracts, since the length of statutory prospectus disclosure may hinder investors in identifying important year-over-year changes to contract features. One commenter noted that "because investors currently obtain disclosure about contract changes in a piecemeal fashion through different sequential updating disclosure, it may be helpful and constructive for investors to have a list in one place about contract changes in the updating prospectus."[373]

In providing a concise description of a contract-related change in the updating summary prospectus, registrants must provide enough detail to allow investors to understand the change

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373 *See* ACLI Comment Letter.

and how it will affect them.[374] For example, this could include stating that an optional benefit fee has changed from 1.5% to 1.7%, rather than stating that the fee has changed or increased, or specifically identifying each optional benefit that has changed (with a brief explanation of how), rather than generically stating that certain optional benefits are new or no longer available. As another example, if a portfolio company is no longer available under the contract to new investors although current investors may continue to make investments, this change should be disclosed in the discussion of changes to the contract, even though in the Appendix the portfolio company will have a footnote (or similar indication) alerting investors that investments in the portfolio company are restricted to current investors.

In the proposal, we had stated that "if a portfolio company's expense ratio has changed, a registrant generally should describe this in the body of the updating summary prospectus even though expense ratio information would also appear in the required appendix to the updating summary prospectus, in order to highlight this change to investors."[375] Commenters asked whether the updating summary prospectus should, in the discussion of changes to the contract, disclose changes to the expense ratio of the portfolio companies.[376] Because the Appendix will present updated portfolio company information as to portfolio company expenses (as well as

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374 *See* rule 498A(c)(6)(i)(B).

375 *See* Proposing Release, *supra* note 6, at n.236 and accompanying text.

376 *See* CAI Comment Letter (seeking clarification because the proposal indicates that a change in expense ratio should be disclosed, "which would lead to voluminous, technical, and lengthy disclosure that would obscure information and reduce the effectiveness of the updating summary prospectus."); ACLI Comment Letter (stating that providing details about changes to underlying fund expenses would be burdensome, and recommending that the disclosure state that underlying fund expenses can be expected to change and investors should consult the Appendix discussing them in greater detail). We agree that the proposing release contained an example that may have led to this misimpression, and have replaced this with another example.

performance), we do not expect changes to portfolio company expenses to be disclosed in the discussion of changes to the contract section, even in cases where the "Annual Portfolio Company Expenses" table in the Fee Table is changed to reflect a new range.

One commenter stated that the updating summary prospectus should be able to include changes that have occurred outside of the limited time period specified in proposed rule 498A.[377] Because we are seeking to limit the amount of information in the updating summary prospectus to key information in order make it more approachable for investors, we decline to expand its scope to include information beyond the specified period. This commenter also stated that since the delivery of the last updating summary or statutory prospectus, insurers may have delivered supplements to those documents. As a result, highlighting and repeating those disclosures in the updating summary prospectus could be confusing. This commenter recommended we permit insurers to omit information that has been disclosed in a prior updating summary prospectus or statutory prospectus supplements delivered to investors (and if insurers include it, they should be able to clarify that the information was previously communicated).[378] We do not share the commenter's concern that investors will become confused and in fact believe that permitting such omission could result in piecemeal disclosures that are less useful to investors, and are therefore not making the suggested change.[379]

Another commenter suggested that we not require the delivery of an updating summary prospectus in the case of additional investments in a variable contract, as they will receive an

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377 *See* CAI Comment Letter.

378 *Id*.

379 *See supra* note 373.

updating summary prospectus annually, as well as prospectus supplements throughout the year, as necessary, for certain changes to the contract and/or portfolio company information.[380] We agree with the commenter's interpretation and note that the Commission did not propose, and we are not adopting, a requirement to deliver an updating summary prospectus each time an investor makes an additional investment.[381]

Key Information

As proposed, the updating summary prospectus must include the same Key Information Table that appears in the initial summary prospectus.[382] As discussed above, this table streamlines certain important concepts about the variable contract in a presentation that is designed to be easy to read and navigate.[383]

Because investors may make additional investments in the variable contract, we are requiring this disclosure in the updating summary prospectus to remind them of the contract's fees and expenses, risks, restrictions, tax implications, and investment professional compensation. Furthermore, we believe that an investor who continues to make investments in the variable contract (or to reallocate contract value)—not just an initial investor in the contract—should receive the benefit of this disclosure in a presentation that is intended to improve readability and readership.

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380 *See* Transamerica Comment Letter.

381 *See infra* Section II.A.3 for further discussion on the delivery of amendments to contract prospectuses.

382 *See* rule 498A(c)(6)(iii). This disclosure will be the same information required by Item 2 of Forms N-3, N-4, and N-6.

383 *See supra* Section II.A.1.c.ii.*(a)*.

Besides the brief description of contract-related changes and portfolio company/investment option Appendix discussed below, an updating summary prospectus will include only this Key Information Table as summary disclosure about the contract's key information, and will not also include the additional disclosure that the initial summary prospectus will include (for example, additional information about standard and optional contract benefits, or the contract Fee Table). We believe this is appropriate in the context of an updating summary prospectus for several reasons.

First, unless the investor invested prior to the registrant relying on rule 498A, the investor already will have received the initial summary prospectus (and have had access to the statutory prospectus), which includes this extra detail. Additionally, the updating summary prospectus draws on layered disclosure concepts, where the investor can access the more detailed statutory prospectus electronically (or in paper format on request) to complement the disclosure included in the updating summary prospectus.

An updating summary prospectus that describes multiple contracts could contain a separate Key Information Table for each contract, or use a different presentation approach that consistently discloses the required information for each contract in the required order.[384] For example, if the only Key Information Table disclosure that will vary by contract is the fee information, a prospectus that describes multiple contracts could include a single Key Information Table that discloses separate fee information in the "Fees and Expenses" line-items for each contract.

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384 See ACLI Comment Letter (supporting this flexibility as "allowing an approach that makes the most sense for each company.").

One commenter opposed including the line-item for investment professional compensation in the Key Information Table, stating that once a contract has been purchased, information about investment professional compensation is not sufficiently relevant to be required in the table.[385] Because investment professionals may present investors with other opportunities to invest in variable contracts, or encourage them to terminate an existing contract and then purchase or exchange into a new one, we believe it is important to remind investors about potential conflicts of interest, and are retaining the requirement, as proposed.

Appendix: Portfolio Companies/Investment Options Available Under the Contract

Finally, as proposed, the updating summary prospectus must include the Appendix, which provides summary information about the portfolio companies offered under the contract.[386] This Appendix requirement is identical to the requirement for the Appendix in the initial summary prospectus.[387] Like the requirement for the initial summary prospectus Appendix, Form N-3 registrants could omit the Appendix and instead provide the more detailed

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385 *Id*. (stating that Regulation Best Interest and Form CRS may resolve questions about appropriate disclosure concerning investment professional compensation).

386 Rule 498A(c)(6)(iv). This information on portfolio companies or investment options is the same information required by Item 17 of amended Form N-4 and Item 18 of amended Forms N-3 and N-6.

We received and considered several comments on the Appendix, which are discussed in Section II.A.1.ii.*(i)*. *See, e.g.*, *supra* note 266.

387 Paralleling a similar requirement for the initial summary prospectus, if the Appendix includes the information required by Item 18 of amended Form N-3, the Appendix must also include the following introductory legend: "The following is a list of [Investment Options] currently available under the [Contract], which is subject to change as discussed in the [Statutory Prospectus for the Contract]. More information about the [Investment Options] is available in [the Contract Statutory Prospectus], which can be requested at no cost by following the instructions on [the front cover page or beginning of the Summary Prospectus]." *See* Item 18 of amended Form N-3; rule 498A(c)(6)(iv).

disclosures about the investment options offered under the contract that will be required by Item 19 of Form N-3.[388]

Because the selection of portfolio companies or investment options will directly affect the performance, and often the available optional benefits, of the contract, we believe that it is necessary to provide basic information about the portfolio companies to ongoing investors in variable contracts. This disclosure is intended to remind investors of one of the most important decisions they face during the life cycle of a contract—that is, whether and where to allocate additional purchase payments and reallocate contract value among the portfolio companies or investment options available to them.[389]

3. Interim Amendments to Contract Statutory Prospectuses

One commenter asked for clarity regarding when contract prospectuses and summary prospectuses must be updated, and when information related to those updates must be delivered to investors.[390] We believe that the use of initial and updating summary prospectuses to satisfy prospectus delivery requirements generally should mirror today's summary prospectus delivery practices for mutual funds. To the extent there are amendments to the statutory prospectus that occur between annual updates (*i.e.*, on an off-cycle basis) and an investor who received a summary prospectus makes a subsequent contribution to, or reallocates contract value within, their contract:

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388 *See* rule 498A(c)(6)(iv); *see also* text following note 796 (discussing Item 19 of amended Form N-3).

389 As discussed above, we are requiring the Appendix in the initial and updating summary prospectuses to indicate which portfolio companies are subject to benefit-related investment restrictions. *See supra* note 316 and accompanying text.

390 *See* VIP Working Group Comment Letter.

- If the amendment affects information contained in the current summary prospectus (including any of the four categories of changes that will be disclosed as part of the "Updated Information About Your [Contract]" section of an updating summary prospectus), we believe that the summary prospectus would be amended (*e.g.*, by sticker or supplement) and the amendment provided to investors as necessary to meet any requirements to deliver a current statutory prospectus for the contract;[391] and
- If the amendment does not affect information contained in the current summary prospectus, we do not believe that the summary prospectus would be amended and therefore, no amendment would need to be provided to investors.

4. Legal Effect of Use of Summary Prospectus for Variable Contracts

Section 5(b)(2) of the Securities Act makes it unlawful to carry or cause to be carried a security for purposes of sale or for delivery after sale "unless accompanied or preceded" by a statutory prospectus.[392] As proposed, new rule 498A provides that, for variable contract securities in an offering registered on Forms N-3, N-4, or N-6, the use of a summary prospectus could satisfy this Section 5(b)(2) obligation under certain conditions, described below.

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391 Section 5(b)(2) of the Securities Act.

392 15 U.S.C. 77e(b)(2) (stating that it shall be unlawful for any person to carry or cause to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless accompanied or preceded by a prospectus that meets the requirements of Securities Act Section 10(a)); *see also* Proposing Release *supra* note 6 at nn.27 (noting that the term "statutory prospectus" means a prospectus that meets the requirements of Section 10(a) of the Securities Act).

Because the requirements of Section 5(b)(2) of the Securities Act are applicable to "any person," its obligations are applicable to financial intermediaries through whom variable contracts are sold, as well as variable contract issuers.

First, a person relying on new rule 498A will be required to send or give a summary prospectus to an investor no later than the time of the "carrying or delivery" of the contract security.[393] This summary prospectus will be an initial summary prospectus in the case of an initial purchase of a variable contract, or an updating summary prospectus in the case of additional investments in a variable contract previously purchased.[394]

Second, the summary prospectus generally may not be bound together with any other materials, except portfolio company summary and statutory prospectuses may be bound together with the contract summary prospectus,[395] subject to certain conditions.[396] Third, the summary prospectus must meet the rule's content requirements for an initial summary prospectus or updating summary prospectus (as appropriate).[397] Finally, the initial summary prospectus, updating summary prospectus, contract statutory prospectus, and contract SAI must be publicly accessible, free of charge, on a website in the manner that the rule specifies.[398]

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393 *See supra* note 392 (discussing the prohibition against carrying or delivering a security without otherwise accompanying it or preceding it with a statutory prospectus).

394 *See* rule 498A(f)(1); *see also supra* note 333 and accompanying text.

395 *See* rule 498A(f)(2).

396 *See* rule 498A(f)(2)(i) and (ii). These materials may be bound together so long as: (1) all of the underlying portfolio companies whose prospectuses are bundled together are available to the investor to whom they are sent or given; and (2) a table of contents identifying each portfolio company summary and/or statutory prospectus that is bound together (and the page number on which each document is found), is included at the beginning or immediately following a cover page of the bound materials.

397 *See* rule 498A(f)(3).

398 *See* rule 498A(f)(4) (in addition, a Form N-3 registrant will also be required to post its most recent annual and semi-annual reports to shareholders to the website); *see also infra* Section II.A.5.

Failure to comply with any of these requirements will prevent a person from relying upon the rule 498A to meet its Section 5(b)(2) prospectus delivery obligations. Absent satisfaction of the Section 5(b)(2) obligation by other available means, a Section 5(b)(2) violation will result.[399]

New rule 498A also provides that a communication relating to an offering registered on Forms N-3, N-4, or N-6 that a person sends or gives after the effective date of a variable contract's registration statement (other than a prospectus that Section 10 of the Securities Act permits or requires) will not be deemed a prospectus under Section 2(a)(10) of the Securities Act[400] if:

(1) It is proved that prior to or at the same time with such communication a summary prospectus was sent or given to the person to whom the communication was made;

(2) The summary prospectus meets the same binding requirements that we discuss in the immediately preceding paragraph;

(3) The summary prospectus that was sent or given satisfies the requirements for the initial summary prospectus or the updating summary prospectus, as applicable; and

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399 As discussed below, the rule also includes additional requirements (such as the requirement to send a copy of the contract statutory prospectus upon request) whose violation would result in a violation of the rule, but not result in a violation of Section 5(b)(2). *See infra* note 490 and accompanying text.

400 Section 2(a)(10) of the Securities Act provides that certain communications accompanied or preceded by a statutory prospectus are not deemed to be "prospectuses" for purposes of the Securities Act. *See* Section 2(a)(10) of the Securities Act [15 U.S.C. 77b(a)(10)(a)] (providing that a communication sent or given after the effective date of the registration statement (other than a prospectus permitted under subsection (b) of Section 10) shall not be deemed a prospectus if it is proved that prior to or at the same time with the communication a written prospectus meeting the requirements for a statutory prospectus at the time of the communication was sent or given to the person to whom the communication was made).

(4) The initial summary prospectus, updating summary prospectus, contract statutory prospectus, and contract SAI are publicly accessible, free of charge, on a website in the manner that the rule specifies.[401]

This provision of the final rule, which is modeled on a corresponding provision of rule 498,[402] extends similar treatment to communications accompanied or preceded by a summary prospectus if all the provision's conditions are met. These communications remain subject to the general antifraud provisions of the federal securities laws.[403]

Because we believe that all investors should receive the benefit of the succinct, investor-friendly disclosure that is included in the variable contract summary prospectus, all of the disclosure items that appear in the summary prospectus also will be required to appear in the statutory prospectus. In that respect, all variable contract investors, regardless of whether the product they choose has a summary prospectus, will have the benefit of improved disclosures in the statutory prospectus.

We received comments relating to the rule's conditions as to delivery of the summary prospectus. One commenter recommended that the summary prospectus should be delivered at the point of the investment recommendation,[404] while another believed that retail investors

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401 *See* rule 498A(g).

402 *See* rule 498(d).

403 *See, e.g.*, Section 17(a) of the Securities Act [15 U.S.C. 77q(a)]; Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)]; Section 34(b) of the Investment Company Act [15 U.S.C. 80a-33(b)].

404 *See* CFA Comment Letter ("For investors to make good use of disclosures, they need to receive the information early enough (*e.g.*, point of recommendation) to incorporate it in their decision-making process. Disclosure that arrives after a decision has already been made (*e.g.*, point of sale) or worse, after a purchase has already been made, defeat the purpose of disclosure as a decision-making tool.").

should receive the initial summary prospectus "the earlier of 'the time of the 'carrying or delivery' of the contract' or 10 days in advance of the effective date of the contract" to allow time to make an educated investment decision and rescind the contract before the end of the free-look period.[405] Because the proposed delivery requirement effectuates the requirements of a statutory provision, we are not modifying the timing of the prospectus delivery requirements, and are accordingly adopting this aspect of the rule as proposed.

Although the Commission did not propose a change to the delivery format (paper versus electronic) of summary prospectuses, we received a number of comments on this topic.[406] One commenter asked that we allow insurers to deliver an electronic initial summary prospectus with links to the statutory prospectus at the point of sale.[407] A second commenter suggested that we allow insurers to satisfy prospectus delivery obligations by posting the prospectuses on the company's website, provided that paper copies are available upon request,[408] similar to the

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405 *See* AARP Comment Letter.

406 Several commenters asked that we take steps to modernize the electronic delivery framework. *See* VIP Working Group Comment Letter; CAI Comment Letter (requesting action with respect to the federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN"), which, as described, includes provisions that impose significant burdens on how informed consent may be obtained); Broadridge Comment Letter (stating that if technologies like QR codes and offers to enroll in e-delivery were permitted (but not required) to be included in the new disclosure, the path to digital delivery could be smoother for the 85% of variable annuity investors who currently receive these documents in the mail). Because these issues go beyond the scope of this rulemaking, we do not address them here. However, recognizing the growth of different forms of electronic media and other technological developments, among other things, the Commission has stated that it plans to revisit its existing guidance regarding electronic delivery. *See* Form CRS Relationship Summary; Amendments to Form ADV, Investment Advisers Act Release No. 5247 (June 5, 2019) [84 FR 33492 (July 12, 2019)], at n.678.

407 *See* AIG Comment Letter. This approach is permitted under existing rules, subject to certain conditions. *See* Proposing Release, *supra* note 6, at n.32.

408 *See* Lincoln Comment Letter.

delivery requirements for the required online contract documents, discussed below.[409] A third commenter stated that any summary prospectus should be provided to investors digitally and in hard copy.[410] A fourth commenter urged us to require paper delivery as the default delivery of their prospectuses or summary prospectuses unless the retail investor has affirmatively chosen to receive these documents electronically.[411] Another commenter stated that it did not see a "need to modify the requirements to make clear that paper-based delivery is not the only permissible or desired delivery format."[412]

To maintain a consistent regime across all investment products, the summary prospectus framework we are adopting in this document will not change the Commission's current guidance regarding electronic delivery. As discussed in the Proposing Release, although paper is the default format for delivery of prospectuses and certain other required disclosures, the Commission has provided guidance noting that electronic delivery may be used to satisfy prospectus delivery requirements if: (1) the investor has notice of the availability of the information; (2) the use of the medium is not so burdensome that intended recipients cannot effectively access the information being provided; and (3) the issuer has evidence of delivery.[413] Issuers relying on this guidance have typically satisfied the "evidence of delivery" requirement by obtaining informed consent to electronic delivery.[414] We understand that investors that have

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409 *See infra* Section II.A.6.

410 *See* Cardozo Clinic Comment Letter.

411 *See* AARP Comment Letter; CFA Comment Letter (investors should continue to have the choice of how they prefer to receive disclosures – whether in paper or electronically).

412 *See* ACLI Comment Letter.

413 *See* 1995 Release, *supra* note 19; 1996 Release, *supra* note 19; 2000 Release, *supra* note 19.

414 *See* Proposing Release *supra* note 6, at n.32 and accompanying text.

elected electronic delivery of materials associated with their variable contract commonly receive an email that contains a link to the website where the materials are available.[415]

5. Online Accessibility of Contract Statutory Prospectus and Certain Other Documents Relating to the Contract

Under the final rule, as proposed, investors who receive an initial or updating summary prospectus will have access to more detailed information about the variable contract, either by reviewing the information online, or by requesting the information to be sent in paper or electronically. These provisions parallel provisions in the rule governing the use of mutual fund summary prospectuses.[416] In our experience, layered disclosure for mutual funds has benefitted both investors and registrants, and we are adopting a similar framework for variable contracts. We believe that permitting variable contract investors to access the contract statutory prospectus in several ways (online and by physical or electronic delivery) maximizes the accessibility and usability of the information, as indicated by investors' preference for access to both online and paper resources.[417]

a. Required Online Contract Documents

As proposed, and under the final rule, a variable contract's current initial summary prospectus, updating summary prospectus, statutory prospectus, and SAI, and, in the case of a registrant on Form N-3, the registrant's most recent annual and semi-annual reports to shareholders under rule 30e-1 under the Investment Company Act (together, the "required online

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415 One commenter requested clarification regarding an issue related to electronic delivery obligations generally. *See* CFA Comment Letter. Because these comments go beyond the scope of this rulemaking, we do not address them here. *See also supra* note 406.

416 *See* rule 498(c)(4), (d)(4), (e), and (f).

417 *See* 2012 Financial Literacy Study, *supra* note 108, at iv, xix.

contract documents"), will be required to be available online.[418] This approach operationalizes the summary prospectus layered disclosure framework, with the summary prospectus provided in paper (or electronically) to investors, and additional information about the contract securities available online.

The required online contract documents generally comprise the same set of documents that the mutual fund summary prospectus rules require to be posted online,[419] and provide additional important detail about the contract that investors can access, if they wish. The required online contract documents only reference the registrant's annual and semi-annual shareholder reports for Form N-3 registrants because Form N-4 and Form N-6 registrants do not have shareholder reports, but instead transmit the portfolio companies' annual and semi-annual shareholder reports to the investors in the contracts.

As with similar provisions in the mutual fund summary prospectus rule, these required online contract documents are required to be publicly accessible, free of charge, at the website address that the cover page of the summary prospectus specifies, on or before the time that the person relying on the rule provides the summary prospectus to investors.[420] Moreover, a current version of each of the required online contract documents must remain on that website for at least 90 days following either:

- The time of the "carrying or delivery" of the contract security if a person is relying on the rule to satisfy its Section 5(b)(2) prospectus delivery obligations; or

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418 *See* rule 498A(h)(1)(i) through (ii).

419 *See* rule 498(e)(1).

420 *See* rule 498A(h)(1); *see also* rule 498(e)(1).

- If a person is relying on the rule to send communications that will not be deemed to be prospectuses, the time that the person sends or gives the communication to investors.[421]

This requirement is designed to provide continuous access to the information from the time the summary prospectus is sent or given until at least 90 days after the date of delivery of a security or communication in reliance on the rule. One commenter stated the proposed 90-day timeframe for the availability of online information was too short (unless there were an archive requirement, in which case it suggested the 90-day timeframe could make sense), and that a year would be more helpful to investors.[422]

As a practical matter, because variable contracts (and their underlying portfolio companies) are generally continuously offered, a current contract prospectus and related documents would likely remain online for longer than 90 days. The 90 day period is also the timeframe required for the availability of online information under the mutual fund summary prospectus rule, and the Commission proposed that it be the same for variable contracts because of market participants' familiarity with this timeframe, and because there may be operational efficiencies for certain registrants in having the timeframe be the same under both summary prospectus frameworks. Moreover, we believe this timeframe appropriately balances the costs of

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421 *See* rule 498A(h)(1).

422 *See* AARP Comment Letter.

maintaining information online with investors' interests in having the flexibility to access this online information after receiving the summary prospectus.[423]

Two commenters recommended that we make the web-posting requirements more principles-based and less regimented.[424] The proposed requirements for the availability of online information were designed to mirror the requirements in the mutual fund summary prospectus rule because we believed that investors and the industry would benefit from the consistency between the two summary prospectus regimes. Moreover, we believe it would be more appropriate to undertake a holistic review of the website posting (and possibly other technology-based) requirements for all investment products, including funds and variable contracts as part of a future initiative. Therefore, we are adopting the website posting requirements as proposed.

Website Address at which Required Online Contract Documents are Available. Also as proposed, the website address must be specific enough to lead investors directly to the required online contract documents, although the website can be a central site with prominent links to each document.[425] Thus, while contract documents may be hosted at multiple locations, for purposes of compliance with the rule, a summary prospectus may only include a single website address where each of the required online contract documents may be accessed. This requirement is designed to ensure that the required online contract documents are collectively

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423 For example, an investor who has received the summary prospectus and would like to review more detail about a certain topic in the statutory prospectus would have at least 90 days to access the statutory prospectus that is available online.

424 *See* VIP Working Group Comment Letter; Anonymous Comment Letter III. One of these commenters suggested that we not be so prescriptive about the format of content, which appear to be paper-based, and instead permit the flexibility that would allow for a website with tabs for each section instead of a serial document. The final rule does not prohibit a website with tabs for each section.

425 *See* rule 498A(b)(2)(v)(B).

located at the same website address (or can be readily accessed from the same website address), as opposed to being scattered across various disconnected websites which could discourage investors from seeking those materials. As discussed below, if an insurer avails itself of the optional method of delivering portfolio company prospectuses, the portfolio company documents required to be made available online under that option must be accessible from the same website address used to access the required contract documents.[426]

b. Formatting Requirements for Required Online Contract Documents

The final rule, as proposed, requires that the online contract documents be presented in a manner that is human-readable and capable of being printed on paper in human-readable format.[427] We received no comments on this aspect of the proposal. This formatting requirement is a condition of reliance on the rule to satisfy a person's delivery obligations under Section 5(b)(2) of the Securities Act and the provision that a communication shall not be deemed a prospectus under Section 2(a)(1) of the Securities Act. The rule governing mutual fund summary prospectuses also requires this formatting approach.[428] The "human-readable" presentation requirement is designed to impose a minimum standard of usability comparable to that of a paper document, although the electronic version could include additional features (*e.g.*, fee calculators or pop-up explanations) that might enhance its usability relative to the paper version.[429] Regarding usability, all portions of the document should be human-readable such that

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426 *See infra* Section II.B.

427 *See* rule 498A(h)(2)(i).

428 Rule 498(e)(2)(i).

429 As in the parallel provisions of the rule governing mutual fund summary prospectuses, the "human-readable" condition is intended to make clear that posted information must be presented in human-readable text, rather than machine-readable software code, when accessed through an

when an investor views the document electronically, the text is not cut off based on the screen size.

In addition, the final rule requires that the online materials be presented in a format, or formats, that are convenient for both reading online and printing on paper.[430] The failure to comply with these "convenient for reading and printing" formatting requirements will not, however, be a condition of reliance on the rule, because whether a particular format is convenient for reading online and printing depends on a number of factors and must be decided on a case-by-case basis.[431] In order to provide certainty to market participants, we are therefore not mandating that this requirement be a condition of reliance on the rule, and thus the failure to comply with this requirement will not negate a person's ability to rely on the rule in order to satisfy a person's delivery obligations under Section 5(b)(2) of the Securities Act.[432] Such a failure will, however, constitute a violation of Commission rules.

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internet browser and that it must be printable in human-readable text. This condition does not impose any further requirements relating to user-friendliness of the presentation. *See* 2009 Summary Prospectus Adopting Release, *supra* note 17, at 85; *see also infra* note 444 and accompanying and following text (discussing provisions that are meant to enhance investors' understanding of special terms when they view the summary prospectus online, as well as other technological tools associated with online disclosure (*e.g.*, fee calculators or pop-up explanations) that present further opportunities to promote investor understanding).

430 *See* rule 498A(i)(3); *see also* rule 498(f)(3) (parallel provision in the rule governing the use of mutual fund summary prospectuses). This condition could be satisfied by, for example, providing one format that is convenient for reading online, and another format that is convenient for printing on paper.

431 *See* 2009 Summary Prospectus Adopting Release, *supra* note 17, at nn.272 and 273 and accompanying text (relevant factors include the manner in which the online version renders charts, tables, and other graphics; the extent to which the online materials include search and other capabilities of the internet to enhance investors' access to information and include access to any software necessary to view the online version; and the time required to download the online materials).

432 *See* rule 498A(i)(5); *see also* rule 498(f)(5) (parallel provision in the rule governing the use of mutual fund summary prospectuses).

c. Linking Within and Between Documents

As proposed, the final rule also includes requirements for linking within the electronic versions of the contract statutory prospectus and SAI that are available online, and also for linking between electronic versions of contract summary and statutory prospectuses that are available online.[433] These requirements, which are substantively identical to parallel provisions in the rule governing mutual fund summary prospectuses,[434] are designed to promote the usability of the information that appears in these documents.

The first linking requirement will allow the reader to move directly between a table of contents of the contract statutory prospectus or SAI and the related sections of that document.[435] The second linking requirement will allow the reader to move back and forth between each section of the summary prospectus and any related section of the contract statutory prospectus and contract SAI that provides additional detail.[436] This back-and-forth movement could occur either directly from the summary prospectus to the relevant section of the statutory prospectus or

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433 *See* rule 498A(h)(2)(ii) and (iii); *see also* rule 498A(*i*)(4); General Instruction 1(b) to Item 2 of Forms N-3, N-4, and N-6; *see supra* note 201 and accompanying text.

434 *See* rule 498(e)(2)(ii) and (iii). As discussed below, the parallel provisions of rule 498A also include similar linking requirements for the portfolio company documents that the rule requires to appear online if a person were to rely on the rule's new delivery option for portfolio company prospectuses.

435 *See* rule 498A(h)*(*2)(ii). The linked table of contents may be outside the document (*e.g.*, in a separate section or panel of the screen), and need not be the table of contents that is contained within the document itself, as long as the linked table of contents for the statutory prospectus conforms to our rules' requirements for the table of contents that appears within the document). *See* rule 481(c) under the Securities Act.

Mutual funds commonly implement this feature using a left navigation or "bookmark" design style. While such design styles continue to be popular (and we anticipate that some insurers relying on rule 498A might also employ this design style), the increased use of mobile devices and applications has led to the development of new and evolving design styles. Any navigation style must provide the functionality that is required by the rule.

436 *See* rule 498A(h)(2)(iii).

SAI, or indirectly by linking from the summary prospectus to a table of contents for the statutory prospectus or SAI, and vice versa.[437] As discussed above, in response to commenters, we are modifying a separate aspect of the proposal that would have inadvertently negated the ability of registrants to use the indirect linking option.[438]

d. Definitions of Special Terms, and Online Viewing of Special Terms

The summary prospectus content requirements reference information that is required to appear in the contract statutory prospectus, which in turn must be written using plain English principles.[439] Variable contract disclosure documents tend to include industry-specific language in order to describe the sometimes complex features of these products. We recognize, therefore, that it may be particularly challenging to accurately describe a variable contract without using certain terms that, while technically accurate, may be confusing or unfamiliar to retail investors. Accordingly, the final rule, as proposed, requires a summary prospectus to define any "special terms" elected by the registrant, using any presentation that clearly conveys their meaning to investors.[440] This requirement reflects the instructions in Forms N-3, N-4, and N-6 (as well as

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437 *Id*. Under the latter option, links either have to be available at both the beginning and end of the summary prospectus, or have to remain continuously visible to persons accessing the summary prospectus. This requirement is designed to promote the links' prominence and accessibility to investors.

438 *See supra* note 201 and accompanying text.

439 *See* rule 498A(b)(5), (6); General Instruction B.4(c) to amended Forms N-3, N-4 and N-6 (referencing 17 CFR 230.421 (rule 421(d) under the Securities Act)).

440 *See* rule 498A(e). For example, the summary prospectus could include a glossary or a list of definitions of special terms that appear throughout the document. Or, as another example, if a special term appears in only one section of the summary prospectus, the summary prospectus could include a definition for this term on the page, or in the section, where this term appears (for example, in a box to the side of the main text, or at the bottom of the page). Additionally, there are or may become available technological solutions for electronic versions of the summary prospectus. *See infra* note 444 and accompanying and following text.

similar instructions in the current version of these forms to define "special terms" in a glossary or index).[441] The registrant will determine which terms constitute special terms. We generally believe that a special term is a term that is typically unfamiliar to a new contract investor and is important for the investor to understand key features of the contract.

Two commenters responded favorably to the inclusion of a Special Terms section of the hypothetical initial summary prospectus, with one commenter stating its belief that "the 'Special Terms' section . . . will be helpful to the reader as it defines terms with which they may not be familiar,"[442] and another observing that "because the Special Terms are the first thing people see, they are likely to read them more diligently."[443]

In order to leverage technology to help investors understand the variable contract, the final rule includes provisions that are meant to enhance investors' understanding of special terms when they view the summary prospectus online. Specifically, the rule requires that investors either be able to view the definition of each special term used in an online summary prospectus upon command,[444] or to move directly back and forth between each special term and the corresponding entry in any glossary or list of definitions that the summary prospectus includes.[445] This approach, which today is a common convention for many electronically available documents, is an example of how technology can enhance our layered approach to

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441 *See* General Instruction C.3(d) to Forms N-3, N-4, and N-6; *see also* Item 2 of current Forms N-3 and N-4.

442 *See* WFA Comment Letter.

443 *See* Cardozo Clinic Comment Letter.

444 For example, investors could view the definitions of special terms by moving or "hovering" the computer's pointer or mouse over the term, or selecting the term on a mobile device.

445 Rule 498A(h)(2)(iv).

disclosure and help investors who access the document online grasp the complexities of variable contract features. Registrants may wish to consider whether other technological tools associated with their online disclosure (*e.g.*, pop-up explanations) present further opportunities to promote investor understanding.

Two commenters supported the proposed approach. One commenter "commend[ed] the Commission for its requirement that investors accessing the summary prospectus should be able to view the definition of special terms upon command," and suggested that the requirement be expanded to all definitions to improve the readability of the document.[446] Another commenter stated that electronic versions of the prospectus should have definitions for defined terms that pop up when clicked.[447] Conversely, one commenter stated that requiring the definition of each special term used in an online summary prospectus to be viewed upon command, or to permit investors to move directly back and forth between each special term and the corresponding entry in any glossary in the summary prospectus, may be burdensome and excessive since an initial and updating summary prospectus has so many terms.[448] This commenter recommended instead that insurers be permitted to make a link to a summary prospectus's glossary continuously visible, thereby allowing an investor to move back-and-forth between the various sections of a summary prospectus and its glossary.

We are adopting the requirement as proposed. We believe that registrants should provide investors with an easy and convenient means to understand the terms used to describe the

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446 *See* AARP Comment Letter.

447 *See* Cardozo Clinic Comment Letter ("if the reader "clicks" on a defined term, the definition of the term should automatically be shown to the reader").

448 *See* CAI Comment Letter.

investment product offered. Given the prevalence of different technological solutions that allow online documents to be viewed upon command, we are not persuaded that the burdens are as great as this commenter suggests. Moreover, we are concerned that for a registrant that chooses to make the table of contents for the statutory prospectus continuously available, the inclusion of a continuously available glossary would clutter an investor's visual field, potentially reduce the investor's focus, and detract attention away from the information in the summary documents.

Commenters offered a variety of suggestions regarding technological tools that could enhance online disclosure to promote investor understanding. While several commenters agreed with the concept of an interactive fee calculator,[449] they recommended that the final rule not require this functionality because of concerns about the feasibility of developing this feature for such a highly customized investment product,[450] and raised questions about the relative benefits to investors.[451]

One commenter suggested an interactive tool that could allow investors to vary the assumptions in a visual illustration to see the effect on policy value as the inputs are changed.[452] Another commenter stated that a modern app-based disclosure solution is the best technology option to provide investors with streamlined, user-friendly technology, and recommended that

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449 *See* AARP Comment Letter; CAI Comment Letter; ACLI Comment Letter.

450 *See* CAI Comment Letter (stating that interactive fee calculators would be very difficult to design for even a single contract, given the potential complications associated with multiple classes/versions, fee structures, features, investment restrictions, and optional benefits, and administering interactive fee calculators for entire books of business could be virtually impossible for many insurers); ACLI Comment Letter.

451 *See* ACLI Comment Letter (stating that investors would receive the same fee information from the investment professional selling the variable contract, who could also explain the information, whereas use of an interactive calculator without the benefit of an explanation might serve to create investor confusion); Ameritas Comment Letter.

452 *See* Baldwin Comment Letter.

we add language to the final rule that specifically supports apps for delivery of content related to prospectus data for variable contracts.[453] The final rule does not preclude the use of apps as a disclosure delivery channel provided all conditions of the rule are met, and, as we note below, we decline to add any additional language supporting their use. A different commenter suggested that the Commission should develop an application or other web-based tool to enable investors to compare the key information contained in summary prospectuses of different issuers in a manner similar to the way websites today enable consumers looking to purchase a new car to compare key features of vehicles of different manufacturers.[454]

We appreciate all of these technological suggestions and are continuing to consider their usefulness in investor disclosures. As previously noted, however, because we believe it would be more efficient to undertake a holistic review of technology-based approaches for all investment products as part of a future initiative,[455] we are adopting the requirements to define, and provide online viewing of, Special Terms as proposed. We nonetheless encourage registrants and other industry participants to consider how technology can be used to improve the communication of information to investors, particularly as investors trend toward using applications and other technologies to access information.

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453 *See* Donnelley Financial Comment Letter I.

454 *See* IRI Comment Letter I ("Rather than relying on investors or third parties to harness modern technology to give investors the ability to efficiently analyze and compare available information, the Commission, as the repository of all Summary Prospectus data, should itself harness such technology.").

455 *See supra* note 424 and subsequent text.

e. Ability to Retain Documents

The final rule, as proposed, also requires that persons accessing the website that appears on the summary prospectus cover page be able to permanently retain, free of charge, an electronic version of each of the required online contract documents.[456] Like the online version of these documents, the retainable version of the documents must be in a format that: (1) is human-readable and capable of being printed on paper in human-readable format; and (2) permits persons accessing the downloaded documents to move directly back and forth between each section heading in a table of contents of that document and the section of the document referenced in that section heading.[457] The permanently retained document does not have to be in a format that allows an investor to move back and forth between the summary prospectus and the statutory prospectus and SAI, because of possible technical difficulties associated with maintaining links between multiple downloaded documents.[458] These conditions are substantively identical to parallel provisions in the rule governing mutual fund summary prospectuses.[459]

In addition, the rule mandates that the electronic versions of the documents that may be permanently retained must be in a format that is convenient for both reading online and printing

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456 *See* rule 498A(h).

457 *See* rule 498A(h)(2)(i) through (ii).

458 One commenter said we should require that downloaded documents retain links that enable a user to move readily between related passages of multiple documents because without the links, the documents do not provide complete information to investors. *See* AARP Comment Letter. We do not agree that the lack of an active link diminishes the completeness of the information in the documents, and decline to make the suggested change.

459 *See* rule 498(e)(3).

on paper.[460] Like the "convenient for reading and printing" online formatting requirements,[461] the failure to comply with these formatting requirements for retained electronic documents is not a condition for reliance on the rule.[462] Since the convenience of these formatting requirements must be decided on a case-by-case basis, we believe this approach will help provide certainty to market participants who seek to rely on the rule to satisfy prospectus delivery obligations.[463]

f. Safe Harbor for Temporary Noncompliance

Compliance with the conditions in new rule 498A regarding the online availability of the required online contract documents (including the formatting and linking requirements for these documents, the requirements associated with the use of special terms in these documents, and the ability to retain these documents permanently) is generally required in order to rely on the rule to meet prospectus delivery obligations under Section 5(b)(2) of the Securities Act.[464] Failure to comply with any of these conditions could result in a violation of Section 5(b)(2) unless the contract statutory prospectus is delivered by means other than reliance on the rule.

We recognize, however, that there may be times when, due to events beyond a person's control, the person may temporarily not be in compliance with the rule's conditions regarding the availability of the required online contract documents.[465] Commenters expressed support for the

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460 *See* rule 498A(i)(3).

461 *See supra* note 430 and accompanying text.

462 *See* rule 498A(i)(5).

463 *See supra* notes 431 and 432 and accompanying text.

464 *See* rule 498A(f)(4) (Section 5(b)(2) transfer of the contract security is satisfied if, among other things, the conditions in rule 498A(h) are satisfied).

465 Such events might, for example, include system outages or other technological issues, natural disasters, acts of terrorism, or pandemic illnesses.

proposed safe harbor provision,[466] and the final rule, as proposed, contains a provision for temporary noncompliance, which is substantively identical to a parallel provision in the rule governing mutual fund summary prospectuses.[467] This provision provides that the conditions regarding the availability of the required online contract documents will be deemed to be met, even if the required online contract documents are temporarily unavailable, provided that the person has reasonable procedures in place to ensure that those materials are available in the required manner. A person relying on the rule to satisfy prospectus delivery obligations is required to take prompt action to ensure that those materials become available in the manner required as soon as practicable following the earlier of the time when the person knows, or reasonably should have known, that the documents were not available in the manner required.[468]

6. Other Requirements for Summary Prospectus and Other Contract Documents

a. Delivery Upon Request

Proposed rule 498A included certain requirements relating to the delivery of paper or electronic copies of required online contract documents upon request.[469] We are adopting these requirements as proposed.

Under the final rule, an investor who receives a contract summary prospectus and who would also like to review the contract's statutory prospectus, SAI, and, in the case of a variable

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466 *See* ACLI Comment Letter. *See also* Comment Letter of Martha Chemas (Mar. 8, 2019) ("Chemas Comment Letter") (suggesting a safe harbor in the case of a denial of service attack or similar outage while the website was under attack).

467 *See* rule 498A(h)(4); *see also* rule 498(e)(4).

468 *Id*. This safe harbor generally would not be available to a registrant that repeatedly fails to comply with the rule's website posting requirements or that is not in compliance with the requirements over a prolonged period. *See* Proposing Release, *supra* note 6, at nn.285.

469 *See* rule 498A(i)(1).

contract registered on Form N-3, its most recent annual and semi-annual report to shareholders is able to choose whether to review these documents online or to receive that information directly, in paper or electronic format as requested by the investor. Accordingly, a registrant (or financial intermediary distributing the contract) is required to send a paper or electronic copy of the required online contract documents to any person requesting such a copy. The person must send requested paper documents at no cost to the requestor, by U.S. first class mail or other reasonably prompt means, within three business days after receiving the request.

A registrant or intermediary is also required to send electronic copies of these documents upon request within three business days. The requirement to send an electronic copy of a document may be satisfied by sending a direct link to the online document; provided that a current version of the document is directly accessible through the link from the time that the email is sent through the date that is six months after the date that the email is sent and the email explains both how long the link will remain useable and that, if the recipient desires to retain a copy of the document, he or she should access and save the document. Collectively, these requirements are intended to ensure that an investor has prompt access to the required information in a format that he or she prefers.

As proposed and under the final rule, investors who prefer paper copies of the statutory prospectus but do not have ready access to the internet (or the ability to print out the statutory prospectus that is made available online) will not be able to elect in advance to receive paper copies of all future statutory prospectuses unless a registrant chose to give investors that option. Assuming no such accommodation, investors will need to follow the summary prospectus legend's instruction on how to request paper copies of the statutory prospectus each time a new statutory prospectus is available. Those that do not take the additional step of requesting a paper

copy of the statutory prospectus will not receive the statutory prospectus in their preferred format.

Two commenters supported this framework.[470] One of those commenters stated that the ability to obtain a paper copy of the prospectus without charge through a toll-free number provides a functional and practical mechanism for investors to obtain a paper copy, and advised against mandating opt-in or opt-out practices concerning future delivery of paper prospectuses, which would impose unnecessary tracking responsibilities and costs that would greatly overshadow the marginal benefit to consumers.[471] In contrast, a separate commenter asserted that investors who want paper should be able to permanently elect to receive the full statutory prospectus and underlying fund documents.[472]

While registrants may choose to give investors the option to permanently elect to receive the full statutory prospectus and underlying fund documents, we are not requiring registrants to provide that option. As discussed throughout this release, we believe the layered disclosure framework contemplated by the rule (*i.e.*, sending or receiving the summary prospectus and making the statutory prospectus and underlying fund materials available online and upon request) will benefit the majority of investors and generally represents an improvement over the

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470 *See, e.g.*, NAIFA Comment Letter ("Any investor who wants to receive more detailed information should have access to more detailed, second-tier disclosures upon request and without cost. Firms should be required to provide hard-copy versions of these second-tier disclosures free of charge to any investor who requests a hard-copy disclosure document."); ACLI Comment Letter.

471 *See* ACLI Comment Letter (predicting that, based on insurers' experiences under the current paper delivery regime, few variable contract purchasers are likely to request a paper copy after the initial purchase).

472 *See* VIP Working Group Comment Letter.

current disclosure regime.[473] Moreover, we believe that this approach appropriately balances the interests of the number of variable contract investors whom we believe would benefit from the convenience of online documents against the number of those whom we believe prefer paper. Although certain investors may prefer statutory prospectuses rather than summary prospectuses, we believe that such investors are likely willing to seek out detailed information to inform their investment decisions.[474] We believe that for these investors, the additional effort required to access the statutory prospectus online or request paper or electronic statutory prospectuses will be incrementally minimal.[475]

b. Prominence Requirement

The final rule also requires that, generally like mutual funds, a contract summary prospectus must be given greater prominence than any materials that accompany the summary prospectus.[476] As discussed in the Proposing Release, this requirement is designed to prevent any accompanying sales or other materials from obscuring the contract summary prospectus, and to highlight for investors the concise presentation of the summary prospectus, and the salience of the information it includes.[477] We believe that the greater prominence requirement would be satisfied if the placement of the contract summary prospectus makes it more conspicuous than

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473 *See generally infra* Section IV.C.1.a.i.(a).

474 *See generally infra* Section IV.C.1.a.i.(b).

475 *See id.* (noting that investors may need to manually enter a hyperlink from a paper updating summary prospectus or open a link to a website containing the statutory prospectus in such circumstances).

476 *See* rule 498A(i)(2); *see also* rule 498(f)(2).

477 *See* Prospectus Release, *supra* note 6, at nn.293-294 and accompanying text.

any accompanying materials.[478] The only commenter who addressed this aspect of the proposal offered mixed support.[479] We continue to believe the prominence requirement benefits investors and are adopting it as proposed.

c. Hyperlinking of Website Addresses in Electronic Versions of Summary Prospectus

Largely as proposed, we are also requiring any website address that is included in an electronic version of the summary prospectus (*i.e.*, electronic versions sent to investors or available online) to be an active hyperlink.[480] This provision is intended to ensure that investors viewing electronic versions are able to easily access website addresses that are included in the summary prospectus.[481]

One commenter stated that requiring active hyperlinks for website addresses referenced in electronic versions of the initial summary prospectus could be administratively burdensome because insurers would need to monitor to ensure the disclosed website locations were accurate and functioning.[482] The cover page of the initial summary prospectus must provide a website

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478 *Id*. A summary prospectus on top of a group of papers that are provided together, or listed first if presented on a website together with other materials related to the contract, satisfies this requirement.

479 *See* ACLI Comment Letter (stating "We support the proposal's narrative that the summary prospectus should be the first among several documents listed electronically or delivered in a bundle. This approach has worked well in the mutual fund industry and can be expected to work equally well for variable contract disclosure," while also stating "Imposing prominence requirements is unnecessary.").

480 *See* rule 498A(i)(4). In addition, a parallel requirement applies to statutory prospectuses. *See* General Instruction C.3.(i) to Forms N-3, N-4, and N-6.

481 A summary prospectus filed on EDGAR must not include a functioning link to an external location, as our rules prohibit hyperlinking to websites, locations, or other documents that are outside of the EDGAR system. *See* 17 CFR 232.105 [rule 105 of Regulation S-T]. Because this is an existing EDGAR restriction, we do not believe it is necessary to add this provision to rule 498A. Thus, in a change from the proposal, rule 498A does not include this provision.

482 *See* Ameritas Comment Letter.

where investors can obtain the summary and statutory prospectuses (and certain other contract documents),[483] and the legend in the Appendix in the initial summary prospectus must include a website where investors can access the portfolio company prospectuses (and, if applicable, access updated performance information).[484] However, the rule and form requirements give registrants the flexibility to determine whether to provide the required information on the registrant's website, or a third party website. Because the availability of more detailed information is a key component to a layered disclosure approach, enabling access to that information is fundamental to the framework. We therefore believe it is reasonable, and not unduly burdensome, for a registrant to ensure that the website address it chooses to include in the electronic version of its summary prospectuses has an active link, and are adopting this aspect of the rule largely as proposed.[485]

However, as discussed above, in response to comments we are modifying this requirement to allow registrants to provide another means of facilitating access through equivalent methods or technologies that lead directly to the relevant website address.[486] This

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483 *See* rule 498A(b)(2)(v)(B) ("The legend must provide a website address, other than the address of the Commission's electronic filing system . . . that investors can use to obtain the Statutory Prospectus and other materials . . . [t]he website address must be specific enough to lead investors directly to the Statutory Prospectus and other materials that are required to be accessible under paragraph (h)(1) of this section . . . [t]he website could be a central site with prominent links to each document."); *see also* rule 498A(c)(3)(v) (parallel requirements); rule 498A(h)(1) (required online documents).

484 *See* General Instruction 1(d) to Item 18 of amended Form N-3; General Instructions 1(b) and (e) to Item 17 of Form N-4; General Instructions 1(b) and (e)(e) to Item 18 of amended Form N-6.

485 *See* rule 498A(*i*)(4).

486 *See* rule 498A(i)(4) ("[A]ny website address that is included in an electronic version of the Summary Prospectus must include an active hyperlink or provide another means of facilitating access through equivalent methods or technologies that lead directly to the relevant website address."). *See also supra* note 205 and accompanying text.

change is intended to give registrants the flexibility to provide hyperlinks in a continually visible sidebar, or some equivalent means of facilitating access from the summary prospectus.

d. Hyperlinking of Cross-References in Electronic Versions of Summary Prospectus

Although we proposed that registrants provide hyperlinks for cross-references included in an electronic version of the summary prospectus,[487] we recognize that the summary prospectus could contain multiple cross-references to both internal disclosures as well as external documents, and implementing and maintaining active hyperlinks for those cross-references could be burdensome or in some cases infeasible (*e.g.*, cross-references to individual external documents that are specific to each investor).[488] We also believe that hyperlinked cross-references may be largely unnecessary because rule 498A provides that the summary prospectus, statutory prospectus, and SAI must include links or otherwise permit persons accessing those documents to move directly back and forth between each section heading in a table of contents and the section of the document referenced in that topic heading, as well as between each section of the summary prospectus and any section of the statutory prospectus and SAI (or, alternately, have continuously visible links that allow persons accessing those documents to move directly back and forth between each section heading in a table of contents and the section of the document referenced in that topic heading).[489] Therefore, we are eliminating the proposed requirement, but we nonetheless

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487 *Compare* rule 498A(i)(4) as proposed (requiring hyperlinks for both website addresses and cross-references) *with* final rule 498A(i)(4) (requiring hyperlinks only for website addresses). *See also* Proposing Release, *supra* note 6, in the text accompanying notes 295 and 296 and General Instruction C.3.(*i*) to Forms N-3, N-4, and N-6 as proposed.

488 *See, e.g.*, Item 4 of amended Forms N-3, N-4, and N-6 (cross-referencing the contract specifications page from each investor's contract).

489 *See* rule 498A(h)(2)(ii) and (iii).

encourage registrants to use hyperlinks and other tools to provide investors with means to more easily read and access information in electronic versions of documents relating to their contract.

e. Failure to Comply with Other Requirements in Rule

Under the final rule, as proposed, the failure to comply with the "other requirements" in the new rule will not negate a person's ability to rely on the rule to satisfy a person's delivery obligations under Section 5(b)(2) of the Securities Act.[490] Commenters supported this approach, noting especially the potential for technological challenges to impact the ability of a person seeking to rely on the rule to comply with certain requirements.[491] One commenter also raised concerns regarding how compliance with certain requirements might be determined, and the potential subjectivity involved in that assessment.[492] We received no comments opposing or suggesting modifications to this aspect of the proposal and are adopting as proposed. Failure to comply with the "other requirements" in the rule will, however, constitute a violation of Commission rules.

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490 Rule 498A(i)(5). The final rule's requirements under paragraph (i)(3) that (1) the required online documents be presented in a format that is convenient for reading and printing, and (2) a person be able to retain electronic versions of these documents in a format that is convenient for reading and printing, also are not conditions to relying on the rule to satisfy prospectus delivery obligations. *See supra* notes 430 and 460 and accompanying text.

491 *See* ACLI Comment Letter; Chemas Comment Letter.

492 *See* Chemas Comment Letter ("How long could what is supposed to be an active hyperlink be a dead link before a registrant is deemed non-compliant with this proposed updated requirement?"); *see also* Proposing Release *supra* note 6, at n. 297 (similar comments regarding the "greater prominence" requirement in the proposed mutual fund summary prospectus rule). Consistent with the requirements of the safe harbor for electronic delivery in rule 498A(h), a registrant should update a dead hyperlink when it knows or reasonably should have known that the hyperlink is dead. *See also supra* notes 406 and 415.

7. Incorporation by Reference

a. Permissible Incorporation by Reference

The final rule, as proposed, permits a registrant to incorporate by reference into the summary prospectus information contained in the contract statutory prospectus and SAI, subject to certain conditions.[493] As discussed in the Proposing Release, we do not intend the variable contract summary prospectus to be a self-contained disclosure vehicle, but rather one element in a layered disclosure regime.[494]

Any information incorporated by reference must be separately made available to investors, either electronically or in paper. A Form N-3 registrant also could incorporate by reference into the summary prospectus information from its reports to shareholders that the registrant has incorporated by reference into its statutory prospectus.[495] Under the final rule, a registrant is not permitted to incorporate by reference into the summary prospectus information from any other source. Moreover, a registrant may not incorporate by reference any information that will be required to appear in the contents of the initial summary prospectus or the updating summary prospectus.[496]

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493 *See* rule 498A(d)(2). We received no comments on this aspect of the proposal.

494 *See* Proposing Release, *supra* note 6, at n.300 and accompanying text.

495 Rule 498A(d)(2) references rule 30e-1 under the Investment Company Act, which applies only to management companies (Form N-3 registrants). While rule 30e-2 under the Investment Company Act requires Form N-4 and Form N-6 registrants to transmit portfolio company annual and semi-annual shareholder reports to the investors in their trust accounts, these registrants do not incorporate by reference information from a portfolio company shareholder report into the contract prospectus. *See* CAI Comment Letter (stating that the underlying fund summary or statutory prospectus should not be incorporated by reference into the variable contract summary prospectus). Accordingly, the final rule does not reference rule 30e-2.

496 *See* rule 498A(d)(2)(ii); *see also supra* Sections II.A.1 (describing content requirements for the initial summary prospectus) and II.A.2 (describing content requirements for the updating summary prospectus).

Information could be incorporated by reference into the summary prospectus only by reference to the specific document that contains the information, and not by reference to another document that incorporates the information by reference.[497] For example, if a contract statutory prospectus were to incorporate the contract SAI by reference, the summary prospectus could not incorporate information in the SAI simply by referencing the statutory prospectus but will be required to reference the SAI directly.[498]

Incorporation by reference is permissible only if the registrant satisfies the rule's conditions that prescribe the means by which the required online contract documents must be made available to investors.[499] In addition, if a registrant incorporates information by reference into a summary prospectus, the summary prospectus legend must specify the type of document (*e.g.*, statutory prospectus) that contains the incorporated information and the date of the document.[500] If a registrant incorporates a part of a document by reference into the summary prospectus, the summary prospectus legend must clearly identify the part by page, paragraph,

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497 *See* rule 498A(d)(2)(iii).

498 *Cf*. rule 411(e) under the Securities Act ("[U]nless expressly permitted or required, disclosure must not be incorporated by reference from a second document if that second document incorporates information pertinent to such disclosure by reference to a third document."). Rule 411 was recently amended as part of the 2019 FAST Act Modernization rulemaking adoption (which includes amendments to the Commission's rules on incorporation by reference). *See* FAST Act Modernization and Simplification of Regulation S-K, Securities Act Release No. 10618 (Mar. 20, 2019) [84 FR 12674 (Apr. 2, 2019)] ("FAST Act Adopting Release"). General Instruction D.1 to amended Forms N-3, N-4, and N-6 makes rule 411 applicable to incorporation by reference for a variable contract's statutory prospectus.

499 *See* rule 498A(d)(2)(i) (referencing rule 498A(h), among other paragraphs in the final rule); *see also supra* Section II.A.5.

500 *See* rule 498A(b)(3)(i) and 498A(c)(4).

caption, or otherwise.[501] The legend must also explain that the incorporated information may be obtained, free of charge, in the same manner as the contract statutory prospectus.[502]

The conditions on the availability of information that is incorporated by reference into the contract summary prospectus, and on identifying the information that is incorporated by reference, are intended to facilitate access to this information. Parallel conditions exist in the rule governing mutual fund summary prospectuses. Based on our experience, we believe that investors have found this approach to be useful. Therefore, the final rule includes similar conditions for incorporation by reference for variable contract summary prospectuses.[503]

A registrant that fails to comply with any of the above conditions is not permitted to incorporate information by reference into its summary prospectus. A registrant that does comply with these conditions, however, including the conditions for providing the documents that include the incorporated information online, is also not required to send or give the incorporated information to investors together with the summary prospectus.[504] The contract summary prospectus, together with information incorporated therein by reference, would be subject to liability under Sections 12(a)(2) and 17(a)(2) of the Securities Act.

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501 *Id*. This requirement mirrors the requirements of rule 498(b)(1)(v)(B), and is similar to the requirements of rule 411(e) under the Securities Act, which states that a document that incorporates information by reference must "include an express statement clearly describing the specific location of the information you are incorporating by reference. The statement must identify the document where the information was originally filed or submitted and the location of the information within that document."

502 *Id*.; *see also supra* discussion in Section II.A.5 and 6.

503 *See supra* note 494 and accompanying text.

504 Rule 498A(d)(1).

b. Effect of Incorporation by Reference

Title 17 CFR 230.159 (rule 159 under the Securities Act) provides that any information "conveyed" to a purchaser after the time of sale will not be taken into account, for purposes of determining whether a prospectus or oral statement included an untrue statement of material fact at the time of sale for purposes of Sections 12(a)(2) and 17(a)(2) of the Act.[505] As proposed, the final rule provides that, for purposes of rule 159, information is conveyed to a person not later than the time the person receives a summary prospectus, if that information is incorporated by reference into the summary prospectus in accordance with the rule's conditions.[506] This addresses the question of when information that is incorporated by reference into the contract summary prospectus is conveyed for purposes of liability under Sections 12(a)(2) and 17(a)(2) of the Securities Act.[507]

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505 *See* rule 159 under the Securities Act.

Under Section 12(a)(2) of the Securities Act, sellers have liability to purchasers for offers or sales by means of a prospectus or oral communication that includes an untrue statement of material fact or omits to state a material fact that makes the statements made, based on the circumstances under which they were made, not misleading. Section 17(a)(2) of the Securities Act is a general antifraud provision, which makes it unlawful for any person in the offer and sale of a security to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

506 Rule 498A(d)(3).

507 *See* 2009 Summary Prospectus Adopting Release, *supra* note 17, at nn.109 and 110 (discussing further considerations of liability under Sections 12(a)(2) and 17(a)(2) of the Securities Act, as well as reliance under Section 19(a) of the Securities Act). *See also infra* note 571 and accompanying text.

8. Filing Requirements for the Summary Prospectus

a. Form of Summary Prospectus

Under the final rule and as proposed, registrants must file as an exhibit to the registration statement any form of any initial summary prospectus the registrant intends to use on or after the effective date of the registration statement. Registrants are only required to file the form of initial summary prospectus exhibit with an initial registration statement or with a pre-effective amendment or a post-effective amendment filed in accordance with paragraph (a) of rule 485 under the Securities Act. In a change from the proposal, however, registrants are not required to file any form of updating summary prospectus.[508]

Commenters objected to filing a preliminary summary prospectus for each contract as unduly burdensome and time consuming for issuers to prepare and file and Commission staff to review, and instead recommended that insurers be permitted to file a "form of" or "template" summary prospectus under rule 485(a) for contracts that are substantially similar, or that the registrant asserts is meaningfully representative of similar contracts pursuant to rule 485(b)(1)(vii).[509] In support of this request, one commenter asserted that staff review of the "template" or representative summary prospectus would provide adequate protection for investors, while relieving burdens on issuers and Commission staff.[510]

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508 *See* Item 32(r) of amended Form N-3; Item 26(o) of amended Form N-4; Item 29(r) of amended Form N-6. In modifying the proposed exhibit requirement, we revised the exhibit heading, replacing "Preliminary Summary Prospectuses" with "Form of Initial Summary Prospectus."

509 *See* Lincoln Comment Letter; Brighthouse Comment Letter; Transamerica Comment Letter; ACLI Comment Letter. *See also* Section II.C.4.b.

510 *See* ACLI Comment Letter; *see also* CAI Comment Letter, Brighthouse Comment Letter (seeking clarification regarding whether and how template and selective review might apply to summary prospectuses).

We believe that it is important that Commission staff have the opportunity to review a variable contract's summary prospectus for compliance with the rule and the relevant form requirements prior to its first use. The approach for variable contract summary prospectus differs from that of mutual fund summary prospectuses, where the Commission did not require such a filing because the content of that summary prospectus is essentially identical to the content of the summary section of the statutory prospectus, which is filed prior to its first use.[511] In contrast, while some variable contract summary prospectus disclosures will be identical to those in the statutory prospectus,[512] others will include only part of the information required in the statutory prospectus.[513]

For example, the final rule requires an initial summary prospectus only to describe the features and options of the contract that the registrant currently offers,[514] while the statutory prospectus (and updating summary prospectus) [515] could include information regarding contracts that the registrant no longer sells to new investors. The initial and updating summary prospectuses will also present certain information in a different order than might appear in the

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511 *See* 2009 Summary Prospectus Adopting Release, *supra* note 17, at n.73. The contents of a mutual fund summary prospectus consist of the information required or permitted by Items 2-8 of Form N-1A, which constitutes the summary section of the statutory prospectus. *See* rule 498(b)(2).

512 *See, e.g.*, Items 2 and 3 of amended Forms N-3, N-4, and N-6.

513 *See, e.g.*, Item 10(a) of amended Form N-6; Items 11(a), 10(a), and 11(a) of Forms N-3; N-4, and N-6, respectively. ("Death Benefits" for amended Form N-6, and "[Other] Benefits Available Under the Contract" for amended Forms N-3, N-4, and N-6.). While only certain information in the statutory prospectus is required to be included in the summary prospectus, rule 498A permits the summary prospectus to incorporate by reference some or all of the information contained in the statutory prospectus or SAI. *See supra* Section II.A.7.

514 *See* rule 498A(b)(1).

515 *See* rule 498A(c)(2) (updating summary prospectus).

contract statutory prospectus.[516] Furthermore, certain disclosure requirements differ depending on whether the summary prospectus is an initial summary prospectus or an updating summary prospectus. We do not believe that registrants would need to visually identify or otherwise segregate those portions of the statutory prospectus that are also summary prospectus disclosures, and we recognize that doing so could impede the effective presentation of information in a contract statutory prospectus to investors.

For these reasons, we continue to believe it is important for the staff to review the form of initial summary prospectus. However, in response to commenter concerns, we note that nothing in the amended forms or the summary prospectus framework generally precludes the use of "form of" or "template" review pursuant to rule 485(b)(1)(vii). Thus, registrants are permitted to seek such staff review in appropriate circumstances.

On the other hand, the updating summary prospectus will contain the Key Information Table and Appendix that will be in the statutory prospectus. Moreover, while the updating summary prospectus will also contain a brief summary of specified changes to the statutory prospectus (which we anticipate to typically be limited since variable contracts tend not to change their contract features very often), any material changes should be reflected in a post-effective amendment filing under rule 485(a), which will be marked to indicate such changes and subject to staff review.[517] Because the information contained in the updating summary

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516 For example, in the initial summary prospectus, the Fee Table is located towards the end of the prospectus, with more summary type of fee information provided earlier in the summary prospectus as part of the Key Information Table. In contrast, the Fee Table in the statutory prospectus is closer to the front of the document, where it has been traditionally located.

517 *See* 17 CFR 232.301 (rule 301 of Regulation S-T). Changes may also be indicated in blacklined versions the registration statement that registrants or their counsel commonly supply to the staff as courtesy copies.

prospectus will mirror information contained in the statutory prospectus, we do not believe the staff needs to separately review a form of updating summary prospectus prior to first use. Therefore, to relieve burdens on registrants, we are not requiring it as an exhibit to the registration statement.

b. Definitive Form of Summary Prospectus

In addition to requiring registrants to file a form of initial summary prospectus with the Commission prior to use, we are, as proposed, amending rule 497 under the Securities Act to require a registrant to file a definitive form of summary prospectus – whether an initial summary prospectus or an updating summary prospectus – after it is first used.[518] This will ensure that the Commission receives a copy of every summary prospectus in use.[519] This is consistent with the filing requirement for mutual fund summary prospectuses under rule 497.[520]

To allow investors and staff to more easily locate an initial summary prospectus or updating summary prospectus when searching on EDGAR, one commenter asked that we consider whether initial and updating summary prospectuses should be filed under differentiating form type designations (though noting that separate filing designations could cause filing errors).[521] We agree and anticipate having different EDGAR submission types for initial and updating summary prospectus. Notice of EDGAR system readiness to accept summary

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518 Rule 497(k).

519 A summary prospectus filed with the Commission will be publicly available; however, a registrant could not rely on this availability to satisfy the requirements to post the document online. *See supra* Section II.A.5.

520 S*ee* rule 497(k).

521 *See* IRI Comment Letter I; Comment Letter of the Insured Retirement Institute (Nov. 6, 2019) ("IRI Comment Letter II").

prospectuses using differentiated filing types will be provided in a manner similar to notices of taxonomy updates and EDGAR Filer Manual updates. Until then, registrants may file definitive forms of summary prospectuses using submission type 497H2.

Another commenter asked us to amend rule 497 so insurers could customize and make prospectuses more interactive without having to file every variation on EDGAR.[522] While we support the goal of making prospectuses more interactive, as with statutory prospectuses, it is important for investor protection purposes that our staff is able to review every form of summary prospectus that is used.[523] Accordingly, we are not modifying rule 497 as this commenter suggests.

c. Investor Protection and Liability Under Section 11 of the Securities Act

Section 10(b) of the Securities Act provides that a prospectus permitted under that section must, unless Commission rules provide otherwise, be filed as part of the registration statement but would not be deemed a part of the registration statement for purposes of Section 11 of the Securities Act.[524] Accordingly, as discussed in the proposal, a summary prospectus that is

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522 *See* Anonymous Comment Letter III.

523 As noted above, however, we believe that only the initial summary prospectus needs to be filed prior to use. *See supra* text surrounding note 517.

524 15 U.S.C. 77j(b) and 77k. Under Section 11 of the Securities Act [15 U.S.C. 77k], purchasers of an issuer's securities have private rights of action for untrue statements of material facts or omissions of material facts required to be included in the registration statement or necessary to make the statements in the registration statement not misleading. Congress provided a specific exception from liability under Section 11 for summary prospectuses under Section 10(b) of the Securities Act in order to encourage the use of summary prospectuses. L. Loss & J. Seligman, Securities Regulation, section 2–b–5 (3d ed. 2006) (citing S. Rep. 1036, 83d Cong., 2d Sess. 17-18 (1954) and H.R. Rep. 1542, 83d Cong., 2d Sess. 26 (1954)).

filed as part of the registration statement (*e.g.*, as an exhibit or otherwise) would not be deemed a part of the registration statement for purposes of Section 11 of the Securities Act.[525]

Some commenters in connection with the mutual fund summary prospectus proposal expressed concerns that the mutual fund summary prospectus would not be subject to Section 11 liability, suggesting that this would result in a diminution of funds' liability under that section.[526] The Commission stated in response that while Section 11 prescribes that the mutual fund summary prospectus will not itself be deemed a part of the registration statement for purposes of Section 11, all of the information in the summary prospectus will be subject to liability under Section 11, either because the information is the same as information contained in the statutory prospectus or because the information is incorporated by reference from the registration statement.[527]

For similar reasons, it is our view that while a variable contract summary prospectus under the final rule will not itself be deemed a part of the registration statement for purposes of Section 11, the information in the summary prospectus will generally be subject to liability under Section 11. While rule 498A does not have a comparable provision to the one in rule 498

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525 Section 10(b) of the Securities Act ("A prospectus permitted under this subsection shall, except to the extent the Commission by rules or regulations deems necessary or appropriate in the public interest or for the protection of investors otherwise provides, be filed as part of the registration statement but shall not be deemed a part of such registration statement for purposes of Section 11.").

526 *See* 2009 Summary Prospectus Adopting Release, *supra* note 17, at n.344 and accompanying text.

527 The Commission noted that: (1) the final rule required the information contained in a summary prospectus that is used to satisfy prospectus delivery obligations must be the same as the information contained in the summary section of the fund's statutory prospectus; and (2) information may be incorporated by reference into a summary prospectus only if it is contained in the fund's statutory prospectus, SAI, or has been incorporated into the statutory prospectus from the shareholder report. *Id*. at nn.111 and 112; *see also* rules 498(f)(4) and 498(b)(3).

requiring that the information in the summary prospectus must be the same as in the statutory prospectus, we believe that the substance of the information itself would be the same, even though the language in both documents relating to the information may not be identical. For example, the language of the initial summary prospectus could differ from the language used in the statutory prospectus because rule 498A requires that the initial summary prospectus may only describe a single contract that the registrant currently offers for sale, whereas we understand that certain contract statutory prospectuses include disclosure about contract features and options that the registrant may no longer offer to new investors. Nevertheless, the substance of the information for any currently offered features and options will be the same.[528] In addition, rule 498A includes the same provisions regarding information permitted to be incorporated into the summary prospectus as those in rule 498.[529]

As discussed in the Proposing Release, the summary prospectus also would be subject to other liability and antifraud provisions of the federal securities laws.[530]

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528 *See supra* Section II.A.1.b.

The updating summary prospectus could include information that does not appear in the related contract statutory prospectus if the updating summary prospectus discloses changes to the contract that the issuer has made after the most recent updating summary prospectus or statutory prospectus was sent or given to investors. *See supra* Section II.A.2.c.ii.(a); *see also* rule 498A(c)(6)(i) and (ii). This information that only appears in the updating summary prospectus therefore would not be deemed a part of the registration statement for purposes of Section 11 of the Securities Act.

For example, if a particular fee has changed from x% to y%, while the disclosure of the current fee rate (y%) would appear in both the updating summary prospectus and the related statutory prospectus, the earlier fee rate (x%) and the fact that the fee was changed would likely not be disclosed in the statutory prospectus.

529 *See* rule 498A(d); *see also* rule 498(b)(3) (parallel provisions in the rule governing the use of mutual fund summary prospectuses).

530 *See* Proposing Release, *supra* note 6, at nn.329-332 and accompanying text.

9. Defined Terms in Final Rule

We are adopting, substantially as proposed, a section of definitions for certain terms used throughout new rule 498A.[531] These definitions generally: (1) identify specific prospectuses described in the proposed rule (*e.g.*, "initial summary prospectus"); (2) mirror the existing definitions used in Forms N-3, N-4, and N-6 (*e.g.*, "variable annuity contract" as used in Forms N-3 and N-4) or other rules (*e.g.*, "statement of additional information" as used in rule 498); or (3) combine other defined terms in the rule (*e.g.*, "summary prospectus").[532] We received no comments regarding these terms.

In recognition that today a variable contract may offer classes with the same currently available features and options but different pricing structures, the Commission proposed to define "class" to mean a class of a contract that varies principally with respect to distribution-related fees and expenses.[533] While we received comments suggesting we broaden the definition of "class,"[534] we are adopting the definition as proposed, which we believe has an

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531 Rule 498A(a).

532 Although proposed, we are not including in the final rule a definition for "prospectus supplement" because the term is not used elsewhere in the final rule. *See* proposed rule 498A(a)(8). This is the only change from the proposal regarding the rule's defined terms.

533 We understand that this is how the term is commonly used in industry practice. *See* Proposing Release, *supra* note 6, at note 334.

534 *See* CAI Comment Letter (a variable contract can and "frequently does have "classes" that differ in ways other than distribution-related fees and expenses . . . [t]hus, the concepts of classes with respect to mutual funds and classes with respect to variable products do not necessarily correspond. Indeed, with respect to variable products, the term "class" is often used interchangeably with "versions"); *see also* ACLI Comment Letter ("While we do not suggest any specific additions or exclusions to the defined terms, we note that flexibility should be provided to permit a registrant's use of alternative terms used by the company in its contracts that reflect the substance of the defined terms in the proposal").

appropriate scope.[535] We believe that investors value the ability to understand which fees apply to the products that they purchase, and defining "class" in relation to the fees charged ensures that investors will receive a level of granularity to the fees disclosed such that they should be better able to make an informed investment decision.[536]

B. Optional Method to Satisfy Portfolio Company Prospectus Delivery Requirements

1. Current Delivery Practices for Portfolio Company Prospectuses

As discussed in greater detail in the Proposing Release, we understand that summary prospectuses, as opposed to statutory prospectuses, are typically delivered to investors for all the underlying portfolio companies offered under the contract.[537] As with contract prospectuses, portfolio company prospectuses may be delivered electronically pursuant to the Commission's guidance.

Delivery of prospectuses for underlying portfolio companies is typically effected by the insurance company rather than the portfolio company. Based on a staff review of participation agreements between insurance companies and underlying portfolio companies, we understand

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535 *See also* rule 498A(a) and 17 CFR 270.18f-3 (rule 18f-3) (permitting registered investment companies to issue multiple classes of voting stock); Part A ("Definitions") of the General Instructions to Form N-1A (defining "class" as "a class of shares issued by a Multiple Class Fund that represents interests in the same portfolio of securities under rule 18f-3 [17 CFR 270.18f-3] or under an order exempting the Multiple Class Fund from Sections 18(f), 18(g), and 18(i) [15 U.S.C. 80a- 18(f), 18(g), and 18(i)]").

536 *See, e.g.*, Item 4 of Form N-4 (requiring separate responses for each Class regarding the Example in the Fee Table).

537 *See* Proposing Release, *supra* note 6, at Section II.B.1 (stating that, typically, prospectuses for all underlying portfolio companies are delivered to investors to avoid the administrative burden of tracking whether an investor has already received the current prospectus).

that there is diversity in practice as to whether the insurance company or portfolio company bears the printing and mailing costs associated with portfolio company prospectus deliveries.

2. New Option to Satisfy Prospectus Delivery Requirements

a. Overview

As proposed, new rule 498A provides an optional method for satisfying portfolio company prospectus delivery obligations under section 5(b)(2) of the Securities Act by making portfolio company summary and statutory prospectuses available online, with certain key information about the portfolio companies provided in the contract's summary prospectus.[538] This new option is available to Form N-4 and Form N-6 registrants, but is not available to Form N-3 registrants because they do not have underlying portfolio companies.

This option allows satisfaction of prospectus delivery obligations with respect to a portfolio company, if: (1) an initial summary prospectus is used for each currently offered contract described under the related registration statement;[539] (2) a summary prospectus is used for the portfolio company (only if the portfolio company is registered on Form N-1A);[540] and (3) the portfolio company's current summary prospectus, statutory prospectus, SAI, and most recent shareholder reports are posted online under similar posting requirements for the variable contract's summary prospectuses and other documents.[541] In addition, the rule provides that any communication related to a portfolio company, other than a prospectus permitted or required

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538 Rule 498A(j). In a conforming change, we have revised the language in rule 498A(j)(1) regarding prospectus delivery obligations to more closely track the language in Section 5(b)(2) of the Securities Act.

539 Rule 498A(j)(1)(i).

540 Rule 498A(j)(1)(ii).

541 Rule 498A(j)(1)(iii).

under Section 10 of the Securities Act, would not be deemed a prospectus if the above conditions are satisfied.[542]

Many commenters agreed that the proposed delivery option for underlying portfolio company prospectuses would produce cost savings for funds and shareholders and directly align with shareholder preferences for accessing fund information online.[543] Commenters also stated that the proposed delivery option would meaningfully improve the experience of investors by allowing them to navigate funds' prospectus disclosures in a manner responsive to their needs and financial sophistication.[544] One commenter agreed with the optional nature of the proposed delivery option, stating that it would provide registrants time to build the process out for the delivery option.[545] This commenter further agreed that a communication relating to a portfolio company should not be deemed a prospectus if the conditions of rule 498A were satisfied.

However, one commenter opposed the proposed delivery option on the grounds that investors who choose to receive their disclosures in paper are unlikely to seek out portfolio company prospectuses.[546] The commenter noted, for example, that only a small percentage of variable annuity investors have chosen to receive disclosures electronically. Other commenters did not express either agreement or disagreement with the proposed delivery option, but

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542 Rule 498A(j)(2).

543 *See, e.g.*, CAI Comment Letter; Comment Letter of the Independent Directors Council (Feb. 15, 2019); WFA Comment Letter; Comment Letter of TIAA (Feb. 15, 2019).

544 *See* ACLI Comment Letter; Capital Group Comment Letter.

545 *See* ACLI Comment Letter.

546 *See* CFA Comment Letter.

requested clarity regarding the purpose and mechanics of this option.[547] As noted below, the purpose of this option is to help reduce the volume of documents investors receive that may prevent effective disclosure. Under the layered disclosure framework we are adopting in this document, summary information as to the portfolio companies will be provided in the Appendix and more fulsome information available to investors online or on request.

We are concerned that the volume of disclosure materials variable contract investors currently receive may discourage them from reading the materials or prevent them from fully understanding these products. While the new variable contract summary prospectus framework is intended to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly format, we are concerned that investors may not read or understand information if the variable contract summary prospectus is accompanied by hundreds of pages of underlying portfolio company prospectuses.[548] We also note that, to the extent that an investor wants additional information regarding a portfolio company beyond that provided in the Appendix and cannot or chooses not to view that information online, the final

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547 *See, e.g.*, Anonymous Comment Letter III (questioning why the Commission had proposed the optional delivery method); VIP Working Group (asking whether a filing on Form N-14 could incorporate by reference a portfolio company prospectus that is delivered pursuant to the optional delivery method). *See supra* Section II.B.2.d (discussing the delivery of portfolio company prospectuses in connection with Form N-14).

548 Variable annuity contracts offer an average of 60 portfolio companies as investment options. *See supra* note 16. While we intended mutual fund summary prospectuses to be three to four pages in length, rule 498 does not provide page length or similar restrictions and some summary prospectuses have been as long as 19 pages. *See* Request for Comment on Fund Retail Investor Experience and Disclosure, Investment Company Act Release No. 33113 (June 5, 2018) [83 FR 26891 (June 11, 2018)] ("Request for Comment on Fund Retail Investor Experience"), at n.27 and accompanying text. If we conservatively estimate that each portfolio company summary prospectus is four pages in length, an investor who purchases a variable contract that offers 60 portfolio companies would receive 240 pages of portfolio company disclosure materials, in addition to the contract prospectus.

rule provides that an investor may always request paper or electronic copies of these documents be sent to them at no charge to them.[549]

To address this issue, the new option for satisfying portfolio company prospectus delivery requirements provides investors with certain key summary information about underlying portfolio companies in an Appendix to the contract summary prospectus.[550] This information is formatted in a tabular presentation to facilitate the ability of investors to compare key information relating to those portfolio companies.[551] If an investor desires more detailed information about a particular portfolio company, prospectuses and other documents relating to the portfolio company will be available online and in paper or electronically upon request.

b. Conditions

As a condition to relying on the new option, as proposed, we are requiring that the related variable contract use an initial summary prospectus for each currently offered contract described under the related registration statement.[552] One commenter stated that eliminating this condition

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549 Rule 498A(j)(3) and (*i*)(1).

550 A contract summary prospectus will include an Appendix that will provide for each portfolio company its name, type or investment objective, adviser and subadviser, expense information, and average annual returns for the past year, five years, and ten years. *See supra* discussion at Section II.A.1.c.ii.(i); *see also infra* Section II.C.2.t (discussing inclusion of this Appendix also in variable contracts' statutory prospectuses). Registrants on Form N-3, who will not be relying upon this optional method to satisfy portfolio company prospectus delivery obligations, will have the option of omitting the Appendix from the summary prospectus and instead providing more detailed disclosures for the investment options offered under the contract that will be required by new Item 19 of Form N-3. *See supra* note 331 and accompanying text.

In addition, each summary prospectus will also include a Key Information Table that will provide certain disclosures about portfolio company risks and investment restrictions. *See supra* discussion at Section II.A.1.c.ii.(a); *see also infra* Section II.C.2.b (discussing the Key Information Table in amended Forms N-3, N-4, and N-6).

551 *See supra* note 267.

552 Rule 498A(j)(1)(i).

would "provide enhanced readable consumer disclosure" by "reducing the totality of the [paper] documentation that consumers must confront" even when the registrant is not using a summary prospectus.[553]

We disagree. We continue to believe that this condition is an important part of the layered disclosure framework that we are establishing in this document. This requirement is designed to encourage registrants to utilize the summary prospectus framework and provide a more consistent disclosure experience to investors, and reinforces the parallel requirement by tying the use of an updating summary prospectus to the condition that an initial summary prospectus be used for each currently offered contract. Together, we expect that these requirements will provide significant incentives for registrants to embrace the new summary prospectus framework and will further the adoption of the new framework for the mutual benefit of investors and registrants. Therefore, we are requiring a variable contract to use an initial summary prospectus for each currently offered contract described under the related registration in order to rely upon the optional delivery method.

As a second condition, as proposed, a portfolio company that is registered on Form N-1A must use a summary prospectus.[554] Several commenters suggested that registrants should be able to use the optional method for delivering portfolio company prospectuses in order to reduce costs and provide consistent disclosures of portfolio company information even when portfolio company summary prospectuses are not available.[555] Commenters also stated that not all

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553 *See* ACLI Comment Letter.

554 Rule 498A(j)(1)(ii).

555 *See* CAI Comment Letter; Transamerica Comment Letter; ACLI Comment Letter.

portfolio companies currently use summary prospectuses, and concluded that the ability of insurers to rely on the optional delivery method rests at the mercy of those portfolio companies.[556]

Absent this requirement, we believe that portfolio companies may be disinclined to use summary prospectuses,[557] potentially resulting in investors having to obtain information as to a particular portfolio company by reviewing a lengthy statutory prospectus offering multiple funds. We anticipate that this condition could further increase the likelihood that portfolio companies will use summary prospectuses, which will provide investors with summary information about portfolio companies that we believe they are more likely to use and understand.

We also note that use of the delivery option is not contingent on every portfolio company offered as an investment option under the contract using a summary prospectus. Rather, the delivery option is available on a portfolio company by portfolio company basis so an insurer will only be ineligible to use the delivery option as to those portfolio companies that do not use a summary prospectus. Thus, an insurer could use the delivery option to satisfy delivery obligations as to those portfolio companies using summary prospectuses, and continue to mail statutory prospectuses for those portfolio companies that do not use summary prospectuses as under current practice. Regardless of the method used to satisfy prospectus delivery obligations

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556 *See* CAI Comment Letter; ACLI Comment Letter. As discussed above, we estimate approximately 93% of mutual funds and ETFs use summary prospectuses. *See supra* note 21.

557 Portfolio companies today are incentivized to use summary prospectuses because of the cost savings associated with printing and mailing summary prospectuses as opposed to lengthier statutory prospectuses.

as to a given portfolio company, all portfolio companies offered under a variable contract shall be included in the Appendix.[558]

Finally, as a third condition to rely on the delivery option, as proposed, the portfolio company's current summary and statutory prospectus, SAI, and most recent annual and semi-annual shareholder reports (together, the "required online portfolio company documents") must be posted online under similar conditions for the posting of required online contract documents:

- The required online portfolio company documents are publicly accessible, free of charge, at the website address specified on the cover page or beginning of the summary prospectuses for the variable contract, for the time period specified in rule 498A(h)(1);[559]
- The required online portfolio company documents are presented on the website in a format, or formats, that are human-readable and capable of being printed on paper in human-readable format,[560] and permit persons accessing the documents to move directly back and forth between each section heading in a table of contents and the corresponding section of the document;[561]
- Persons accessing the required online portfolio company documents must be able to permanently retain, free of charge, an electronic version of such documents in a

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558 *See generally supra* note 551.

559 Rule 498A(j)(1)(iii).

560 Rule 498A(h)(2)(i); rule 498A(j)(1)(iii). In addition, as proposed, the documents must be presented on the website in a format or formats that are convenient for reading online and printing on paper. Rule 498A(i)(3)(i); rule 498A(j)(1)(iii).

561 Rule 498A(h)(2)(ii).

format, or formats, that is human-readable and permits persons accessing the materials to move directly back and forth between each section heading in a table of contents and the corresponding section of the document;[562]

- Requested required online portfolio company documents must be sent in paper or electronically upon request within three business days after receiving a request;[563] and
- The safe harbor specified in paragraph (h)(4) of the rule will be available if the required online portfolio company documents are temporarily unavailable at the specified website.[564]

Several commenters urged the Commission to permit flexibility regarding the website where required online portfolio company documents would be posted, and stated that insurers should be permitted to include website addresses or links to portfolio companies' existing website document libraries.[565] One commenter asserted that the costs of posting the required online portfolio company documents online in machine-readable format(s) would greatly outweigh the benefits.[566] As discussed above, many commenters also commented on the web-posting requirements for variable contract materials in the context of the variable contract summary prospectus, and suggested that those requirements (which are largely replicated in the

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562 Rule 498A(j)(1)(iii); rule 498A(h)(3). In addition, as proposed, persons must be able to permanently retain these documents in a format or formats that are convenient for reading online and printing on paper. Rule 498A(j)(1)(iii); rule 498A(i)(3)(ii).

563 Rule 498A(j)(1)(iii); rule 498A(i)(1).

564 Rule 498A(j)(1)(iii); rule 498A(h)(4).

565 *See* ICI Comment Letter; ACLI Comment Letter; CAI Letter.

566 *See* ACLI Comment Letter.

context of portfolio company materials) should be made more principles-based and less regimented.[567]

We believe that the "publicly accessible" provision of the rule as proposed already contemplated flexibility for issuers with respect to website posting requirements. Therefore, as proposed, the final rule permits flexibility regarding the website where the required online portfolio company documents are posted, so long as electronic versions of the required online portfolio company documents (or links to those documents) are posted at the same website where the required online contract documents for the variable contract prospectus (or links to those documents) are posted.[568] This requirement is designed to allow flexibility regarding the location where electronic versions of those materials are posted (and permits the website to be hosted, for example, by a financial intermediary or other entity than the insurer), while still ensuring that access to all materials relating to the contract is provided in a central location.

Also as proposed, the website address must be specific enough to lead investors directly to the required online portfolio company documents, although the website can be a central site with prominent links to each document.[569] Thus, while portfolio company documents may be

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567 *See, e.g.*, VIP Working Group Comment Letter; Anonymous Comment Letter III; *see also supra* Section II.A.5.

568 *See* rule 498A(j) (conditioning reliance upon the new portfolio company prospectus delivery option on satisfaction of the conditions in paragraphs (h)(1), (h)(2)(i) and (ii), and (h)(3) and (4)), (h)(1) (providing that the required online portfolio company documents must be posted online at the website address referenced in paragraph (h)(1), which refers to the website on the cover page or beginning of the summary prospectus where the required online contract documents are posted). As proposed, both sets of materials were required to be posted on the website specified on the cover page or beginning of the summary prospectus, but we revised rule 498A(j)(1)(iii) to clarify that the website address used for the required online portfolio company documents must be the same website used for the required online contract documents.

569 *See* rule 498A(b)(2)(v)(B).

hosted at multiple locations, for purposes of compliance with the rule, a summary prospectus may only include a single website address where each of the required online portfolio company documents together with the required online contract documents may be accessed. This requirement is designed to ensure that the required online portfolio company documents are collectively located at the same website address (or can be readily accessed from the same website address) as the related variable contract materials, as opposed to being scattered across various disconnected websites which could discourage investors from seeking those materials.

As discussed above, the Commission is currently engaged in an overall review of the retail fund investor experience. The Commission and its staff will continue to consider further in the broader context of that overall review whether more global changes to the online disclosure framework should be made with regards to the other issues raised by commenters regarding making the web-posting requirements more principles-based and less regimented, as well as whether documents should be required to be posted online in machine-readable format.[570]

Another commenter observed that proposed rule 498A did not clarify when information in a portfolio company's statutory prospectus is deemed to be conveyed to investors for purposes of rule 159 under the Securities Act.[571] Although the commenter's letter only addressed a portfolio company's statutory prospectus, we believe similar concerns would also apply to a portfolio company's Statement of Additional Information and shareholder reports. Accordingly, in a change from the proposal, the final rule provides that information contained in the required online portfolio company documents is conveyed for purposes of rule 159 when portfolio

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570 *See* Request for Comment on Fund Retail Investor Experience, *supra* note 548.

571 *See* CAI Comment Letter. *See generally supra* note 505 (discussing the significance of rule 159 in the context of liability under Sections 12(a)(2) and 17(a)(2) of the Securities Act).

company prospectus delivery obligations under section 5(b)(2) of the Securities Act are satisfied pursuant to the optional portfolio company prospectus delivery method.[572]

Finally, in a change from the proposal,[573] we are correcting an oversight and adding language to the rule to clarify that failure to comply with the delivery upon request and "convenient for reading and printing" requirements with regards to the required online portfolio company documents will not negate the ability to rely on the portfolio company prospectus delivery method.[574] This failure would, however, constitute a violation of Commission rules.

The proposal did not address this issue, but we believe that this provision is consistent with our stated intention to both address the problem of the high volume of disclosure materials variable contract investors receive,[575] and to build upon our experience regarding mutual fund summary prospectuses.[576] The new language, which parallels a similar provision in rule 498,[577] is intended to provide greater certainty to market participants who seek to rely on the rule, and conforms to similar language regarding the application of those same requirements to the ability of funds and financial intermediaries to rely on the rule to satisfy prospectus delivery obligations.[578]

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572 *See* rule 498A(j)(1).

573 The proposal addressed this issue for the summary prospectus itself, but not with regards to portfolio company prospectuses. *See* Proposing Release, *supra* note 6, at notes 264 and 298 and accompanying text.

574 *See* rule 498A(j)(3).

575 *See* Proposing Release, *supra* note 6, at Section II.B.2.a.

576 *Id.* at note 46 and accompanying text.

577 Rule 498(f)(5).

578 *See* rule 498A(i)(5) ("Compliance with this paragraph (i) of this section is not a condition to the ability to rely on paragraph (f) or (g) of this section with respect to a Contract, and failure to

c. Interim Amendments to Portfolio Company Prospectuses

When a portfolio company supplements or otherwise amends its summary or statutory prospectus between annual updates, the amendment is typically filed with the Commission pursuant to rule 497 under the Securities Act.[579] In addition, we understand that the amendment is typically delivered to investors, either by special mailing or by including it with another mailing, such as with the account statement or confirmation.[580]

As proposed, the new option for satisfying portfolio company prospectus delivery requirements will require that current portfolio company summary prospectuses and statutory prospectuses are posted online. If a portfolio company amends its prospectus between annual updates, the updated prospectus (including any prospectus supplements) must be posted online. However, as proposed, we are not separately requiring delivery of portfolio company prospectus amendments to investors. Commenters generally supported this aspect of our proposal.[581]

In addition, if an interim amendment to a portfolio company prospectus affects the information provided in the initial or updating summary prospectus (*e.g.*, a change to the type/investment objective or current expenses of the portfolio company provided in the required Appendix to the contract summary prospectus), then investors will receive notice of the change through an amendment to the contract summary prospectus which will be delivered to investors.

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comply with paragraph (i) does not negate the ability to rely on paragraph (f) or (g) of this section.").

579 Rule 497 under the Securities Act.

580 For investors who received a summary prospectus for a portfolio company, we understand that amendments are typically delivered to investors only if the amendments relate to the summary prospectus and summary section portion of the statutory prospectus.

581 *See, e.g.*, ACLI Comment Letter and CAI Comment Letter.

As proposed, the new rule will not, however, affect the requirements to deliver other materials specified under other rules or terms of exemptive orders, and in such cases, the materials specified under those rules or terms of exemptive orders must be delivered to investors.[582]

d. Delivery of Portfolio Company Prospectuses in Connection with Form N-14 Proxy Statement/Prospectuses

Management investment companies and business development companies use Form N-14 to register certain transactions under the Securities Act. These include a merger in which a vote or consent of the security holders of the company being acquired is not required, an exchange offer for securities of the issuer or another person, a public reoffering or resale of any securities acquired in an offering registered on Form N-14, or any combination of such transactions.[583]

Among other things, Form N-14 requires the disclosure of certain information about the registrant and the company being acquired, such as fees, synopsis information of the information contained in their prospectuses, and risk factors.[584] If the transaction will not be submitted to security holders of the registrant for approval or consent, then some of the required information about the company being acquired may be incorporated by reference from that company's current prospectus without being sent to investors, on the grounds that investors in the company being acquired have already received the prospectus for their fund.[585]

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582 *See, e.g.*, 17 CFR 270.35d-1 (rule 35d-1 under the Investment Company Act) (requiring a registered investment company with a name suggesting investment in certain investments or industries, or investment in countries or geographic regions, to adopt a policy to invest at least 80% of its net assets (plus the amount of any borrowings for investment purposes) in investments suggested by its name, and if not a fundamental policy, to provide investors with at least 60 days prior notice of any change in that investment policy).

583 *See* General Instruction A to Form N-14.

584 *See, e.g.*, Items 3, 5, and 6 of Form N-14.

585 *See* Item 6.(2)(ii) of Form N-14.

While the Commission did not propose any changes to Form N-14 in the Proposing Release, one commenter asked whether a filing on Form N-14 could similarly incorporate by reference a portfolio company prospectus without delivering it if the investor had received a variable contract prospectus which offered the portfolio company as an underlying investment option.[586] We believe the same policy rationale behind the incorporation by reference provision in current Form N-14 should also apply here so long as prospectus delivery obligations for the portfolio company have been satisfied pursuant to the new portfolio company prospectus delivery option. Accordingly, we are now amending Form N-14 to provide that a portfolio company prospectus whose delivery obligations were satisfied via new rule 498A(j) may be incorporated by reference into a filing on Form N-14 without being sent to investors, so long as that portfolio company was listed in the variable contract summary prospectus Appendix at the time the disclosures required by Form N-14 were delivered to investors.[587]

C. Amendments to Registration Forms

We are adopting amendments to Forms N-3, N-4, and N-6 to update and enhance the disclosures to investors in variable contracts, and to implement the summary prospectus framework. These amendments include new disclosure requirements to reflect the evolution of variable contract features, including, in particular, the prevalence of optional benefits that insurers offer under these contracts. In addition, we are adopting amendments to provide greater consistency among the registration forms for variable contracts. Form N-6, which was adopted in 2002 and is the newest variable contract form, served as a model for many of the revisions to

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586 *See* VIP Working Group Comment Letter.

587 *See* General Instruction G to amended Form N-14.

Forms N-3 and N-4. Accordingly, we are adopting fewer changes to Form N-6 than the other forms.

Certain investors who are considering variable annuities may also be considering variable life insurance (and vice versa). We believe a consistent presentation could reduce investor confusion and promote investor understanding through common disclosure across types of variable products on elements that we consider useful in explaining variable contracts' features and risks. Also, we believe that more uniformity of disclosures across variable contract types may make it easier for investors to compare similar products. We also believe that increasing consistency of disclosure requirements among registration forms could increase efficiencies among sponsors of variable contracts that register on multiple of these registration form types, and other market participants.

We are adopting amendments to the registration statement forms substantially as proposed with some modifications in response to comments on specific reporting items.[588] The comments that we received relating to our proposal to amend variable contract registration statements were generally supportive of our efforts to improve the information that is provided to shareholders and filed with the Commission.[589] Although commenters did not raise broad objections to our proposed amendments, commenters raised concerns with and/or requested

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588 In a change from the proposal, we are also making non-substantive amendments to the forms to standardize and conform the use of certain terminology and references to defined terms, such as changing references from "contractowner" to the more plain English term "investor."

589 *See, e.g.*, CAI Comment Letter ("[T]he Committee applauds the Commission for dedicating considerable time and effort to revamp the variable product registration statement forms…."); XBRL U.S. Comment Letter ("Making variable annuity data consistent, comparable from product to product, and easily accessible on a timely basis, will improve the investor's ability to evaluate these offerings, and is a task best handled through standardized reported data.").

clarification on various items, as discussed in more detail below. To the extent we received no comments on certain items, we are adopting them as proposed, as discussed further below.

1. General Instructions

We are adopting amendments to the General Instructions of Forms N-3, N-4, and N-6 regarding the preparation and filing of registration statements. Although commenters did not raise broad objections to our proposed amendments, commenters raised concerns with and/or requested clarification on General Instruction C.3, as discussed in more detail below. To the extent we received no comments on the other General Instructions, we are adopting them as proposed.

The amended General Instructions, like the General Instructions in current Form N-6,[590] are structured to include four parts: (A) Definitions; (B) Filing and Use of Form; (C) Preparation of the Registration Statement;[591] and (D) Incorporation by Reference.[592] With the exception of

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590 While the amended General Instructions in Forms N-3 and N-4 are structured like the General Instructions in current Form N-6, there are certain new instructions that we are adopting to add to each of the forms. *See, e.g.*, amended General Instructions C.3.(a), C.3.(b), C.3.(c), C.3.(e), and C.3.(h) to Forms N-3, N-4, and N-6, each described *infra*.

591 The final forms include, as part of the instruction to avoid excessive detail, technical or legal terminology, and complex language, amended General Instruction C.1.(c) which clarifies the instruction to avoid the use of formulas as the primary means of communicating certain terms or features of the contract. This specific text was not included in the proposal, and is not intended to discourage use of a formula, but rather, to clarify that if a formula is used in connection with a term or feature, investors are first provided appropriate plain English disclosure regarding the operation of the term or feature. This amendment is consistent with a frequent staff comment provided as part of the disclosure review process that is intended to help facilitate registration statement disclosures that are clear and concise.

592 Amended General Instruction D also reflects the amendments recently adopted pursuant to the Commission's FAST Act rulemaking in 2019. *See* FAST Act Adopting Release, *supra* note 501 (among other things, consolidating and harmonizing rules and instructions in registration statements regarding incorporation by reference). These amendments became effective April 2 and May 2, 2019.

General Instruction C.3, these amendments are largely organizational in nature and incorporate minor changes that are not intended to significantly alter the content of the current General Instructions for these forms.

General Instruction C.3 provides substantive requirements for the preparation of the registration statement, including instructions relating to the organization, presentation, and prospectuses permitted to be included in a registration statement. The instruction parallels Instruction C.3 of current Form N-6 in substance, except as described below.

Organization of Information

As proposed, General Instruction C.3.(a) requires the disclosures in response to Item 2 (Key Information), Item 3 (Overview of the Contract), and Item 4 (Fee Table) of the registration forms to appear in numerical order at the front of the prospectus, and not be preceded by anything other than a cover page (Item 1), a glossary, or a table of contents. One commenter stated that registrants should be given flexibility to present disclosure where it makes most logical sense, and recommended against an approach that would require those disclosures to be segregated and placed at the beginning of the statutory prospectus.[593] Another commenter disagreed and supported the proposed order of the items in the amended forms and the related

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As discussed below in Section II.E, EDGAR will be modified to create a new submission type under which registrants may file required financial statements. Notice of EDGAR system readiness to accept filings pursuant to the new submission type will be provided in a manner similar to notices of EDGAR Filer Manual updates. This submission type will be available to all variable contract registrants, including those with actively selling or discontinued contracts. Thus, registrants may incorporate by reference into their post-effective amendment and other filings the financial statements filed under the new submission type.

593 *See* ACLI Comment Letter.

General Instructions.[594] We continue to believe that these disclosures should appear at the beginning of the prospectus because they contain the most salient information about a variable contract's key features, costs, and risks and standardization of these disclosures will aid investors in comparing different products.[595] We also believe that the instruction incorporates a certain degree of flexibility for issuers. As proposed and adopted, the instruction also provides that if the discussion of the information that Items 2 or 3 requires also responds to disclosure requirements in other items of the prospectus, a registrant need not include additional disclosure that repeats this information.

Other Information

As proposed, General Instruction C.3.(b) provides that, except in response to Items 2 and 3, a registrant is permitted to include information in the prospectus or SAI that is not otherwise required, so long as it is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of the information that is required to be included.[596] This instruction is intended to provide flexibility to registrants to include contextual and other information that could aid investors' understanding of variable contracts and assist them in making informed investment decisions.

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594 *See* CAI Comment Letter.

595 The disclosure that amended Items 2 and 3 requires also will appear at the beginning of the initial summary prospectus. *See supra* note 60 and accompanying text.

596 In a change from the proposal, this instruction further provides that information regarding non-principal risks that is not otherwise required to be in the prospectus must be disclosed in the SAI, as opposed to the prospectus, in accordance with the items regarding principal and non-principal risk disclosure. As discussed below, we believe that prospectus disclosure of non-principal risks that are not otherwise required to be in the prospectus could add complexity and length to the prospectus and obscure principal risks that are more relevant to investors, and therefore such non-principal risks should only be included in the SAI. *See* note 690.

Presentation of Information

As proposed, General Instruction C.3.(c) encourages registrants to use, as appropriate, question-and-answer presentations, tables, side-by-side comparisons, captions, bullet points, numeric examples, illustrations or similar presentation methods.[597] We believe that these alternative ways of presenting information could increase readability and that this instruction could encourage registrants to use these presentation options, where appropriate.

Use of Terms

As proposed, General Instruction C.3.(d)(i) includes in substance the requirements of Item 2 (Definitions) of current Forms N-3 and N-4. The changes conform this instruction to the language in the parallel current General Instruction of Form N-6, which we believe will improve readability and consistency across form types.

As discussed above, and in response to requests from commenters, General Instruction C.3.(d) includes new subparagraph (ii) which provides registrants with the flexibility to use alternate terminology other than that used by the form, so long as the alternate terminology clearly conveys the meaning of, or provides comparable information as, the terms used by the form.[598]

Use of Form to Register Multiple Contracts

General Instruction C.3.(e) provides new guidance addressing when a registrant may describe multiple contracts in a single prospectus, and include multiple prospectuses in a single

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597 *See, e.g.*, Kleimann Presentation, *supra* note 112 (encouraging, for example, the use of question-and-answer format, the use of headings to make structure clear, using a strong design grid to organize elements, making line length readable, and using common words and sentence constructions as ways of designing disclosure to promote readability).

598 *See supra* note 76 and accompanying text.

registration statement. We are generally adopting these amendments as proposed, with certain modifications described below.

As proposed, General Instruction C.3.(e)(i) provides that registrants may describe multiple contracts in a single prospectus when the contracts are "essentially identical." Whether the contracts are essentially identical will depend on the facts and circumstances. The instruction includes examples to provide guidance on this point, although we have revised one of the proposed examples to clarify that a contract that does not offer optional benefits could still be essentially identical to one that offers optional benefits without charge (*e.g.*, optional benefits offered without charge may include dollar-cost averaging programs, automatic transfer programs, etc.).[599] If a prospectus becomes unwieldy because of multiple discontinued or changed features such that an investor might become overwhelmed or confused, the registrant should consider issuing a new prospectus, which could be included in the same registration statement, as discussed further below.

One commenter asserted that the specific examples proposed by the Commission outlining when this practice would be permitted were unnecessarily restrictive. The commenter suggested that the Commission should permit insurers reasonable flexibility to describe, in a single prospectus, the same contract (or contracts) offering different versions of a particular optional benefit, different combinations of optional benefits, and other variations.[600]

As the number of optional benefits offered under variable insurance contracts have proliferated, registrants have gravitated towards increasingly larger and more complex

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599 The examples clarify that a contract that does not offer optional benefits would not be essentially identical to one that does for a charge. Similarly, group and individual contracts would not be essentially identical. However, contracts that vary only due to state regulatory requirements would be essentially identical.

600 *See* CAI Comment Letter.

prospectuses, including prospectuses describing multiple contracts offering different versions and combinations of optional benefits, even though not all of those contracts or optional benefits would be relevant for investors to whom the prospectus would be sent or given.

To provide guidance to registrants, and in order to avoid overwhelming investors with voluminous and potentially irrelevant prospectus information, General Instruction C.3.(e)(i) provides that registrants may only describe multiple contracts in a single prospectus when the included contracts are "essentially identical," and further provides specific examples that we believe are helpful in outlining when this condition is met.

General Instruction C.3.(e)(ii) further provides that a registrant may combine multiple prospectuses in a single registration statement under certain conditions. The Commission proposed permitting such combinations when the prospectuses describe contracts that are "essentially identical."

One commenter expressed confusion that the same standard would be used to determine when multiple contracts can be described in one prospectus and also when multiple prospectuses can be combined in one registration statement, even though different examples are provided to demonstrate what would be appropriate in each context.[601] The commenter further stated that registrants currently have reasonable flexibility to include multiple reasonably related prospectuses in a single registration statement, and asserted that practice should be permitted if the prospectuses describe different versions or iterations of contracts that are on the same or substantially similar policy forms, offer different combinations and/or iterations of benefits, or address different distribution arrangements.

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601 *Id*.

Although we agree that under certain circumstances it would be appropriate to include more than one prospectus in a single registration statement, as discussed above we believe that specific criteria will be helpful to provide guidance to registrants and to limit the potential for investors to become overloaded with voluminous and potentially irrelevant registration statement information. Accordingly, we have modified the General Instruction to permit registrants to combine multiple prospectuses in a single registration statement when the contracts are "substantially similar." The instruction also includes examples to provide guidance on this point, as proposed, although we are modifying one of the proposed examples to replace the word "enhanced" with "modified," because not all material changes to riders are necessarily improvements that "enhance" the rider.[602] We believe these examples are generally consistent with current industry practice.

When a registrant files its initial registration statement and post-effective amendments thereto with the Commission, Commission staff could request the registrant to resubmit the filing with separate prospectuses or registration statements if the filing falls outside the guidelines specified in General Instruction C.3.(e). One commenter stated that many prospectuses currently describe more than one contract, and many variable product registration statements currently include more than one prospectus, and suggested that the Commission should grandfather such existing filings.[603]

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602 The examples clarify that a registrant could determine it is appropriate to include multiple prospectuses in a registration statement in the following situations: (1) the prospectuses describe the same contract that is sold through different distribution channels; (2) the prospectuses describe contracts that differ only with respect to underlying funds offered; or (3) the prospectuses describe both the original and a "modified" version of the same contract (where the "modified" version modifies the features or options that the registrant offers under that contract).

603 *See* CAI Comment Letter.

Recognizing the potential confusion for existing investors and burdens for registrants associated with splitting up prospectuses and registration statements into multiple documents, we are exempting registrants from the requirement to take such actions as to existing prospectuses and registration statements.[604] Existing prospectuses and registration statements as of the effective date of the form amendments are exempt from these requirements – that is, existing prospectuses that describe more than one contract, and existing registration statements that include more than one prospectus, will not need to be split into separate documents. However, after the effective date of the form amendments, a registrant that seeks to describe a new contract under a particular prospectus or add a new prospectus to a registration statement, must comply with the guidelines specified in General Instruction C.3.(e) as to that new contract or new prospectus. Further, while we generally believe that insurers should limit the contracts covered in a single prospectus and prospectuses covered in a single registration statement as discussed above, we also believe that the costs and burdens that would be imposed should we not provide this exemption may not justify the benefits of such limitations in the case of existing prospectuses and registration statements.[605]

Order of Information in Prospectus

As proposed, while paragraph (a) of General Instruction C.3 generally requires registrants to disclose the information required by Items 2, 3, and 4 in numerical order at the front of the prospectus, General Instruction C.3.(e)(i)(A) allows registrants to depart from this requirement

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604 For the reasons set forth above, we find that this 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 Investment Company Act. *See* Section 6(c) of the Investment Company Act; Section 28 of the Securities Act.

605 *See infra* Sections II.E.2 and 3.a (taking a similar approach regarding discontinued contracts for similar reasons).

under certain circumstances.[606] The amended instruction includes an example to provide guidance on this point, largely as proposed.[607] Registrants that present Items 2, 3, and 4 for each of several contracts sequentially or that utilize another presentation should consider whether investors might benefit from a brief explanation about how the information in the prospectus is presented, such as headings for each contract in the prospectus' table of contents and/or a brief narrative at the beginning of the prospectus explaining the presentation.[608] Registrants are encouraged to present information in a manner that limits repetition.[609]

Regardless of the presentation method chosen, when disclosing information relating to one of several contracts, registrants should clearly identify to which contract the information relates. In a change from the proposal, and consistent with our effort to provide greater clarity to investors,[610] the amended forms contain a new instruction that requires registrants to generally include appropriate titles, headings, or any other information to promote clarity and facilitate

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606 Specifically, registrants may do so when providing disclosure in a single prospectus for more than one contract. However, the order of information required by each item must remain the same, and they must still present the required information clearly and effectively.

607 The example clarifies that a prospectus may present all of the Item 2 information for several contracts (*e.g.*, by providing several Key Information Tables sequentially or by providing a single Key Information Table containing separate disclosures for each contract to the extent that such disclosures vary by contract), followed by all of the Item 3 information for the contracts, and followed by all of the Item 4 information for the contracts. Alternatively, the prospectus may present Items 2, 3, and 4 for each of several contracts sequentially. Other presentations also could be acceptable if they are consistent with the form's intent to disclose the information required by Items 2, 3, and 4 in a standard order at the beginning of the prospectus.

608 *See* General Instruction C.3.(e)(i)(A) to Forms N-3, N-4, and N-6.

609 *Id.*

610 While not specific to use of a single prospectus to describe more than one contract, one commenter did raise a concern about the ability of investors to understand multiple contracts in the context of the initial summary prospectus. *See* AARP Comment Letter.

understanding regarding which disclosures apply to which contract, if such disclosures vary based on the contract.[611]

Interactive Data Files

In the case of contracts currently offered to new investors, paragraph (h) of General Instruction C.3 requires registrants to use the Inline XBRL format for the submission of certain required disclosures in the variable contract statutory prospectus.[612] We discuss the requirement to file using Inline XBRL in Section II.D below.

Website Addresses

Paragraph (i) of General Instruction C.3 requires any website address that is included in an electronic version of the statutory prospectus (*i.e.*, electronic versions sent to investors or available online) to include an active hyperlink.[613] In response to comments discussed below, in a change from the proposal, registrants may also utilize any other means of facilitating access that leads directly to the relevant website address or cross-referenced information. This instruction is intended to ensure that investors viewing electronic versions of the prospectus are able to easily access website addresses that are referenced in the prospectus and to provide registrants with flexibility to take advantage of potential technological improvements. This requirement does not apply to an electronic version of a statutory prospectus filed on the EDGAR system.[614]

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611 *See* General Instruction C.3.(e)(i)(B).

612 *See* General Instruction C.3.(h) to amended Forms N-3, N-4, and N-6; *see also* Items 3, 4, 5, 11, 18, and 19 of amended Form N-3; Items 3, 4, 5, 10, and 17 of amended Form N-4; Items 3, 4, 5, 10, 11, and 18 of amended Form N-6.

613 *See* General Instruction C.3.(i) to amended Forms N-3, N-4, and N-6.

614 *Id.*; *see also* rule 105 of Regulation S-T [17 CFR 232.105] (prohibiting hyperlinking to websites, locations, or other documents that are outside of the EDGAR system). Because this is an existing EDGAR restriction, we do not believe it is necessary to add this provision to registration

Although we proposed that this requirement would also apply to cross-references included in an electronic version of the statutory prospectus, for the reasons discussed above, and to parallel a similar change with regards to a parallel provision for summary prospectuses, we are not adopting this requirement with regards to electronic versions of the statutory prospectus.[615]

Several commenters asserted that the proposed requirement could be burdensome because it would necessitate continuous maintenance to determine whether the hyperlinked websites have changed locations of information.[616] From staff's experience with insurer websites, we understand that insurers typically link to landing pages which are unlikely to change locations, and thus any such burden would be minimal relative to the benefits investors and others receive from such hyperlinks. Another commenter asked for guidance regarding what would constitute noncompliance with regards to failure to update an active hyperlink that had become a "dead link."[617] Although a finding of noncompliance would depend on the facts and circumstances in question, we would generally consider the hyperlinking requirement to be met if the insurer has reasonable procedures in place to ensure compliance, and the insurer takes prompt action to ensure that the hyperlink is active as soon as practicable following the earlier of the time at which it knows or reasonably should have known that the hyperlink is not active.[618]

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statements. Thus, in a change from the proposal, amended Forms N-3, N-4, and N-6 do not include this provision.

615 *See supra note* 488 and accompanying and following text.

616 *See* ACLI Comment Letter; Ameritas Comment Letter.

617 *See* Chemas Comment Letter.

618 *Compare with* rule 498A(h)(4) (providing safe harbor under similar circumstances with regards to the requirement to make certain documents available on a website, among other conditions).

2. Part A (Information Required in a Prospectus)

Table 4 shows how our amendments revise the item requirements of Part A of the variable contract registration forms. Although commenters did not raise broad objections to our proposed amendments, commenters raised concerns with and/or requested clarification on various items, as discussed in more detail below. To the extent we received no comments on certain items, we are adopting them as proposed, as discussed further below.

TABLE 4. AMENDMENTS TO PART A OF FORMS N-3, N-4, AND N-6

ITEM DESCRIPTION	AMENDED ITEM NO.	FORM N-3	FORM N-4	FORM N-6
Front and Back Cover Pages (in Forms N-3 and N-4, currently "Cover Page")	• Form N-3: Item 1 (currently Item 1) • Form N-4: Item 1 (currently Item 1) • Form N-6: Item 1 (currently Item 1)	Revised	Revised	Revised
Definitions	N/A (currently, Item 2 in Forms N-3 and N-4)	Revised (incorporated in General Instructions)	Revised (incorporated in General Instructions)	N/A (incorporated in General Instructions)
Key Information	• Form N-3: Item 2 • Form N-4: Item 2 • Form N-6: Item 2	New Item (also in ISP, USP)	New Item (also in ISP, USP)	New Item (also in ISP, USP)
Overview of the Contract	• Form N-3: Item 3 • Form N-4: Item 3 • Form N-6: Item 3	New Item (also in ISP)	New Item (also in ISP)	New Item (also in ISP)
Fee Table (in Form N-3, currently "Synopsis or Highlights," in Form N-4, currently "Synopsis," and in Form N-6, currently "Risk/Benefit Summary: Fee Table")	• Form N-3: Item 4 (currently Item 3) • Form N-4: Item 4 (currently Item 3) • Form N-6: Item 4 (currently Item 3)	Revised (also in ISP)	Revised (also in ISP)	Revised (also in ISP)
Condensed Financial Information	• Form N-3: Item 17 (currently Item 4)	Revised	N/A	N/A
Principal Risks of Investing in the Contract (in Form N-6, currently "Risk/Benefit Summary: Benefits and Risks")	• Form N-3: Item 5 • Form N-4: Item 5 • Form N-6: Item 5 (currently Item 2)	New Item	New Item	Revised

In Form N-3: General Description of Registrant, Insurance Company, and Investment Options (currently "General Description of Registrant and Insurance Company") In Forms N-4 and N-6: General Description of Registrant, Depositor, and Portfolio Companies	• Form N-3: Item 6 (currently Item 5) • Form N-4: Item 6 (currently Item 5) • Form N-6: Item 6 (currently Item 4)	Revised	Revised	Revised
Management	• Form N-3: Item 7 (currently Item 6)	Revised	N/A	N/A
Charges (in Form N-3, currently "Deductions and Expenses," in Form N-4, currently "Deductions")	• Form N-3: Item 8 (currently Item 7) • Form N-4: Item 7 (currently Item 6) • Form N-6: Item 7 (currently Item 5)	Revised	Revised	Revised
General Description of Contracts (in Form N-4, currently "General Description of Variable Annuity Contracts")	• Form N-3: Item 9 (currently Item 8) • Form N-4: Item 8 (currently Item 7) • Form N-6: Item 8 (currently Item 6)	Revised	Revised	Revised
Annuity Period	• Form N-3: Item 10 (currently Item 9) • Form N-4: Item 9 (currently Item 8)	Revised	Revised	N/A
Premiums	• Form N-6: Item 9 (currently Item 7)	N/A	N/A	Revised (part also in ISP)
Death Benefits (in Forms N-3 and N-4, currently "Death Benefit," and in Form N-6, currently "Death Benefits and Contract Values")	• Form N-3: N/A (currently Item 10) • Form N-4: N/A (currently Item 9) • Form N-6: Item 10 (currently Item 8)	Eliminated	Eliminated	Revised (part also in ISP)
In Forms N-3 and N-4: Benefits Available Under the Contract In Form N-6: Other Benefits Available Under the Contract	• Form N-3: Item 11 • Form N-4: Item 10 • Form N-6: Item 11	New Item (part also in ISP)	New Item (part also in ISP)	New Item (part also in ISP)
Purchases and Contract Value	• Form N-3: Item 12 (currently Item 11) • Form N-4: Item 11 (currently Item 10) • Form N-6: N/A	Revised (part also in ISP)	Revised (part also in ISP)	N/A

Surrenders and Withdrawals (in Forms N-3 and N-4, currently "Redemptions," in Form N-6, currently "Surrenders, Partial Surrenders, and Partial Withdrawals")	• Form N-3: Item 13 (currently Item 12) • Form N-4: Item 12 (currently Item 11) • Form N-6: Item 12 (currently Item 9)	Revised (part also in ISP)	Revised (part also in ISP)	Revised (part also in ISP)
Loans	• Form N-3: Item 14 • Form N-4: Item 13 • Form N-6: Item 13 (currently Items 10 and 23)	New Item	New Item	Revised
Lapse and Reinstatement	• Form N-6: Item 14 (currently Item 11)	N/A	N/A	Revised (part also in ISP)
Taxes	• Form N-3: Item 15 (currently Item 13) • Form N-4: Item 14 (currently Item 12) • Form N-6: Item 15 (currently Item 12)	Revised	Revised	Unchanged
Legal Proceedings	• Form N-3: Item 16 (currently Item 14) • Form N-4: Item 15 (currently Item 13) • Form N-6: Item 16 (currently Item 13)	Revised	Revised	Unchanged
Table of Contents of the SAI	N/A (currently, Item 15 of Form N-3 and Item 14 of Form N-4)[619]	Eliminated	Eliminated	N/A
Financial Statements	• Form N-3: Item 17 • Form N-4: Item 16 • Form N-6: Item 17 (currently Item 14)	New Item	New Item	Unchanged

[619] As discussed below, we are eliminating the Table of Contents of the SAI that is required by Item 15 of current Form N-3 and Item 14 of current Form N-4. We do so to streamline the prospectus and avoid duplicative disclosure with the SAI, which separately requires a Table of Contents. *See infra* Section II.C.3.

In Form N-3: Investment Options Available Under the Contract In Forms N-4 and N-6: Portfolio Companies Available Under the Contract	• Form N-3: Item 18 • Form N-4: Item 17 • Form N-6: Item 18	New Item (also in ISP, USP if disclosures from Item 19 are not included)	New Item (also in ISP, USP)	New Item (also in ISP, USP)
In Form N-3: Additional Information About Investment Options Available Under the Contract	• Form N-3: Item 19	New Item (also in ISP, USP if disclosures from Item 18 are not included)	New Item	New Item

a. Front and Back Cover Pages (Item 1 of Forms N-3, N-4, and N-6)

We are adopting these amendments to the front and back cover pages of Forms N-3, N-4, and N-6 largely as proposed.

We are amending Item 1 of each registration form, largely as proposed,[620] to reflect the requirements for the prospectus cover pages required by Item 1 of current Form N-6, with three additional disclosures that will be made on the front cover page. We received no comments regarding these proposed additional disclosures.

- First, the name of the contract and the class or classes, if any, to which the contract relates to help clarify the specific contract and class or classes covered by the prospectus;[621]

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620 We added the legends required by rule 498A(b)(2)(v)(E) and (F) as a new part of Item 1 and made other slight clarifications that were not in Item 1 as proposed. *See supra* notes 90 and 91 and accompanying text.

621 Item 1(a)(5) of amended Form N-3; Item 1(a)(4) of amended Forms N-4 and N-6.

- Second, as with the initial summary prospectus and updating summary prospectus, a statement directing an investor to the Investor.gov website for additional information;[622] and
- Third, as with the initial summary prospectus, a legend informing investors about the free look period, if applicable.[623]

To streamline the front cover page and because similar information would appear in tabular presentation in the prospectus, the Commission proposed to eliminate the current requirements in Forms N-3 and N-4 that the registrant include on the front cover page the type of separate account and names of the available portfolio companies. We received one comment letter which supported removal of the names of the available portfolio companies and did not object to removal of the name of the type of separate account, and we are adopting these changes as proposed.[624]

Additionally, as proposed, we are amending the prospectus back cover page to include certain additional information concerning: (1) the availability of the SAI and how to request other information about the contract; (2) whether and from where information is incorporated by

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622 Item 1(a)(8) of amended Form N-3; Item 1(a)(7) of amended Forms N-4 and N-6; *see also supra* note 88 and accompanying text.

623 Item 1(a)(10) of amended Form N-3; Item 1(a)(8) of amended Forms N-4 and N-6; *see also supra* text following note 86 and accompanying text.

In addition, the forms include a legend informing investors about the optional internet availability of shareholder reports, if applicable, pursuant to the requirements of rule 30e-3. Item 1(a)(11) of amended Form N-3; Item 1(a)(9) of amended Forms N-4 and N-6; *see also* rule 30e-3; *supra* note 86 and accompanying and following text.

624 *See* CAI Comment Letter (stating that such disclosures on the cover page would be unnecessarily duplicative of the new Appendix and further stating that, as the number of portfolio companies has proliferated, listing such options on the cover page has lengthened cover pages to the point that they have strayed far from the concise overview that the Commission originally intended).

reference into the prospectus as permitted by proposed Part D of the Form's General Instructions; and (3) the EDGAR contract identifier for the contract.[625]

b. Key Information (Item 2 of Forms N-3, N-4, and N-6)

Largely as proposed, we are adding new Item 2 to the registration forms, which requires a statutory prospectus to include the Key Information Table providing a brief description of key facts about the variable contract.[626] The Key Information Table also appears in the initial summary prospectus and the updating summary prospectus, except that it can vary depending on the scope of the initial summary prospectus (which can only describe a single contract that the registrant currently offers for sale), in contrast to the updating summary prospectus and statutory prospectus (which can describe multiple contracts under the conditions of the amended General Instructions to the registration forms). An updating summary prospectus that describes multiple contracts can contain a separate Key Information Table for each of the contracts, or use a different presentation approach that consistently discloses the required information for each contract in the required order.

We received several comments on the substance and location of this Item in the context of the initial summary prospectus and the updating summary prospectus. As discussed above in the context of the summary prospectus, we are largely adopting the disclosure requirements of this Item as proposed, with certain modifications to address points raised by commenters, including shifting the location of this Item forward to be closer to the beginning of the summary

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625 Item 1(b) of amended Forms N-3, N-4, and N-6.

626 *See supra* Sections II.A.1.c.ii.(a) and II.A.2.c.ii. for a discussion of these requirements in more detail.

prospectus. For similar reasons discussed with respect to the summary prospectus, we believe that those modifications should apply equally in the context of the statutory prospectus.

c. Overview of the Contract (Item 3 of Forms N-3, N-4, and N-6)

As proposed, we are adding new Item 3 to the registration forms, which requires registrants to include certain basic and introductory information about the contract and its benefits.[627] These disclosures are also required in initial summary prospectuses.[628]

We received several comments on the substance of this Item in the context of the initial summary prospectus.[629] As discussed above, however, we are adopting the disclosure requirements of this Item as proposed for the initial summary prospectus.[630]

d. Fee Table (Item 4 of Forms N-3, N-4, and N-6)

Largely as proposed, we are amending Item 3 of the current registration forms (which we are re-designating as Item 4) to simplify and update current fee and expense disclosure obligations.[631]

i. General Comments (Forms N-3, N-4, and N-6)

One commenter stated that many statutory prospectuses currently use terminology for fees and charges that differs from the terminology that appears in the proposed Fee Table, and suggested that the imposition of standardized terminology might obligate an insurer to re-file

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627 *See supra* Sections II.A.1.c.ii.(b) for a discussion of these requirements in more detail. Item 2(d) of amended Form N-6 includes the requirements that appear in Item 2(a) of current Form N-6.

628 Rule 498A(b)(5)(i).

629 *See supra* Section II.A.1.c.ii.(b).

630 *Id*.

631 We are also changing the title of the Item from "Synopsis of Highlights" in Form N-3, "Synopsis" in Form N-4, and "Risk/Benefit Summary: Fee Table" in Form N-6 to "Fee Table" in all three forms.

contract forms with state insurance departments.[632] The commenter concluded that the Commission should permit insurers the flexibility to use existing and prior terminology in the Fee Table, as well as new terminology in the future.

As discussed above, we are revising the General Instructions of the registration forms to generally provide broad flexibility to use alternate terminology other than that specified in the applicable registration statement, so long as the alternate terminology clearly conveys the meaning of, or provides comparable information as, the terms used in the registration statement.[633] In addition, as proposed, we are providing further flexibility by allowing registrants to modify a narrative explanation in the Fee Table if the explanation contains comparable information to that shown.[634]

Another commenter asked generally for clarification whether disclosure is needed for fees that are zero (*e.g.*, front-end load for a fund with no front-end load).[635] Largely as proposed, we are adopting Instruction 3 to the Fee Table, which states that a registrant may omit captions if the registrant does not charge or reserve the right to charge the fees or expenses covered by the captions.[636] Therefore, in response to the commenter, if a registrant that does not charge or reserve the right to charge a particular fee wishes to omit that information, it may.

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632 *See* CAI Comment Letter.

633 *See supra* note 598.

634 *See* Instruction 1 to Item 4 of amended Forms N-3 and N-4 and Instruction 1(b) to Item 4 of amended Form N-6.

635 *See* Breacher Comment Letter.

636 *See* Instruction 3 to Item 4 of amended Forms N-3 and N-4 and Instruction 1(c) to Item 4 of amended Form N-6. In a change from the proposal, we are revising those instructions to clarify that a registrant that does not charge the fees or expenses covered by the captions but reserves the right to do so must include those captions in the Fee Table. We understand that this is consistent with insurers' current practices. In a conforming change, we are also removing language in those

Other commenters suggested changes to the Fee Table that are beyond the scope of this current rulemaking, including interactive fee calculators and customized disclosures that would be accessed via links available only through password protected login-in screens.[637] More generally, one commenter noted that Fee Tables can be long and complex, and suggested that the Commission consider ways to streamline presentation of information in Fee Tables.[638]

We recognize that variable insurance products can in some cases feature numerous optional benefits and investment options – each of which may be associated with a different fee and collectively may result in lengthy disclosures. However, we continue to believe that the full Fee Table should remain included in variable insurance contract prospectuses to provide investors with comprehensive fee and expense information regarding the optional benefits, investment options, and other charges associated with the contracts being offered. In order to provide investors with shorter, more tailored discussion, as discussed above, we are requiring the disclosure of certain summary information in the Key Information Table to convey the importance of the contract's fee and expense structure. This framework allows an investor to determine the level of fee information that best suits his or her informational needs (*i.e.*, the summary fee information in the Key Information Table or the more detailed and comprehensive information in the Fee Table).

ii. Transaction Expenses (Forms N-3 and N-4)

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instructions permitting a registrant to modify or add captions under certain circumstances, because we believe that language is no longer necessary in light of the new flexibility permitted by the General Instructions to the registration statements and the instructions to the fee table. *See supra* notes 633-634.

637 *See, e.g.*, VIP Working Group Comment Letter; AARP Comment Letter. We note that the Commission is looking at disclosures and technology tools as part of a broader modernization initiative. *See supra* Section I.

638 *See* VIP Working Group Comment Letter.

The Commission proposed to retitle the current "Contractowner Transaction Expenses" table in Forms N-3 and N-4 as "Annual Transaction Expenses." Commenters pointed out that certain of the listed fees in the table are not deducted on an annual basis but instead are deducted only when the investor initiates certain transactions (*e.g.*, sales loads, exchange fees, etc.).[639] Accordingly, we are retitling this table as "Transaction Expenses."

As proposed, we are removing the current "Surrender Fees" line-item in this table, on the grounds that the current "Deferred Sales Load" line-item in the table should already capture these fees.[640] Correspondingly, we are revising the title of the "Deferred Sales Load" line-item to include "Deferred Sales Load (or Surrender Charge)" to clarify that a registrant should continue to include surrender charges in the table.

One commenter stated that surrender terms need to be clear and prominent, including penalties for early withdrawal or loans and tax consequences, as well as the date that is specific to that investor when he or she can access the contract value without penalty.[641] We note that the disclosures we are adopting in this document are not intended to provide information tailored to the particular circumstances of each investor. We further note, however, that under the form amendments we are adopting in this document, disclosure regarding surrender charges is required in the Fee Table as well as in the new Key Information Table, while additional disclosure requirements will govern the disclosure of surrenders and withdrawals, loans, and

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639 *See* Transamerica Comment Letter; CAI Comment Letter.

640 As a conforming change, we are removing Instruction 2(c) to Item 3 of current Form N-3 and Instruction 10 to Item 3 of current Form N-4 and revising Instruction 2(b) to Item 3 of current Form N-3 and Instruction 9 to Item 3 of current Form N-4 (which we are re-numbering as Instruction 9 in each form) to clarify that the term "deferred sales load" includes surrender charges.

641 *See* AARP Comment Letter.

taxes elsewhere in the prospectus.[642] Collectively, we believe these disclosure requirements are sufficient to address the concerns raised by the commenter.

iii. Annual Contract Expenses (Forms N-3 and N-4) and Periodic Charges Other Than Annual Portfolio Company Expenses (Form N-6)

We are adopting, as proposed, several changes to the current "Annual Account Fee" and "Annual Expenses" line-items in Form N-3,[643] and the current "Annual Contract Fee and Separate Account Annual Expenses" table in Form N-4. As proposed, each is retitled, as a stand-alone table, under the heading "Annual Contract Expenses" in both forms to clarify that the item reflects insurance-related annual contract fees and not the fees related to investment options.

In addition, largely as proposed, we are modifying the captions for existing line-items, consolidating certain line-items, and adding a new line-item for optional benefits in this table in each form.[644] Under the amendments, the "Annual Contract Expenses" table in Forms N-3 and N-4 is composed of the following line-items:

- *Administrative Expenses*. As proposed, the line-item "Annual Contract Fee" in Form N-4 ("Annual Expenses" in Form N-3) is replaced with the more plain-English

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642 *See, e.g.*, Item 2 of amended Form N-3 (Key Information Table); Item 12 of amended Form N-4 Surrenders and Withdrawals); Item 13 of amended Form N-4 (Loans); Item 15 of amended Form N-6 (Taxes).

643 In current Form N-3, these items are each presented as line-items in the table that Item 3(a) requires.

644 Although these revisions generally apply to Forms N-3 and N-4, as discussed below, the new line-item for optional benefits is also added to the "Periodic Charges Other Than Annual Portfolio Company Expenses" table in amended Form N-6.

"Administrative Expenses."[645] One commenter requested clarification about what expenses should be included in Administrative Expenses as opposed to Base Contract Expenses.[646] In response to this comment, we are revising the instruction to the Administrative Expenses line-item to clarify that Administrative Expenses include any contract, account, or similar fee imposed on all investor accounts on a dollar basis (*e.g.*, $50 per year).[647] As discussed further below, Base Contract Expenses include similar charges that are imposed on a percentage basis.

- *Base Contract Expenses*. Largely as proposed, we are consolidating the current line-item under "Annual Expenses" in Form N-3 ("Mortality and Expense Risk Fees"), and the current line-items under "Separate Account Annual Expenses" in Form N-4 ("Mortality and Expense Risk Fees," "Account Fees and Expenses," and "Total Separate Account Annual Expenses") under a single new line-item in each table, "Base Contract Expenses," which discloses those fees in the aggregate as a percentage of average account value. Collapsing these fees into a single line-item is intended to make it easier for investors to understand the annual cost of investing in the basic variable contract.[648] Any other recurring charge (other than charges

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645 We also are making conforming changes to Instruction 3 to Item 3 of current Form N-3 and Instruction 7 to Item 3 of current Form N-4, which we are renumbering as new Instruction 12 in both forms.

646 *See* CAI Comment Letter.

647 Instruction 3 to Item 3 of current Form N-3 and Instruction 7 to Item 3 of current Form N-4. In a conforming change, we are also adding this definition to Form N-6. *See* Instruction 3.(e) to Item 4 of amended Form N-6.

648 We also are making conforming changes to each form's instructions. We are removing Instruction 4(b) to Item 3 of current Form N-3 and Instruction 13 to Item 3 of current Form N-4, which permit "Mortality and Expense Risk Fees" to be listed separately on two lines in the table.

associated with the portfolio companies) appears as an additional line-item in the Annual Contract Expenses table in Form N-4, which discloses the maximum amount or basis on which the charge is deducted.[649]

- *Other Expenses*. Similarly, and in a change from the proposal, "Other Expenses" remains a separate line-item in Form N-3 and is not consolidated as part of "Base Contract Expenses." Registrants on Form N-3 are management investment companies and are subject to certain expenses that do not apply to unit investment trust registrants on Form N-4 and N-6. Because such expenses can vary over time, we believe it may be helpful for investors to continue to see such expenses as part of a separate line-item rather than consolidated as part of Base Contract Expenses.
- *Management Fees.* Unlike Forms N-4 and N-6, which as discussed below require separate disclosures about annual portfolio company expenses, Form N-3 does not require such disclosures because Form N-3 registrants have a single-tier structure and do not have underlying portfolio companies. However, Form N-3 registrants

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We also are revising Instruction 14 to Item 3 of current Form N-4 (which we are renumbering as Instruction 13), and adding a corresponding new Instruction 13 to Item 4 of amended Form N-3, to state that "Base Contract Expenses" includes mortality and expense risk fees, and account fees and expenses. We are also including a new Instruction 3(g) to Item 4 of amended Form N-6 permitting Registrants to consolidate any charges that are assessed on a similar basis (*e.g.*, Administrative Fees and Mortality and Expense Risk Fees).

649 We are revising and renumbering Instruction 15 to Item 3 of current Form N-4 (which currently appears under the heading "Portfolio Company Annual Expenses") as Instruction 15 to Item 4 of amended Form N-4 (to appear under the heading "Annual Contract Expenses") to make clear that other annual expenses are required to be disclosed (not just other portfolio company annual expenses, as the current instruction provides). In a conforming change, we are also revising an instruction in Form N-3 regarding when expense reimbursements or fee waiver arrangements that reduce operating expenses can be reflected to parallel a similar instruction in Form N-1A. *Compare* Instruction 15(e) to Item 4 of amended Form N-3 *with* Instruction 3(e) to Item 3 of Form N-1A.

generally do have distinct management fees for each investment option offered under the contract. Since these management fees can vary significantly, we are requiring disclosure of the management fee for each investment option, as proposed.[650]

- *Optional Benefits*. In recognition of the fact that variable contracts today commonly offer optional benefits, the table in Forms N-3, N-4, and N-6 requires, as proposed, a new line-item that requires registrants to list any optional benefit available under the contract, along with its corresponding annual charge.[651] In Form N-6, this same new line-item, as proposed, is added in the "Periodic Charges Other Than Portfolio Company Operations Expenses" table.[652] One commenter suggested that insurers should be permitted, but not required, to include benefits available at no additional charge in the Fee Table.[653] We believe that inclusion of these benefits could add complexity and length to the Fee Table and obscure significant fees that are more relevant to investors, and therefore benefits available at no additional charge are neither required nor permitted to be included in the Fee Table. As discussed further below, registrants that wish to itemize all these benefits can do so in their disclosure of benefits available under the contract.[654]
- *Total Annual Contract Expenses*. In Form N-3, we are adopting, as proposed, a new requirement to disclose total annual contract expenses, and a related instruction

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650 *See* Instruction 7 to Item 4 of amended Form N-3.

651 *See* Instruction 14 to Item 4 of amended Forms N-3 and N-4.

652 *See* Instruction 3.(f) to Item 4 of amended Form N-6.

653 *See* CAI Comment Letter.

654 *See infra* text following note 742.

specifying that total annual contract expenses should be disclosed as a percentage of account value.[655] While annual contract expenses are generally calculated as a percentage of account value, optional benefit expenses may be calculated on a different basis, such as a percentage of the benefit base or as a percentage of average net assets. The new instruction provides that if optional benefit expenses are calculated on a basis other than account value, registrants should prominently indicate that those optional benefit expenses are not included in total annual contract expenses (because they are calculated on different bases and cannot be added). However, we understand that most registrants on Form N-3 either do not offer optional benefits or else calculate optional benefit expenses on an account value basis. We therefore believe that requiring disclosure of total annual contract expenses is appropriate for Form N-3 registrants, because the disclosure will be practicable and could help investors understand the total expenses (not including portfolio company fees and expenses) that they will pay each year. The requirement to disclose total annual contract expenses in Form N-3 differs from the approach to disclosing annual contract expenses in amended Form N-4, which requires separate line-items for administrative expenses, base contract expenses, and optional benefit expenses, but does not require the disclosure of a composite total of these line-items.[656] We understand that most registrants on Form N-4 calculate optional benefit expenses on a basis other than contract value. Because of this, it would generally be infeasible to sum optional

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655 *See* Instruction 16 to Item 4 of amended Form N-3.

656 *See* "Annual Contract Expenses" table in Item 4 of amended Form N-4.

benefit expenses with other expenses that are presented as annual contract expense line-items.

iv. Annual Portfolio Company Expenses (Forms N-4 and N-6)

Largely as proposed, we are amending the disclosures that registrants provide with respect to the "Annual Portfolio Company Expenses" table in Forms N-4 and N-6.[657] As proposed, we are revising the legend that precedes the table to direct investors to the new Appendix relating to the portfolio companies available under the contract.[658] As a conforming change, and as proposed, we are eliminating an instruction in each form stating that a registrant may include additional tables showing annual expenses separately for each portfolio company immediately following the required table, as this information will duplicate the fee information that appears in the new Appendix.[659]

In a change from the proposal, and in response to commenters, a new instruction in each form provides that if the registrant charges a platform charge to make any of the portfolio companies available as investment options under the contract, the registrant should include the maximum platform charge associated with each portfolio company when calculating minimum and maximum annual portfolio company expenses.[660] In a conforming change, we are also

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657 While the text of the Proposing Release only mentioned Form N-4 with regards to this item, both Forms N-4 and N-6 themselves, as proposed, included the changes that we indicate "as proposed."

658 *See* Item 17 to amended Form N-4; Item 18 to amended Form N-6.

659 *See* Instruction 20 to Item 3 in Form N-4; Instruction 4.(f) to Item 3 in Form N-6.

660 *See* VIP Working Group Letter (asking how "fund facilitation fees" should be disclosed, and stating these fees are charged by the insurance company for offering a low cost fund that would not otherwise provide sufficient distribution fees or revenue sharing to the insurance company); Instruction 16 to Item 4 of amended Form N-4; Instruction 4.(a) to Item 4 of amended Form N-6.

revising the name of this table from "Total Annual Portfolio Company Operating Expenses" to "Annual Portfolio Company Expenses" to clarify that the expenses included within the table are not limited to total operating expenses. If platform charges are charged, registrants must also provide a brief statement regarding the inclusion of these platform charges.[661]

We are also simplifying other instructions to the table. As proposed, we are revising an instruction in each form to instruct registrants to use the gross expense ratio presented in the fee table of a portfolio company's current prospectus when disclosing the minimum and maximum "Annual Portfolio Company Expenses."[662] The current instruction contains instructions for calculating Annual Portfolio Company Expenses, which results in a figure that is the same as the gross expense ratio presented in a portfolio company's prospectus fee table. Directing registrants to use the gross expense ratio reflected in a portfolio company's current prospectus avoids the need to provide detailed instructions in the form regarding how to calculate this figure (as is the case with the current instruction).[663]

Also, as proposed, we are revising an instruction in each form to modify the way that registrants could reflect operating expenses that include expense reimbursement or fee waiver

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661 *See* Item 4 of amended Form N-4 ("[These amounts also include applicable Platform Charges if you choose to invest in certain Portfolio Companies."]); Item 4 of amended Form N-6 (same).

662 *See* Instruction 17(a) to Item 3 of Form N-4 (which we are re-designating as Instruction 16 to Item 4 of amended Form N-4); Instruction 4.(b) to Item 3 of Form N-6 (which we are re-designating as Instruction 4.(a) to Item 4 of amended Form N-6).

663 Because this simplification renders obsolete the rest of Instruction 17, as well as Instructions 16 and 18, to Item 3 of Form N-4, we are eliminating them. Similarly, this simplification renders obsolete the rest of Instruction 4.(b), as well as Instructions 4.(c) through (d), to Item 3 of Form N-6, and therefore we are eliminating those instructions as well.

arrangements.[664] Currently, the instruction specifies that such expenses could appear in a footnote to the table. The revised instruction instead states that these could appear as an additional line-item to the table. We believe that including these disclosures as a separate line-item in the table provides a clearer presentation for investors than a footnote to the table.[665] In a change from the proposal, and in response to commenters, this instruction also provides that if the registrant charges a platform charge to make any of the portfolio companies available as investment options under the contract, the registrant should include the current platform charge associated with each portfolio company when calculating minimum and maximum annual portfolio company expenses that include expense reimbursement or fee waiver arrangements.[666]

v. Example (Forms N-3 and N-4)

We are updating the requirements for the Example that will appear in the Fee Table in Forms N-3 and N-4 in several respects. First, as proposed, we are revising the legend accompanying the Example to reflect the revised Fee Table headings and to reference the inclusion of optional benefits in the Example's assumptions. We believe the Example should reflect the highest cost that an investor may pay under the contract, inclusive of any available optional benefits.

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664 *See* Instruction 19 to Item 3 of Form N-4 (which we are renumbering as Instruction 17 to Item 4 of amended Form N-4); Instruction 4.(e) to Item 3 of Form N-6 (which we are renumbering as Instruction 4.(b) to Item 4 of amended Form N-6).

665 *See* 2002 Adopting Release, *supra* note 286, at n.14 and accompanying text ("We intend that the staff construe the amendments to the fee table of Form N-4 consistent with the approach taken under Form N-1A, to permit the addition of one line to the fee table showing the range of net Portfolio Company operating expenses after taking account of contractual limitations that require reimbursement or waiver of expenses.").

666 *See* VIP Working Group Letter. *See* Instruction 17 to Item 4 of amended Form N-4; Instruction 4.(b) to Item 4 of amended Form N-6.

As proposed, we are increasing the value of the assumed investment from $10,000, as required under Item 3 of current Form N-4 (and $1,000, as required under Item 3 of current Form N-3), to $100,000. Several commenters objected to this change but, as discussed above, we continue to believe that $100,000 more closely approximates the current average value of a variable annuity and is more likely to result in cost projections that align with actual investor expectations and experience.[667]

As proposed, we are revising the instructions for the Example to clarify that registrants must provide an example for each contract class, consistent with current practice.[668] Also, as proposed, we are revising Instruction 21(b) in current Form N-4 (which we are re-numbering as Instruction 18(b)), and adding new Instruction 17(b) in Form N-3, to make clear that that an example showing the most expensive combination of contract features should be shown first, while additional expense examples are permitted, but not required.

In addition, as proposed, we are removing the last sentence of Instruction 21(b) of current Form N-4, which states that in lieu of providing the required example based on maximum portfolio company expenses, a registrant may include separate expense examples based on the expenses of each portfolio company. In our experience, registrants rarely include separate expense examples based on the expense of each portfolio company (likely because to do so would add extensive length to the Example section of the prospectus). Eliminating this option

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667 *See supra* note 131 and accompanying and following text.

668 The instruction for the Example in Item 3 of current Form N-3 (currently unnumbered) is new Instruction 17 to Item 4 of amended Form N-3. Instruction 21 to Item 3 of current Form N-4 is renumbered as Instruction 18 to Item 4 of amended Form N-4.

therefore not only reflects actual practice, but is also consistent with our goal of streamlining prospectus disclosure.

As proposed, we are also making certain technical corrections to Instructions 21(a) and (b) of current Form N-4, by eliminating references to amortization costs, which do not apply to variable annuity contracts that are structured as UITs.[669]

vi. Portfolio Turnover (Form N-3)

Because Form N-3 registrants have a single-tier structure, investors do not receive separate prospectuses containing portfolio turnover information for investment options offered under the contract, as is the case for portfolio companies offered under contracts registered on Forms N-4 and N-6. As proposed, we are requiring disclosure of portfolio turnover for each investment option in Form N-3, as well as a brief statement explaining that portfolio turnover has associated transaction costs, and that a higher portfolio turnover rate may indicate higher transaction cost, which affect the investment option's performance.[670] These disclosure requirements largely restate existing requirements in caption 10 of Item 4(a) of current Form N-3, although they include the brief statement that is required by the parallel item in Form N-1A in order to provide more context and information for investors.[671]

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669 When Forms N-3 and N-4 were first adopted, the references in Form N-3 to amortization costs were inadvertently included in Form N-4. Because investors in UITs (Form N-4 and N-6 filers) do not pay amortization costs, we are removing this reference from the instruction. In a conforming change, we are also revising an instruction in Form N-3 regarding amortization of organizational expenses to parallel similar instructions in Form N-1A. *Compare* Instruction 17(a) to Item 4 of amended Form N-3 *with* Instruction 4(a) to Item 3 of Form N-1A.

670 *See* Item 4 of amended Form N-3.

671 *See* Item 3 of Form N-1A. The brief statement required by Form N-3 will not include the language from the parallel item in Form N-1A stating that a higher portfolio turnover rate may indicate higher taxes, because variable annuity products are tax-deferred and thus that language is inapplicable to registrants on Form N-3.

vii. General Instructions (Forms N-3, N-4, and N-6)

In addition to specific instructions associated with each of the tables and the Example(s) that appear in response to the amended Item 4 disclosure requirements, we are also updating the general instructions associated with this item.

Instruction 1(a) to the Fee Table in current Form N-6 instructs registrants to round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.[672] Because of the underwriting process inherent in variable life insurance contracts, rounding dollar figures to the nearest dollar for certain younger and healthier investors may result in disclosures of zero cost for certain fees, which may be misleading for investors. Therefore, as proposed, we are modifying this instruction to only require rounding percentages to the nearest hundredth of one percent.[673]

We are also, as proposed, revising Instruction 5 to the Fee Table in Form N-4 to state that if a fee is calculated based on a benchmark (*e.g.*, a fee that varies according to volatility levels or Treasury yields), the registrant must disclose a maximum guaranteed charge as a single number. We believe that this revised instruction will help minimize confusion regarding how much an investor can expect to pay under the contract and will better assist investors in understanding the costs they will pay when investing in a variable annuity. Without this clarifying statement, registrants that offer variable annuity contracts that link certain fees to benchmarks might seek only to present the maximum fee as a range (*e.g.*, a certain percentage plus or minus a stated

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672 *See* Instruction 1(a) to Item 3 of current Form N-6.

673 *See* Instruction 1(a) to Item 4 of amended Form N-6.

benchmark).[674] Under the revised instruction, a registrant that chooses to disclose the fee range (*e.g.*, a fee that varies based on the 10-year Treasury rate) associated with a particular feature could do so, as long as it also discloses the maximum possible charge (*e.g.*, 3%). We are also, as proposed, adding a parallel provision to Form N-3 as Instruction 5 to the Fee Table.

As part of our effort to update the Fee Table, we are, as proposed, modifying current Instruction 1.(f) to the Fee Table in Form N-3 and Instruction 6 to the Fee Table in Form N-4 to eliminate language that is redundant in light of new General Instruction C.3.(e) of both forms.[675] We are also including new Instruction 7 to the Fee Table in Forms N-3 and N-4, which requires registrants offering a contract with more than one class to provide fee and expense information for each class (and, for Form N-3 registrants, to require registrants offering more than one investment option to provide a separate response for each investment option).[676]

viii. Instructions for New Variable Contract Registrants (Forms N-3, N-4, and N-6)

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674 Our staff has observed that some registrants disclose a fee range for certain optional benefits based on a benchmark (*e.g.*, a fee that varies according to volatility levels or Treasury yields), without also disclosing a firm cap on the maximum amount an investor may have to pay for that contract feature.

675 We are removing from Instruction 6 to Item 3 of current Form N-4 and Instruction 1.(f) to Item 3 of current Form N-3 the statement that "[i]f a Registrant uses one prospectus to offer a contract in both the group and individual variable annuity contract markets, the Registrant may a) add narrative disclosure following the fee table identifying markets where certain fees are either inapplicable or waived or lower fees charged to investors in group markets, or b) provide a separate fee table for group and individual contracts," because amended General Instruction C.3.(e) of Forms N-3 and N-4 will address the registration of multiple contracts.

676 This harmonizes the instructions associated with the Fee Table for Forms N-3 and N-4 with parallel instructions in Form N-1A. *See* Instruction 1(d)(ii) to Item 3 of Form N-1A ("If the prospectus offers more than one Class of a Multiple Class Fund or more than one Feeder Fund that invests in the same Master Fund, provide a separate response for each Class or Feeder Fund.").

Finally, as proposed, we are eliminating certain instructions in Item 3 of current Forms N-3, N-4, and N-6 relating to new variable contract registrants. Specifically, we are eliminating Instructions 4(d)(i), 4(f)(ii), 4(g)(vi) and Instruction (f) under "Example" in Form N-3, Instruction 22 of Form N-4, and Instruction 5 of Form N-6 as the staff has found these instructions to be unnecessary.

For example, Instruction 4(d)(i) to Item 3 of current Form N-3, Instruction 22(a) to Item 3 of current Form N-4, and Instruction 5(a) to current Item 3 of Form N-6 instruct a registrant to base the percentages in the Annual Portfolio Company Expenses table on estimated amounts for the current fiscal year, but we understand that these operating expenses need not be estimated because they do not vary based on whether the registrant is new or already exists. Likewise, Instructions 4(f)(ii) and 4(g)(vi) to Item 3 of current Form N-3, Instruction 22(b) to Item 3 of current Form N-4, and Instruction 5(b) to Item 3 of current Form N-6 state that a new registrant may disclose any expense reimbursement or fee waiver arrangements that are expected to reduce the expenses that the table would show. Because Instruction 15(e) in Item 4 of amended Form N-3, Instruction 17 in Item 4 of amended Form N-4, and Instruction 4(b) in Item 4 of amended Form N-6 address this same issue, and we do not see a reason to distinguish between new and existing registrants for this purpose, these current Instructions are unnecessary.

Lastly, Instruction (f) under the "Example" in Item 3 of current Form N-3 and Instruction 22(c) to Item 3 of current Form N-4 state that new registrants must only complete the 1- and 3- year period portions of the Example and estimate any annual contract fees collected. However, because variable contract charges at the separate account level are contractual and do not vary based on whether the variable contract registrant is new or existing, we believe a new registrant's Example should include the full 1-, 3-, 5-, and 10-year periods required of existing

registrants. For these reasons, we are, as proposed, eliminating these current Instructions in their entirety from the forms.

e. Accumulation Unit Value Disclosure (Not included in amended Forms N-3 and N-4)

In a change from the proposal, we are eliminating the requirement in Forms N-3 and N-4 for a registrant to disclose, for the last ten fiscal years and for each subaccount, the accumulation unit value at the beginning and end of each period and the number of accumulation units outstanding at the end of each period (the "AUV tables").[677] For variable annuity contracts, the change in accumulation unit value provides a measure of performance of the registrant's sub-accounts.[678]

When the AUV tables were adopted in 1985, the approach did not anticipate the proliferation of variations in contract charges and optional benefits that has resulted in numerous possible combinations of contract charges.[679] Since registrants commonly maintain a separate class of accumulation units for each combination of separate account charges, the AUV tables add considerable length (sometimes hundreds of pages) to the contract prospectus, which may overwhelm other important information.[680] Because only one combination of contract charges is

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677 Item 4(a) of current Form N-3; Item 4(a) of current Form N-4. The Commission had proposed to relocate the disclosures required by these items from the prospectus to the SAI, with certain other modifications. *See* Proposing Release, *supra* note 6, at Section II.D.3.d.

678 When Form N-6 was proposed, it did not include AUV tables "[b]ecause [due to] the individual nature of variable life insurance charges, such as the cost of insurance, there does not appear to be a comparable measure of performance that is applicable to all holders of a particular variable life insurance policy." *See* Form N-6 Proposing Release, *supra* note 688, at 17.

679 *See* Forms N-3 and N-4 Adopting Release, *supra* note 29.

680 As discussed in the Proposing Release, the staff issued a no-action letter stating that the staff would not recommend enforcement action if registrants were to depict in the prospectus only two classes of unit values (one reflecting the highest possible combination of contract charges, the

relevant to any individual investor (depending on the contract features he or she selects), much of the required disclosure is of limited value to most investors.[681]

Several commenters generally stated that the AUV tables do not include all the fees paid by investors because many of the fees are assessed at the contract level, rather than the unit level, and concluded that the AUV tables are confusing to investors, burdensome for insurers, and should be entirely eliminated.[682] In responding more specifically to the proposed amendments, one commenter stated that registrants would need to engage in massive system investments in order to provide investors with individualized subaccount performance for each subaccount held by that investor, and suggested the Commission should revise its proposed amendments to: (1) reduce the information required to be included in AUV tables included in registration statements; (2) reduce the information required to be included in account statements for those registrants

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other reflecting the lowest possible combination of contract charges) shown for each available portfolio company, so long as the SAI were to include the full disclosure that current Item 4 would require. *See* Nationwide Life Insurance Company, SEC Staff No-Action Letter (pub. avail. Mar. 16, 2001) ("Nationwide 2001 Letter"). With the elimination of the AUV table requirement, the Nationwide 2001 Letter is rendered moot, and this letter will be withdrawn.

681 In addition, while the AUV tables are designed to reflect the performance of a subaccount after reflecting contract charges that are based on separate account value, many contract charges today are based on other values, such as a benefit base, which cannot be reflected in AUV values. Instead, when these charges are assessed, the number of accumulation units is reduced. As a result, AUV tables may only reflect a portion of a contract's fees, diminishing their usefulness to investors.

682 *See* VIP Working Group Comment Letter; Transamerica Comment Letter; IRI Comment Letter II; CAI Comment Letter (stating that while the AUV tables are designed to reflect the performance of a sub-account after reflecting contract charges that are based on separate account value, many contract charges today are based on other values (such as benefit base), and thus instead of these charges reducing the value of a particular class of accumulation units, the assessment of these charges reduces the number of accumulation units in an investor's account).

who wish to provide AUV information there instead of in registration statements; and (3) permit registrants to post AUV tables online rather than in registration statements.[683]

After considering the points raised by commenters and reevaluating the continued utility of these disclosures, we have decided to eliminate the AUV table requirement for variable annuities in its entirety. Although AUV tables served a helpful role at the time those requirements were initially adopted, the current proliferation of variations in optional benefits and contract charges has resulted in AUV tables which in some cases span hundreds of pages in order to encompass all such possible combinations, even though only one combination of optional benefits and contract charges would be applicable to a given investor. In addition, there are separate AUVs for each investment option based on those individual combinations of optional benefits, further complicating efforts to understand the net performance of the overall account. Further, to the extent an investor seeks to understand the net performance of any individual option, the investor could much more easily get the summary information that is provided in the Appendix to the summary prospectus.[684] Our decision to eliminate AUV tables is also consistent with our overarching goals of this rule adoption, which are to streamline the forms for variable contracts and to provide investors with pertinent information that is most likely to be used by, and useful to, them.

When the registration form for variable life insurance contracts was adopted in 2002, the Commission determined not to require disclosure of AUV tables for variable life prospectuses,

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683 *See* CAI Comment Letter.

684 Variable annuities issued through managed separate accounts have not offered optional benefits. Owners of these annuities, however, generally have several investment options to choose from, with the result that understanding the value of their investment in the annuity would require working with several accumulation unit values.

The Commission recognized that the individualized nature of variable life insurance charges (*i.e.*, as part of the underwriting process, charges are assessed individually to each investor based on his or her particular characteristics) made it difficult to provide measures of performance that applied were meaningful across the full investor base.[685] Similarly, because of the numerous permutations of variable annuity contract charges today (due to classes of contracts, availability of multiple optional benefits, etc.), it is difficult to provide a standard set of disclosures that are relevant to the investor base at large of a particular variable annuity contract.

In addition, while the AUV tables are designed to reflect the performance of a sub-account after reflecting contract charges that are based on separate account value, we recognize many contract charges today are based on other values (such as benefit base), which cannot be reflected in AUV values. Instead of these charges reducing the value of a particular class of accumulation units, the assessment of these charges reduces the number of accumulation units in an investor's account.

Moreover, we understand that registrants currently provide investors with periodic disclosures about their investments in the contract that include sub-account related information, such as account statements that disclose the number of each class of accumulation units and the dollar value of each such class. Although such disclosures generally do not include the actual performance of each subaccount, we understand that such measures of performance would be difficult to generate and may not be necessary given the other disclosures provided to investors.

After considering the limited utility of the AUV table disclosures to investors (as well as to Commission staff) and the substantial burdens necessary for registrants to prepare them, we

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685 *See* Separate Accounts Offering Variable Life Release, *supra* note 29.

have decided to eliminate the requirement for these disclosures in their entirety rather than move them to the SAI as proposed (or require them to be posted online as suggested by commenters). As discussed above, however, we are adopting the other amendments to this item (*i.e.*, re-designating Item 4(c) of current Form N-3 and Item 4(b) of current Form N-4 as Items 17 and 16, respectively) as proposed.[686]

f. Principal Risks of Investing in the Contract (Item 5 of Forms N-3, N-4, and N-6)

As proposed, we are adding new Item 5 to Forms N-3 and N-4, which requires registrants to summarize the principal risks of purchasing a contract, including the risks of poor investment performance, that contracts are unsuitable as short-term savings vehicles, limitations on access to cash value through withdrawals, and the possibility of adverse tax consequences. The new disclosure item for Forms N-3 and N-4 generally mirrors Item 2(b) of current Form N-6 (which we are re-designating as Item 5), with the exception of the risk of contract lapse.[687] Although registrants currently include risk disclosures in their prospectuses without an explicit form requirement to do so, in some cases the risk discussions are provided across various sections of the prospectus. We believe the approach taken in Form N-6 of requiring a consolidated

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686 *See supra* note 779; Item 17 of amended Form N-3 and Item 16 of amended Form N-4; *see also infra* Section II.C.2.s.

687 We are not including risk of contract lapse in Item 5 of amended Form N-3 or amended Form N-4 because lapse, which occurs when there is insufficient cash value to pay insurance policy charges, is a less significant risk for variable annuities. Lapse is a greater risk for variable life insurance contracts, which, unlike variable annuities, generally require continuing premium payments (failure to pay premiums generally triggers a lapse and terminates the contract). In addition, the expenses associated with the death benefit for a variable life insurance contract tend to be higher than those for a variable annuity (in proportion to contract cash value). Higher expenses more quickly erode a variable life insurance contract's cash value, which if insufficient to pay policy charges, will cause the contract to lapse.

summary of the principal risks associated with the contract provides more effective communication of risks to investors.

Although current Form N-6 requires risk disclosures to be presented in a summary section at the front of the statutory prospectus, we are requiring for each registration form that the risk section be provided after the Key Information Table and Fee Table. While the Key Information Table includes a condensed discussion of contract risks, new Item 5 gives registrants the flexibility to describe the principal risks of investing in the contract in more detail than what could reasonably appear in a table meant to summarize the contract's key risks and features. While we are not limiting the length of the summary of principal risks in response to new Item 5, we believe that the utility of a summary would be undermined by the long, complex descriptions we sought to avoid when we adopted the summary principal risk section as part of Form N-6.[688]

One commenter asked whether the inclusion of a consolidated principal risk section meant that registrants were permitted, but not required, to repeat principal risks elsewhere throughout the prospectus.[689] The commenter also asked whether non-principal risks needed to be included in the principal risk section.

The principal risks section is designed to provide a consolidated presentation of principal risks which can be cross-referenced by registrants to reduce repetition that might otherwise occur

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688 *See* Registration Form for Insurance Company Separate Accounts Registered as Unit Investment Trusts that Offer Variable Life Insurance Policies, Investment Company Act Release No. 23066 (Mar. 13, 1998) [63 FR 13988 (Mar. 23, 1998)] ("Form N-6 Proposing Release"), at n.8 (noting that "[v]ariable life insurance prospectuses generally disclose [information required under the item as proposed], particularly risk information, in the context of long, often complex descriptions of the policy. The Commission believes that the proposed narrative summary will help achieve more effective communication of risks.").

689 *See* CAI Comment Letter.

if the same principal risks are repeated in different sections of the prospectus. For example, in order to facilitate the ability of investors to understand principal risks in the context of other, related disclosures, a variable life insurance registrant disclosing other benefits available under the contract could briefly mention and cross-reference the relevant principal risks discussion of limitations on death benefits due to war or active duty service in the military. At the same time, we believe that the inclusion of non-principal risks (that are not otherwise required to be disclosed in the prospectus) could add complexity and length to the prospectus and obscure principal risks that are more relevant to investors, and therefore such non-principal risks are neither required nor permitted to be included in the prospectus.[690]

In drafting their principal risk disclosures, registrants generally should consider approaches that may improve these disclosures for investors. For example, we encourage registrants to:

- List their principal risks in order of importance rather than alphabetically;
- Tailor their risk disclosures to the particular contract offered, as opposed to providing generic, standardized risk disclosures or risks that generally are not inherent in an investment in the contract;
- Consider disclosing that the contract is not appropriate for certain investors given the particular characteristics of the contract; and

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690 *See* General Instruction C.3.(b) of Forms N-3, N-4, and N-6; *see also supra* note 596.

- Periodically review their risk disclosures, including the order of their risks, and consider whether the disclosures remain adequate in light of the contract's characteristics and market conditions.[691]

g. General Description of Registrant, Depositor, and Investment Options/Portfolio Companies (Item 6 of Forms N-3, N-4, and N-6)

As proposed, we are amending Item 5 of current Forms N-3 and N-4, and Item 4 of current Form N-6, which we are re-designating as Item 6 in each of the registration forms. Reflecting the more up-to-date requirements of the parallel item of current Form N-6, we are amending Forms N-3 and N-4 to relocate certain information from the prospectus to the SAI: (1) with respect to the depositor, a description of the general nature of its business, its date and form of organization and the state or other jurisdiction under which it is organized, and information relating to persons controlling the depositor; and (2) with respect to the registrant, its date and form of organization and classification pursuant to Section 4 of the Investment Company Act, and whether there are sub-accounts of the registrant.[692] In addition, for consistency with Form N-6 and our newer registration forms,[693] in Forms N-3 and N-4 we are relocating the requirement to identify and state the principal business address of any person who provides significant

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691 *See also* ADI 2019-08, SEC, Improving Principal Risks Disclosure (last modified Sept. 9, 2019), *available at* https://www.sec.gov/investment/accounting-and-disclosure-information/principal-risks/adi-2019-08-improving-principal-risks-disclosure (providing views of the Division of Investment Management regarding mutual fund principal risk disclosures).

692 Item 6(a) and (b) of amended Forms N-3 and N-4; Item 21(a) and (b) of amended Form N-3; Item 19 of amended Form N-4; *see also* Item 5(a) and 5(b) of current Forms N-3 and N-4.

693 *See, e.g.*, Item 17(c) of current Form N-6; Item 19(h) of Form N-1A.

administrative or business affairs management services, and a description of those services, from the prospectus to the SAI.[694]

One commenter noted that our proposed amendments would not affect current prospectus requirements to concisely describe investor rights to instruct the voting of portfolio company shares.[695] The commenter asserted that this disclosure is largely boilerplate and is typically carried forward each year without change or modification, and recommended that this disclosure be moved to the SAI. We are retaining this disclosure in the prospectus as proposed. We believe that this disclosure provides important information to investors of their rights in this regard, and that the prospectus, rather than the SAI, is the more appropriate location for the disclosure.

As proposed, we are also amending the information required by the current item in Forms N-4 and N-6 regarding portfolio companies (and for Form N-3, investment options).[696] As discussed below, and as proposed, we are moving the summary of certain information about the portfolio companies and investment options to an Appendix in the prospectus.[697] Therefore, with

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694 *See* Item 24(g) of amended Form N-3; Item 20(c) of amended Form N-4.

695 *See* CAI Comment Letter. Under an exemptive provision of the Investment Company Act that insurers serving as depositors of separate accounts organized as unit investment trusts rely on to operate the separate account, those insurers are restricted in how they vote shares of investment companies held on behalf of contract owners. Specifically, Section 12(d)(1)(E) of the Investment Company Act conditionally allows separate accounts organized as unit investment trusts to establish subaccounts each holding shares of an investment company, without violating the limitations in Section 12(a)(1)(A) of the Investment Company Act on investment company ownership. Under one of the conditions, the separate account must either seek instructions from contract owners with regard to the voting of all proxies for the investment company shares held by the subaccount or vote the shares it holds of that investment company in the same proportion as the vote of all other shareholders of that investment company. *See* Section 12(d)(1)(E)(iii)(aa).

696 Item 5(c) through (e) of current Form N-3; Item 5(c) and (d) of current Form N-4; Item 4(c) and (d) of current Form N-6.

697 *See infra* Section II.C.2.r (discussing Item 17 of amended Form N-3, Item 16 of amended Form N-4, and Item 18 of amended Form N-6).

respect to Forms N-4 and N-6, we are revising this item to replace the current requirement to briefly describe each portfolio company[698] with a requirement to state that certain information about the portfolio companies is available in the Appendix and to cross-reference that Appendix, to further state that more detailed information is available in the portfolio companies' prospectuses, and to explain how investors may obtain copies of those prospectuses.[699]

As proposed, new Item 18 of Form N-3 similarly requires a comparable Appendix of investment options, but only if the Appendix is included in a summary prospectus.[700] Registrants also must include more detailed disclosures about investment options as required by new Item 19, as proposed. New Item 19 generally includes the disclosures required by current Item 5(c) through (e) regarding investment objectives and policies and principal risk factors associated with investing, as well as additional disclosures regarding the performance of each investment option.[701] Similar to Forms N-4 and N-6, amended Item 6 requires a Form N-3 registrant to state that certain information about the investment options is available in the Appendix (pursuant to new Item 18) or elsewhere in the prospectus (pursuant to new Item 19), and provide cross-references as appropriate.

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698 *See* Item 5(c) of current Form N-4; Item 4(c) of current Form N-6.

699 Item 6(c) of amended Forms N-4 and N-6.

700 Instruction 1(c) to new Item 18 of amended Form N-3; *see also supra* text accompanying notes 331 and 388. As discussed above, the summary prospectus disclosure requirements are designed to substantively track parallel disclosure requirements in the statutory prospectuses to ensure that the summary prospectus disclosures are subject to liability under Section 11 of the Securities Act. Requiring a registrant on Form N-3 that includes an Appendix in its summary prospectus to also include an Appendix in its statutory prospectus helps to further this goal. *See generally* Section II.A.8.(c) (discussing investor protection and liability under Section 11).

701 *See infra* text following note 796 (discussing the disclosure requirements of new Item 19 of amended Form N-3).

h. Charges (Item 8 of Form N-3, Item 7 of Forms N-4 and N-6)

Largely as proposed, we are amending Item 7 of current Form N-3 and Item 6 of current Form N-4 (which we are re-titling, and re-designating as Item 8 (in the case of Form N-3) and Item 7 (in the case of Form N-4)) to reflect the more up-to-date requirements of the parallel item of current Form N-6.[702]

As proposed, paragraph (a) expands the disclosure requirements of the current item in Forms N-3 and N-4 to include certain additional disclosure requirements that currently appear in the parallel item of Form N-6. The amended items require a registrant to provide a brief description of charges deducted from "any other source" (in addition to charges specifically deducted from purchase payments, investor accounts or assets of the registrant, which is currently required). These additional charges could include, for example, contract loan charges and optional benefit charges. In addition, and as proposed, we are requiring that the registrant describe: (1) the frequency of deductions (*e.g.*, daily, monthly or annually) for any recurring charges; and (2) the consideration provided for particular charges (*e.g.*, use of sales load to pay distribution costs), to the extent it is possible to identify such consideration. We believe these additional disclosures could help alleviate investor confusion about costs by more specifically describing the types of charges that might be incurred under a variable annuity contract.

In addition, and as proposed, Instruction 1 to paragraph (a) of the amended item in Forms N-3 and N-4 requires a description of the factors affecting the computation of the amount of the sales load.[703] For contracts with a deferred sales load, Instruction 1 requires the registrant to

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[702] *See* Item 5 of current Form N-6.

[703] This instruction is based on Instruction 1 to Item 5(a) of current Form N-6.

describe the sales load as a percentage of the applicable measure of purchase payments (or other basis) that the deferred sales load may represent, rather than the amount withdrawn or surrendered. Additionally, and as proposed, registrants must identify any events that will cause the deduction of a deferred sales load (*e.g.*, surrender or withdrawal). The description of any deferred sales load must include how the deduction will be allocated if the investor has allocated contract value among multiple sub-accounts and when, if ever, the sales load will be waived (*e.g.*, if the contract provides a free withdrawal amount).

As proposed, we are also adding new Instruction 4 to paragraph (a) of the amended item of Forms N-3 and N-4.[704] If the contract's charge for premium taxes or other taxes varies according to jurisdiction, new Instruction 4 clarifies that identifying the range of current premium taxes or other taxes in this paragraph is sufficient.

One commenter noted that our proposed amendments would not revise the current requirement in paragraph (b) to state the commissions paid to dealers as a percentage of purchase payments.[705] The commenter suggested the Commission should revise this requirement to include upfront and trail commissions as well as other methods of compensation. We believe that registrants responding to this disclosure requirement currently already include all compensation provided to dealers because the wording of the current instruction does not limit or otherwise specify certain types of compensation and the disclosure, as adopted, mirrors that in

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704 This instruction is based on Instruction 3 to Item 5(a) of current Form N-6.

705 *See* Anonymous Comment Letter III.

Form N-1A, and do not believe that any further changes are needed to this disclosure requirement.[706]

As proposed, we are also amending the item related to charges in each form to clarify that the required disclosures should relate to "current" charges.[707] Disclosure of "maximum" charges would be redundant because those charges are encompassed in the Fee Table that would be included in the prospectus.[708]

In addition, and largely as proposed, we are amending the item of Form N-6 relating to charges in two respects. First, as proposed, we are relocating disclosures on commissions paid to dealers from the SAI[709] to the prospectus.[710] We believe that this disclosure, which is currently required in the prospectus under Forms N-3 and N-4,[711] is more appropriate in the prospectus due to potential conflict of interest concerns.

Second, the Commission also proposed to require a description of the type of operating expenses for which the registrant is responsible,[712] which Forms N-3 and N-4 currently require in the prospectus.[713] One commenter suggested that this requirement is generally not relevant to contracts registered on Forms N-4 and N-6, because those contracts typically have charges

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706 *See* Item 8(b) of amended Form N-3 ("State the commissions paid to dealers as a percentage of purchase payments."); Item 7(b) of amended Forms N-4 and N-6 (same).

707 *See* Item 8(a) of amended Form N-3; Item 7(a) of amended Forms N-4 and N-6.

708 *See* Item 4 of amended Forms N-3, N-4, and N-6.

709 Item 20(d) of current Form N-6.

710 Item 7(b) of amended Form N-6.

711 *See* Item 7(d) of current Form N-3; Item 6(d) of current Form N-4.

712 Item 7(e) of proposed Form N-6. If organizational expenses of the registrant are to be paid out of its assets, this item also requires an explanation of how the expenses will be amortized and the period over which the amortization will occur.

713 *See* Item 7(f) of current Form N-3; Item 6(f) of current Form N-4.

deducted at the subaccount level as opposed to the registrant level.[714] In response to this comment we are modifying this disclosure requirement to cover "any" (as opposed to "the") type of operating expense for which the registrant is liable. We believe this modification maintains comparability between the forms and also future-proofs the forms to the extent operating expenses may be deducted at the registrant level in the future. Operating expenses paid by the registrant can be significant, and we believe this is appropriate disclosure for an item discussing contract charges.

i. General Description of the Contracts (Item 9 of Form N-3, Item 8 of Forms N-4 and N-6)

As proposed, we are amending Item 8 of current Form N-3, Item 7 of current Form N-4, and Item 6 of current Form N-6 (which we are re-designating as Items 9, 8, and 8, respectively) to reflect the more up-to-date requirements of Form N-6 (in the case of the amendments to Forms N-3 and N-4) and also to harmonize this disclosure item with other amendments to the forms. Except as described below, we do not intend these amendments to significantly alter current disclosure obligations.

As proposed, we are amending the current instruction to subparagraph (a) of Forms N-3 and N-4, which states that the registrant need not repeat rights that are described elsewhere in the prospectus, and replacing it with a new instruction to subparagraph (a) in each of the forms[715] that requires registrants to disclose all material state variations and intermediary-specific variations (*e.g.*, certain contract features that may vary by distribution channel). Due to differences in state insurance law, there may be significant variations in a contract based on the

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714 *See* CAI Comment Letter.

715 This new instruction is also being added to Form N-6.

state in which a contract is offered. We have also observed that certain contract features may not be available through certain intermediaries.

As proposed, we are also revising current subparagraph (b) of Forms N-3 and N-4 regarding contract provisions and limitation in two ways.[716] First, we are requiring registrants to briefly describe any provisions and limitations for minimum contract value and the consequences of falling below that amount, because those consequences in some cases can be significant.[717] Second, we are modifying the current requirement in Forms N-3 and N-4 regarding exchanges of contracts to more broadly describe provisions or limitations on conversion or exchange of the contract for another contract (which could include a fixed or variable annuity or life insurance contract) as currently required by Form N-6.[718]

As proposed, we are also revising the disclosure requirement in each registration form to clarify that the existing requirement to describe any provisions and limitations on transfer of contract value between sub-accounts includes transfer programs, such as dollar-cost averaging, portfolio rebalancing, asset allocation programs, and automatic transfer programs.[719]

As proposed, we are also newly requiring the prospectus to provide a description of the obligations under the contract that the insurer's general account funds (*e.g.*, death benefits, living

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716 In addition, subparagraph (b)(iii) of current Forms N-3 and N-4 is re-designated as subparagraph (b)(5) and revised to replace "exchanges" with "buyout offers" of variable annuity contracts, including interests of participations therein.

717 Item 9(b)(1) of amended Form N-3; Item 8(b)(1) of amended Form N-4. For example, some contracts specify that if the contract's value falls below a certain threshold, the contract terminates and an investor's contract value is returned.

718 Item 9(b)(4) of amended Form N-3 and related proposed instruction; amended Item 8(b)(4) of Form N-4 and related proposed instruction; *see also* Item 8(b)(3) and related instruction of amended Form N-6; Item 6(b)(3) of current Form N-6.

719 Item 9(b)(3) of amended Form N-3; Item 8(b)(3) of amended Form N-4; Item 8(b)(2) of amended Form N-6.

benefits, or other benefits available under the contract) and include a statement that these amounts are subject to the insurer's claims-paying ability and financial strength.[720] While some of this information will appear in the Key Information Table,[721] this item requires registrants to provide more detailed disclosure later in the prospectus.

As proposed, we are also modifying the instruction to the current subparagraph in each form relating to contract or registrant changes to explicitly require disclosure of reservation of the right to substitute one portfolio company for another.[722] We received two comment letters in favor of this change, on the grounds that this disclosure provides investors with important information about the possibility of future substitutions.[723] This amendment is intended to formalize the Commission's long-standing position that investors should be put on notice of the possibility that an insurer may substitute one portfolio company for another portfolio company.[724]

As proposed, we are also eliminating the current subparagraph (d) in Forms N-3 and N-4, which requires a description of how investor inquiries may be made. This description duplicates

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720 Item 9(c) of amended Form N-3; Item 8(c) of amended Form N-4; Item 8(c) of amended Form N-6.

721 *See* Instruction 3(d) to new Item 2 of Forms N-3, N-4, and N-6.

722 *See* Instruction to Item 9(d) of amended Form N-3; Instruction to Item 8(d) of amended Form N-4; Instruction to Item 8(d) of amended Form N-6.

723 *See* ICI Comment Letter; Capital Group Comment Letter. One commenter requested that the Commission amend rule 0-2 under the Investment Company Act to require notice to contract holders of the filing of a substitution application, and reconsider the broader process for review and approval of substitution requests under Section 26(c) of the Investment Company Act. *See* Capital Group Comment Letter. This request raises issues and considerations beyond the scope of the rule and form amendments we are adopting.

724 *See* Changes in Investment Company Act Made by 1970 Amendments Act, Investment Company Act Release No. 6506 [36 FR 9130 (May 5, 1971)] (depositors of UITs should notify investors of the possibility that underlying securities may be substituted).

information required to appear on the back cover page of the prospectus pursuant to Item 1(b)(1) of the amended forms.

Finally, with respect to Forms N-3 and N-4 and as proposed, we are relocating disclosures regarding limitations on classes of purchasers from the cover page of the prospectus[725] to the item requiring the general description of contracts.[726] This revision mirrors Item 6(e) of current Form N-6, helps streamline cover page disclosure, and permits registrants to describe this limitation more fully than if the disclosures had to appear on the cover page (which would necessarily entail space constraints).[727]

j. Annuity Period (Item 10 of Form N-3, Item 9 of Form N-4)

As proposed, we are amending Item 9 of current Form N-3 and Item 8 of current Form N-4 (which we are re-designating as Items 10 and 9, respectively) to include a new requirement that a registrant state, if applicable, that the investor will not be able to withdraw any contract value amounts after the annuity commencement date.[728] While the new "Overview" section of the prospectus contains similar information,[729] the amended annuity period item requirement provides investors with more complete disclosure about a key aspect of annuitization that we believe investors often misunderstand in the context of a more detailed discussion about the annuity benefits under the contract.

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725 Item 1(a)(iv) of current Forms N-3 and N-4.

726 Item 9(e) of amended Form N-3; Item 8(e) of amended Form N-4.

727 *See* Item 6(e) of current Form N-6. Like Form N-6, Form N-1A also requires disclosure of limitations on the purchasers to whom the Contracts are offered further back in the prospectus, and not on the cover page. *See* Items 6 and 11 of Form N-1A.

728 Item 10(g) of amended Form N-3; Item 9(g) of amended Form N-4.

729 Item 2(c)(2) of amended Forms N-3 and N-4.

k. Standard Death Benefits (Item 10 of Form N-6)

The Commission proposed to amend Item 10 of current Form N-3, Item 9 of current Form N-4, and Item 8 of current Form N-6 (which we are re-designating as Items 11, 10, and 10, respectively) to clarify that the current disclosures required by the item would only apply to the standard death benefit under the contract.[730] As proposed, registrants would include prospectus disclosure about optional death benefits (as well as standard and optional living benefits) pursuant to proposed Item 12 to Form N-3, and proposed Item 11 to Forms N-4 and N-6.

As discussed above, and in response to issues raised by commenters, we are not requiring this item as a separate disclosure item for variable annuity contracts but are retaining it as a separate disclosure item for variable life insurance contracts.[731] In addition, as discussed above, and in response to issues raised by commenters, we are largely adopting the substantive disclosure requirements of this item as proposed but are consolidating the disclosure requirements for the initial summary prospectus into paragraph (a) of this item.[732]

l. Benefits Available Under the Contract (Item 11 of Form N-3, Item 10 of Form N-4), (Other Benefits Available Under the Contract) Item 11 of Form N-6)

Largely as proposed, we are adding a new item to each registration form that requires a registrant to discuss benefits available under the contract (*e.g.*, accumulation benefit, withdrawal benefit, long-term care benefit, etc.).[733] The Commission proposed that this disclosure item would include optional death benefits but not standard death benefits. As discussed above, we

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730 Proposed Item 11 of Form N-3; proposed Item 10 of Forms N-4 and N-6.

731 *See supra* note 220 and accompanying and following text.

732 *See supra* note 222 and accompanying and following text. *See* Item 10(a) of amended Form N-6.

733 New Item 11 of amended Form N-3; new Item 10 of amended Form N-4; new Item 11 of amended Form N-6.

are revising this item to encompass all death benefits for variable annuity contracts but only non-standard death benefits for variable life insurance contracts (*i.e.*, optional or supplemental death benefits that are available for a separate charge), since standard death benefits for variable life insurance contracts will be disclosed pursuant to a standalone disclosure item titled "Standard Death Benefits."[734] Accordingly, we are revising the title of this item to read "Benefits Available Under the Contract" for Forms N-3 and N-4, although it remains "Other Benefits Available Under the Contract" for Form N-6.

Largely as proposed, subparagraph (a) of the new item requires a tabular summary overview of each benefit available under the contract (other than death benefits for variable life insurance contracts).[735] This tabular summary is also required in any initial summary prospectus.[736] If the contract offers multiple benefits of the same type (*e.g.*, death benefit, accumulation benefit, etc.), the registrant may include multiple tables, if doing so might better permit comparisons of different benefits of the same type.[737] Registrants should include appropriate titles, headings, or any other information to promote clarity and facilitate understanding of the table(s).[738] These instructions are designed to accommodate the variety of

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734 *See supra* text accompanying and following note 223; *see also* Item 10 of amended Form N-6.

735 The summary table will include the name of each benefit, its purpose, whether the benefit is standard or optional, associated fees (as a stated percentage of contract value, benefit base, etc.), and a brief description of limitations or restrictions. *See supra* Section II.A.1.c.ii(d).

736 *See* rule 498A(b)(5)(iv); *see also supra* Section II.A.1.c.ii(d).

737 *See* Instruction 1.(b) to Item 11 of amended Form N-3, Item 10 of amended Form N-4, and Item 11 of amended Form N-6. Registrants that choose to use a single table should consider whether grouping together multiple benefits of the same type, with appropriate headings, might similarly permit better comparisons of those benefits.

738 *See* Instruction 1.(c) to Item 11 of amended Form N-3, Item 10 of amended Form N-4, and Item 11 of amended Form N-6.

benefits currently offered or that might be offered in the future, and provide registrants flexibility in presenting this information.

As discussed above, and in response to issues raised by commenters, we are revising the instructions to this table in Forms N-3 and N-4 to clarify that registrants must disclose the maximum limit to which each benefit fee may be raised.[739] The instructions to this table in Forms N-3 and N-4 also permit registrants to disclose the current charge in a separate column, if the disclosure of the current charge is no more prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge.[740] For variable life products registered on Form N-6, where fees are based in part on the personal characteristics of the insured, this item in Form N-6 does not require disclosure of maximum fees, but instead requires a statement explaining that the Fee Table contains information about the fees for each benefit.[741]

Another commenter suggested that the Benefits Table should not include actual fees, but instead should refer readers to consult the Fee Table which appears elsewhere in the document.[742] We believe the fee charged for each benefit is an important piece of information that should be included in the tabular summary required by this item to assist investors wishing to compare benefits available under the contract. To further assist investors in making this

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739 *See* Instruction 5 to Item 11 of Form N-3; Instruction 5 to Item 10 of Form N-4.

740 *See* Instruction 6 to Item 11 of Form N-3; Instruction 6 to Item 10 of Form N-4.

741 As discussed above, the Fee Table includes the minimum fee, maximum fee, and fee for a representative investor for each benefit. *See supra* note 652 and accompanying text. This information should help provide better context for investors to understand the fees for the other benefits available under the contract. *See also supra* note 235 and accompanying text.

742 *See* CAI Comment Letter.

comparison, we also would not object if registrants included benefits available without charge in this tabular summary of benefits.[743]

Several commenters stated that the tabular summary contemplated by proposed paragraph (a) does not provide sufficient information for investors to fully understand the differences between the benefits and the choices available to investors under each benefit.[744] As proposed, paragraphs (b) and (c) of the new item require the statutory prospectus to include narrative disclosures that provide more detailed information regarding each of the benefits presented in the tabular summary and we believe that this, coupled with the table in paragraph (a), will provide sufficient detail regarding the contract benefits without being overly complicated. As proposed, a registrant is required to include a brief description of each benefit (other than the standard death benefit in the case of variable life insurance registrants) offered under the contract,[745] and a brief description of any limitations, restrictions and risks associated with each benefit.[746]

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743 We understand that many registrants offer benefits that are available without charge, such as dollar-cost averaging programs, automatic transfer programs, etc.

744 *See, e.g.*, VIP Working Group Comment Letter ("Some insurance company [sic] offers 3 withdrawal benefits at the same time on a single contract that would be indistinguishable using the table….Also, consider whether a one-page description of each rider may be more appropriate."); Anonymous Comment Letter III; Nedar Comment Letter ("Investors should be told more about each benefit, like that you can withdraw 6% per year for the rest of your life.").

745 This brief description is required to include a discussion of: (1) whether the benefit is standard or elected; (2) the operation of the benefit, including the amount of the benefit and how the benefit amount may vary, the circumstances under which the value of the benefit may increase or be reduced (including the impact of withdrawals), and how the benefit may be terminated; (3) fees and costs, if any, associated with the benefit; and (4) how the benefit amount is calculated and payable, and the effect of choosing a specific method of payment on calculation of the benefit. *See* Item 11(b) of amended Form N-3; Item 10(b) of amended Form N-4; Item 11(b) of amended Form N-6.

746 For example, this could include restrictions on which portfolio companies may be selected, risk of reduction or termination of benefit or of additional costs resulting from excess withdrawals, etc. *See* Item 11(c) of amended Form N-3; Item 10(c) of amended Form N-4; Item 11(c) of amended Form N-6.

Some benefits offered by a contract may have complicated terms that do not readily lend themselves to being fully described in a tabular summary. The narrative disclosures are intended to complement the tabular summary presentation by allowing registrants to discuss the benefits, as well as the limitations, risks, and restrictions associated with each, in more detail without being constrained by the limitations of a tabular presentation. The requirement to discuss the limitations, risks, and restrictions associated with each benefit will also help ensure that these aspects of contract benefits—along with the value they could provide to investors—are discussed in a standardized manner among contract prospectuses.

As proposed, we are including an instruction directing registrants in responding to paragraphs (b) and (c) to provide one or more examples illustrating the operation of each benefit in a clear, concise, and understandable manner.[747] This instruction is intended to further assist investors in understanding the other benefits offered under the contract.

m. Purchases and Contract Value (Item 12 of Form N-3, Item 11 of Form N-4) and Premiums (Item 9 of Form N-6)

Largely as proposed, we are amending Item 11 of Form N-3 and Item 10 of current Form N-4 (which we are re-designating as Items 12 and 11, respectively) to re-structure the disclosure item and make other minor revisions that do not substantively change current disclosure requirements.[748] As discussed above, variable annuity initial summary prospectuses will include

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747 *See* Instruction to new Item 11 of amended Form N-3; Instruction to new Item 10 of amended Form N-4; Instruction to new Item 11 of amended Form N-6.

748 Item 12 of amended Form N-3; Item 11 of amended Form N-4.

the disclosures required by subparagraph (a), which requires registrants to briefly describe the procedures for purchasing a contract.[749]

As discussed above, and in response to issues raised by commenters, we are consolidating the premiums disclosure requirements for the variable life insurance initial summary prospectus into paragraphs (a) through (c) of this item.[750] These revisions are not intended to substantively alter the disclosures regarding premiums in variable life insurance statutory prospectuses, but instead are simply intended to implement the final disclosure requirements for the initial summary prospectus.

In a change from the proposal, and to parallel other similar changes,[751] we are also restating certain disclosure requirements to clarify that registrants should provide the required disclosures with regards to investment options (which include any fixed account investment option) as opposed to sub-accounts (which do not include any fixed account investment option).[752] We understand that this is broadly consistent with current disclosure practices, and we do not believe that these changes should alter existing disclosure requirements.

n. Surrenders and Withdrawals (Item 13 of Form N-3, Item 12 of Form N-4, Item 12 of Form N-6)

We are amending Item 12 of current Form N-3 and Item 11 of current Form N-4 (which we are re-titling and re-designating as Items 13 and 12, respectively) to generally reflect the

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749 *See supra* note 245.

750 *See supra* note 248 and accompanying and following text. *See also* Item 14(a) through (c) of amended Form N-6.

751 *See infra* notes 757 and 768 and accompanying text.

752 *See* Item 12(b)(D) of amended Form N-3; Item 11(b)(D) of amended Form N-4; Item 9(e)(4) of amended Form N-6. These provisions require disclosure of how accumulation unit value or premiums are allocated to the investment options, including how such allocation takes place in the absence of instructions from the investor.

more up-to-date requirements of the parallel item of Form N-6 and standardize these disclosure requirements across variable product registration forms.[753]

Largely as proposed, paragraph (a) of the amended item consolidates the current disclosure requirements regarding surrenders and delays in effecting requests for surrender and provides a high-level overview of how an investor can surrender and make withdrawals from a contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable.[754] As discussed above, the initial summary prospectus also includes the amended paragraph (a) disclosures to provide summary information to investors regarding surrenders and withdrawals.[755]

As discussed above, several commenters stated that investors viewing initial summary prospectuses would also benefit from disclosures regarding the negative effects of partial withdrawals on benefits, as well as withdrawals made to pay adviser fees.[756] We agree with those comments, and accordingly we are revising paragraph (a) to include those disclosures and to require disclosure of this information in initial summary prospectuses.

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753 *See* Item 9 of current Form N-6.

754 Item 13(a) of amended Form N-3; Item 12(a) of amended Form N-4.

As proposed, we are eliminating Item 12(b) of current Form N-3 and Item 11(b) of current Form N-4 (requirement to disclose any restrictions on redemption that may apply if the registrant offers the contracts in connection with the "Texas Optional Retirement Program") and Item 12(c) of current Form N-3 and Item 11(c) of current Form N-4 (requirement to briefly describe whether a request for redemption may not be honored for a period of time after an investor makes a purchase payment). We believe that these requirements are generally encompassed by the proposed requirements (discussed in the following paragraph) to disclose any limits on the ability to surrender, including any limits on the availability of surrenders and withdrawals.

755 *See* rule 498A(b)(5)(vii); *see also supra* Section II.A.1.c.ii(g). To clarify the scope of paragraph (a), and to simplify this item in general, we are also removing references to "partial surrender" and "partial withdrawal." *See supra* note 257.

756 *See* CAI Comment Letter; Transamerica Comment Letter; AARP Comment Letter. *See supra* notes 255 and 256 and accompanying text.

Largely as proposed, paragraphs (b) through (d) require additional information related to the operation of surrenders and withdrawals under the contract, including: (1) whether and under what circumstances they are available; (2) how they will affect a contract's cash value, death benefit(s), and/or any living benefits; and (3) how partial surrenders and withdrawals will be allocated among the investment options.[757] In a change from the proposal, and to parallel other similar changes,[758] we are also restating certain disclosure requirements to clarify that registrants should provide the required disclosures with regards to investment options as opposed to sub-accounts.[759]

As proposed, paragraph (e) requires registrants to describe any provision for involuntary redemptions and the reasons for such provision.[760] While Item 12(d) of current Form N-3 and Item 11(d) of current Form N-4 specifically also require a description of any provision for lapse, we are eliminating the requirement to discuss lapse provisions because contract lapse is more relevant in the context of variable life products.[761]

As proposed, paragraph (f), like Item 12(e) of current Form N-3 and Item 11(e) of current Form N-4, requires the disclosure of any revocation rights. However, to provide additional information relating to an investor's revocation rights, paragraph (f) also requires: (1) a

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757 Item 13(b) through (d) of amended Form N-3; Item 12(b) through (d) of amended Form N-4. These disclosure requirements will conform to those that appear in the parallel provisions of current Form N-6. *See* Item 9(b) through (d) of current Form N-6.

758 *See supra* note 752 and *infra* note 768 and accompanying text.

759 *See* Item 13(d) of amended Form N-3; Item 12(d) of amended Form N-4; Item 12(d) of amended Form N-6. These provisions require registrants to describe allocation of surrenders and withdrawals with respect to the investment options, including how such allocation takes place in the absence of instructions from the investor.

760 Item 13(e) of amended Form N-3; Item 12(e) of amended Form N-4.

761 *See supra* note 687 and accompanying text.

description of how the amount refunded is determined; (2) the method for crediting earnings to purchase payments during the free look period; and (3) whether investment options are limited during the free look period.[762] We believe these disclosures are particularly important because the free look is typically the only time the investor may leave the contract for multiple years after investing in the contract without paying significant surrender fees and penalties.[763]

o. Loans (Item 14 of Form N-3, Item 13 of Form N-4, Item 13 of Form N-6)

Largely as proposed, we are amending Form N-6 to consolidate required prospectus and SAI disclosures relating to contract loans[764] into a single item in the prospectus.[765] Given that investors will receive summary information relating to loan provisions in the Overview section of the statutory prospectus (and initial summary prospectus), we believe that investors will benefit from having more complete information on contract loans in a single location.

Specifically, a registrant must briefly describe: (1) the availability of loans; (2) any limitations on that availability (*e.g.*, a prohibition on loans during the first contract year); (3) interest provisions; (4) the effects of loans on contract value and death benefits; (5) any other effects that a loan could have on the contract (*e.g.*, the effect of a contract loan in excess of contract value); and (6) loan procedures.

We understand that variable annuities, like variable life insurance contracts, often offer investors the opportunity to borrow money against the cash value of their contract, and that

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762 These disclosure requirements conform to those that appear in the parallel provisions of current Form N-6. *See* Item 9(e) of current Form N-6.

763 *See supra* paragraphs accompanying note 47.

764 *See* Items 10 and 23 of current Form N-6.

765 New Item 13 of amended Form N-6.

insurers and intermediaries frequently promote this contract feature in their sales of variable annuities. Therefore, we are also adding new Item 14 to Form N-3 and new Item 13 to Form N--4, which require similar prospectus disclosure about the availability and terms of loans under the contract.[766]

In a change from the proposal, and to parallel other similar changes,[767] we are also restating certain disclosure requirements to clarify that registrants should provide the required disclosures with regards to investment options as opposed to sub-accounts.[768]

p. Lapse and Reinstatement (Item 14 of Form N-6)

The Commission proposed no changes to Item 11 of current Form N-6 (other than re-designation as Item 14). We also proposed that the disclosures required by this item would be included in variable life initial summary prospectuses to provide investors with information about lapse and reinstatement.[769]

As discussed above, and in response to issues raised by commenters, we are consolidating the lapse and reinstatement disclosure requirements for the initial summary prospectus into paragraphs (a) through (c) of this item.[770] These revisions are not intended to substantively alter the disclosures regarding lapse and reinstatement in variable life insurance

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766 New Item 14 of amended Form N-3; new Item 13 of amended Form N-4.

767 *See supra* notes 752 and 757 and accompanying text.

768 *See* Item 14(c) through (d) of amended Form N-3; Item 13(c) through (d) of amended Form N-4; Item 13(c) through (d) of amended Form N-6. These provisions require registrants to describe how loans and loan repayments, and interest on loans, will be allocated to the investment options, including, if applicable, how such allocation takes place in the absence of instructions from the investor.

769 *See* proposed rule 498A(b)(5)(vi).

770 *See supra* note 253 and accompanying and following text. *See also* Item 14(a) through (c) of amended Form N-6.

statutory prospectuses, but instead are simply intended to implement disclosure requirements for the initial summary prospectus.

q. Taxes (Item 15 of Form N-3, Item 14 of Form N-4, Item 15 of Form N-6)

As proposed, we are amending Item 13 of current Form N-3 and Item 12 of current Form N-4 (which we are re-designating as Items 15 and 14, respectively) to reflect the more up-to-date presentation and disclosure requirements of the parallel provisions of Form N-6.[771] As amended, this item continues to require registrants to (a) describe the material tax consequences to the investor and beneficiary of buying, holding, exchanging, or exercising rights under the contract, (b) identify the types of qualified plans for which the contract is intended to be used, and (c) describe the effect, if any, of taxation on the determination of cash values or sub-account values.[772]

However, the amendments specifically limit required disclosures to "material" tax consequences. While the instructions to subparagraph (a) of Item 13 of current Form N-3 and Item 12 of current Form N-4 provide that the "disclosure need not include detailed description of applicable law," we are eliminating this instruction in light of the amended language limiting disclosures to "material" consequences.

We do not expect any of the amendments to this item to significantly alter current disclosure obligations.

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771 *See* Item 12 of current Form N-6.

772 Item 15 of amended Form N-3; Item 14 of amended Form N-4.

r. Legal Proceedings (Item 16 of Form N-3, Item 15 of Form N-4, Item 16 of Form N-6)

As proposed, we are amending Item 14 of current Form N-3 and Item 13 of current Form N-4 (which we are re-designating as Items 16 and 15, respectively) to reflect the more up-to-date presentation and disclosure requirements of the parallel provisions of Form N-6.[773]

As currently required by Form N-6, the amendments require registrants on Forms N-3 and N-4 to (1) provide a description of the factual basis alleged to underlie the proceeding, and the relief sought, and (2) in addition to describing proceedings that a governmental authority has instituted, include information about proceedings "known to be contemplated" by governmental authorities.[774] The amendments also eliminate the requirement to discuss pending legal proceedings against any subsidiary of the registrant to mirror the parallel provision in Form N-6 (and Form N-1A) and provide consistency across forms. We believe this is appropriate in the context of separate account registrants, which are unlikely to have subsidiaries.[775]

These amendments are not expected to significantly alter current disclosure obligations.

s. Financial Statements (Item 17 of Form N-3, Item 16 of Form N-4; Item 17 of Form N-6)

As proposed, we are adding new Item 17 to Form N-3 and new Item 16 to Form N-4, which require a statement, under a separate caption, of where any required financial statements of the registrant and the depositor may be found if they are not included in the prospectus.[776] As proposed, the registrant also must briefly explain how investors may obtain any financial

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773 *See* Item 13 of current Form N-6.

774 Item 16 of amended Form N-3; Item 15 of amended Form N-4.

775 *Id*.; *see also* Item 13 of current Form N-6; Item 10(a)(3) of Form N-1A.

776 New Item 17 of amended Form N-3; new Item 16 of amended Form N-4.

statements not provided in the SAI.[777] These disclosure requirements conform to a similar requirement included in Item 14 of current Form N-6.

As proposed, the forms' amended General Instructions provide that registrants are free to include in the prospectus financial statements required to be in the SAI, and may also include in the SAI financial statements that may be placed in Part C.[778] The new item is intended to assist investors in finding and obtaining any financial statements that have been moved at the registrant's discretion from the location where they would otherwise be provided in the registration statement.[779]

t. Appendix: Portfolio Companies/Investment Options Available Under the Contract (Item 18 of Form N-3, Item 17 of Form N-4, and Item 18 of Form N-6)

Largely as proposed, we are adding a new disclosure item to each registration form (new Item 18 of Form N-3, new Item 17 of Form N-4, and new Item 18 of Form N-6), which requires registrants to include as an Appendix to the prospectus a table that will streamline and replace current prospectus disclosures about the portfolio companies and investment options available under the contract.[780] This table will appear under the heading "Portfolio Companies/Investment

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777 *Id*.

778 *See* General Instruction C.3.(b) to amended Forms N-3, N-4, and N-6.

779 A similar requirement to this new item appears in paragraph (c) of Item 4 of current Form N-3 and paragraph (b) of Item 4 of current Form N-4.

780 *See, e.g.*, Item 1(a)(viii) of current Form N-4 (requiring the outside cover page of the prospectus to include the names of portfolio companies); Item 4(c) of current Form N-6 (requiring registrants to briefly describe the registrant's sub-accounts and each portfolio company, including its name, its type or a brief statement concerning its investment objectives, and its investment adviser and any sub-adviser).

Options Available Under the Contract" and will consolidate certain summary information about each portfolio company into a concise, easy-to-read tabular presentation.[781]

As discussed above, in response to commenters' suggestions regarding the summary prospectuses, we are making several changes to the content requirements for the Appendix.[782] In particular, and in response to commenters, we are broadening the scope of the Appendix to encompass all portfolio companies/investment options available as investment options under the contract, as opposed to all portfolio companies/investment options currently offered under the contract, as proposed.[783] This change is intended to improve disclosures about portfolio companies/investment options that are restricted to investors because of a "soft" or "hard" close, and consequently those portfolio companies/investment options will also be required to be identified as such.[784]

As proposed, if the availability of one or more portfolio companies varies by benefit offered under the contract, registrants are required to include a separate table or any other presentation that might promote clarity and facilitate understanding of which portfolio companies were available under each of those benefits.[785] These same disclosures will also

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781 *See supra* discussion at note 265 and accompanying and following text.

782 *Id.* (revising the proposed Appendix requirements to, among other things, revise the introductory legend, require presentation of current expense ratios (either net or gross), require disclosure of platform charges, require disclosure only of those portfolio company sub-advisers that manage a significant portion of the portfolio).

783 *See* CAI Comment Letter (seeking clarification regarding whether the "currently offered" standard includes portfolio company options in which current, but not new, investors are permitted to invest ("soft closed" fund options)); *see also* Instruction 1(a) to Item 18 of amended Form N-13, Item 17 of amended Form N-4, and Item 18 of amended Form N-6.

784 *See* Instruction 1(a) to Item 18 of amended Form N-13, Item 17 of amended Form N-4, and Item 18 of amended Form N-6.

785 *See supra* note 313 and accompanying and following text.

appear in the initial summary prospectuses and updating summary prospectus,[786] except for variations due to the more limited scope of the initial summary prospectus (which can only describe one contract) in contrast to the updating summary prospectus and statutory prospectus (which could describe more than one contract).[787]

Because we understand that certain variable contracts registered on Form N-3 have very few investment options (and sometimes have only one investment option), we recognize that the Appendix could have limited utility for certain Form N-3 registrants and their investors. For this reason, and as proposed, registrants on Form N-3 can omit the Appendix and instead provide the more detailed disclosures about the investment options offered under the contract required by new Item 19 of Form N-3.[788] For Form N-3 registrants, the Appendix is required to appear in a statutory prospectus only if the Appendix is included in a summary prospectus.[789]

Largely as proposed, the same legends that precede the Appendix in the summary prospectus will generally also precede the Appendix in the statutory prospectus.[790] As discussed above, in response to commenters' suggestions, we are revising these legends to add additional

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786 *See* rule 498A(b)(5)(ix); rule 498A(c)(6)(iv); *see also supra* Sections II.A.1.c.ii(*i*), II.A.2.c.ii(c).

787 As discussed above, an initial summary prospectus may only describe a single contract that the registrant currently offers for sale, whereas the updating summary prospectus and statutory prospectus may describe multiple contracts under the conditions of the General Instructions to Forms N-3, N-4, and N-6. *See supra* Sections II.A.1.b, II.A.2.b.

788 *See* Instruction 1(a) to new Item 18 of amended Form N-3; *see also* rule 498A(b)(5)(ix), (c)(6)(iv) (the Appendix also can be omitted from the summary prospectus); *infra* paragraphs following note 796 (discussing new Item 19 of amended Form N-3).

789 *See* Instruction 1(a) to new Item 18 of amended Form N-3; *see also supra* notes 331, 388, and 700.

790 *See supra* Section II.A.1.c.ii(i). The sole exception involves registrants on Form N-3 that use a summary prospectus that includes the disclosures required by new Item 18. In this case, the portion of the legend in the summary prospectus explaining how more information about the investment options may be obtained will not be required to be included in the statutory prospectus. *See* note 792 and accompanying text.

disclosures about the availability of updated performance information, to clarify that performance information does not include platform charges, to state that certain investment options may not be available depending on the optional benefits selected, and to generally streamline the overall presentation.[791]

Under amended Form N-3, the legend preceding the Appendix must state, in part, as follows: "The current expenses and performance information below reflects contract fees and expenses that are paid by each investor" (in contrast, the parallel legend for Forms N-4 and N-6 will state that current expenses and performance *do not* reflect contract fees and expenses that are paid by each investor). This difference is intended to reflect the fact that insurance charges are inherently reflected in the expenses and performance of investment options for contracts registered on Form N-3, since those investment options are offered as part of the variable contract. The expenses and performance of portfolio companies offered under contracts registered on Forms N-4 and N-6 do not reflect insurance charges, because those portfolio companies are separately registered as entities distinct from the variable contract. Additionally, only registrants on Forms N-4 and N-6 that chose to utilize the new portfolio company prospectus delivery option are required to include in the Appendix an internet address to a landing page, toll-free telephone number, and email address that investors could use to obtain or request portfolio company statutory and summary prospectuses.[792]

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791 *See supra* note 313 and accompanying and following text.

792 *See* Instruction 1(b) to new Item 17 of amended Form N-4 and new Item 18 of amended Form N-6 ("Registrants not relying upon rule 498A(j) under the Securities Act [17 CFR 230.498A(j)] with respect to the Portfolio Companies that are offered under the Contract may, but are not required to, provide the next-to-last sentence of the first paragraph of the introductory legend to the table regarding online availability of the prospectuses.").

u. Additional Amendments to Form N-3

As proposed, we are adopting additional amendments to Form N-3 that are generally intended to update and enhance disclosures related to investment options by requiring similar disclosures required for open-end management companies registered on Form N-1A.

v. Management (Item 7 of Form N-3)

As proposed, we are revising Item 6 of current Form N-3 (which we are re-designating as Item 7) to increase consistency among forms used to register management investment companies.[793] Except as described below, we do not intend these amendments to significantly alter current disclosure obligations.

Among other things, the amendments require disclosure of the compensation paid to each investment adviser of the registrant.[794] Form N-3 currently includes three fiscal years of such disclosures in the SAI, where they will remain under our amendments, but our amendments also include such disclosures for the most recent fiscal year in the prospectus to highlight this

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Registrants on Form N-3 that use a summary prospectus that includes the disclosures required by new Item 18 of amended Form N-3 will be required to include in that Appendix an introductory legend explaining how more information about the investment options may be obtained. *See* rule 498A(b)(5)(ix) and *supra* notes 323-326 (discussing legend in initial summary prospectus); rule 498A (c)(6)(iv) and note 387 (discussing legend in updating summary prospectus). However, that legend will not be required to be included in the statutory prospectus, because the statutory prospectus will already include those disclosures pursuant to new Item 19 (which requires more detailed disclosure regarding each of the investment options available under the contract). *See* Instruction 1(a) to new Item 18 of amended Form N-3; new Item 19 of amended Form N-3.

793 *See, e.g.*, Items 5 and 10 of Form N-1A.

794 Registrants will disclose the aggregate fee paid to each investment adviser for the most recent fiscal year as a percentage of net assets or, if the adviser's fee is not based on a percentage of net assets, a description of the basis of the adviser's compensation. *See* Item 7(a)(1)(i) and (ii) of amended Form N-3.

information for investors and to update this aspect of Form N-3 to parallel Form N-1A.[795] As proposed, the amendments also move certain information from the prospectus to the SAI, including responsibilities of the board of managers, disclosure regarding persons providing administrative or business affairs services, and information regarding brokerage allocations.[796] We believe this information is more appropriate for disclosure in the SAI, and is consistent with how such information is presented in Form N-1A.

w. Additional Information about Investment Options Available Under the Contract (Item 19 of Form N-3)

As proposed, we are requiring a new item that will provide more detailed information about each of the investment options available under the contract.

As proposed, new paragraphs (a) and (b) restate existing disclosure requirements contained in paragraphs (c), (d), and (e) of current Item 5 regarding investment strategies and risks to reflect the updated presentation and disclosure requirements of the parallel provisions of Form N-1A. These paragraphs re-focus these disclosure requirements to require more granular disclosure related to each investment option as opposed to broader disclosure regarding registrants.

Specifically, among other things, these amendments require disclosure of whether the investment option may take temporary defensive positions that are inconsistent with the investment option's principal investment strategies in attempting to respond to adverse market,

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795 *Compare* current Item 21(a)(iii) of Form N-3 (requiring total compensation paid to the adviser under the investment advisory contract for the last three fiscal years) *with* Item 24(a)(3) of amended Form N-3 (same); *see also* Item 10 of Form N-1A.

796 These disclosure requirements will be moved, respectively, to the following items of amended Form N-3: Item 23(b)(1) ("Management of the Registrant"); Item 24(g) ("Investment Advisory and Other Services"); and Item 26 ("Brokerage Allocation and Other Practices").

economic, political, or other conditions. We believe that investors should be informed about investment positions that an investment option can take from time to time that are inconsistent with the investment option's central investment focus.

As proposed, these amendments also require the registrant to disclose, for each investment option, whether it may engage in active and frequent trading of portfolio securities and, if so, the consequences of increased portfolio turnover to investors and the investment option's performance. Increased portfolio turnover can result in increased transaction costs that are ultimately borne by investors. Collectively, these amendments are intended to clarify and enhance the disclosure requirements relating to investment options' strategies and risks, and to increase consistency and thereby promote comparability among forms used to register management investment companies.[797]

As proposed, new paragraph (c) requires registrants with annual returns for at least one calendar year to provide, for each investment option:

- A bar chart showing the investment option's annual total returns for each of the last 10 calendar years (or for the life of the investment option, if less than 10 years), as well as the investment option's highest and lowest return for a quarter during the period displayed in the chart;
- A table showing the investment option's average annual total returns (with and without taxes on distributions and redemptions) for 1-, 5-, and 10-year calendar periods ending on the date of the most recently completed calendar year (or for the

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797 *See, e.g.*, Item 9 of current Form N-1A.

life of the investment option, if shorter), as well as the returns of an appropriate broad-based securities market index for those same periods; and

- Certain explanatory statements, such as how the information in the chart and table illustrates the variability of the investment option's returns, the investment option's past performance is not necessarily an indication of how the investment option will perform in the future, and, if applicable, how updated performance information may be obtained.

The disclosures that new paragraph (c) requires are modeled after the risk/return bar chart and table that Form N-1A currently requires and are intended to supplement the disclosures currently required by Form N-3 regarding accumulation unit income and capital changes[798] by providing investors and potential investors with more information about the performance of the investment options offered under the contract.[799] In particular, the bar chart will illustrate the variability of the investment options' returns and give investors an idea of the attendant risks of each investment option. Likewise, the accompanying table will help investors evaluate an investment option's risks and returns relative to the market.

3. Part B (Information Required in a Statement of Additional Information)

Table 5 shows how our amendments will revise the item requirements of Part B of our variable contract registration forms. Except as described below, our amendments to Part B of Forms N-3 and N-4 generally conform to the language of the related Part B disclosure items in

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798 *See infra* Section II.C.3.d.

799 *See, e.g.*, Item 4(b)(2) of Form N-1A; *see also* Registration Form Used by Open-End Management Investment Companies, Investment Company Act Release No. 23064 (Mar. 13, 1998) [98 FR 13968 (Mar. 23, 1998)] ("Form N-1A Adopting Release") at text accompanying and following n.51 (discussing the risk/return bar chart/table requirement).

current Form N-6. Although commenters did not raise broad objections to our proposed amendments, commenters raised concerns with and/or requested clarification on various items, as discussed in more detail below. To the extent we received no comments on certain items, we are adopting them as proposed, as discussed further below.

TABLE 5. AMENDMENTS TO PART B OF FORMS N-3, N-4, AND N-6

ITEM DESCRIPTION	AMENDED ITEM NO.	FORM N-3	FORM N-4	FORM N-6
Cover Page and Table of Contents (in Forms N-3 and N-4, currently two separate items: "Cover Page" and "Table of Contents")	• Form N-3: Item 20 (currently Items 16, 17) • Form N-4: Item 18 (currently Items 15, 16) • Form N-6: Item 19 (currently Item 15)	Revised	Revised	Revised
General Information and History	• Form N-3: Item 21 (currently Item 18) • Form N-4: Item 19 (currently Item 17) • Form N-6: Item 20 (currently Item 16)	Revised	Revised	Unchanged
Non-Principal Risks of Investing in the Contract (in Forms N-4 and N-6)	• Form N-4: Item 20 • Form N-6: Item 21	N/A	New Item	New Item
Services (in Form N-3, "Investment Advisory and Other Services")	• Form N-3: Item 24 (currently Item 21) • Form N-4: Item 21 (currently Item 18) • Form N-6: Item 22 (currently Item 17)	Revised	Revised	Unchanged
Investment Objectives and Risks (in Form N-3, currently "Investment Objectives and Policies")	• Form N-3: Item 22 (currently Item 19)	Revised	N/A	N/A
Management of the Registrant (in Form N-3, currently "Management")	• Form N-3: Item 23 (currently Item 20)	Revised	N/A	N/A
Portfolio Managers	• Form N-3: Item 25 (currently Item 22)	Revised	N/A	N/A
Brokerage Allocation and Other Practices (in Form N-3, currently "Brokerage Allocation")	• Form N-3: Item 26 (currently Item 23)	Revised	N/A	N/A

Purchase of Securities Being Offered (in Form N-3, currently "Purchase and Pricing of Securities Being Offered")	• Form N-3: Item 27 (currently Item 24) • Form N-4: Item 22 (currently Item 19)	Unchanged	Unchanged	N/A
Premiums	• Form N-6: Item 23 (currently Item 18)	N/A	N/A	Unchanged
Additional Information About Operation of Contracts and Registrant	• Form N-6: Item 24 (currently Item 19)	N/A	N/A	Unchanged
Underwriters	• Form N-3: Item 28 (currently Item 25) • Form N-4: Item 23 (currently Item 20) • Form N-6: Item 25 (currently Item 20)	Revised	Revised	Revised
Additional Information About Charges	• Form N-6: Item 26 (currently Item 21)	N/A	N/A	Unchanged
Lapse and Reinstatement	• Form N-6: Item 27 (currently Item 22)	N/A	N/A	Unchanged
Loans	• Form N-6: Item 13 (currently Items 10 and 23)	N/A	N/A	Revised and consolidated in prospectus (currently, there are prospectus and SAI items)
Calculation of Performance Data	• Form N-3: Item 29 (currently Item 26) • Form N-4: Item 24 (currently Item 21)	Revised	Revised	N/A
Annuity Payments	• Form N-3: Item 30 (currently Item 27) • Form N-4: Item 27 (currently Item 22)	Unchanged	Unchanged	N/A
Financial Statements	• Form N-3: Item 31 (currently Item 28) • Form N-4: Item 26 (currently Item 23) • Form N-6: Item 28 (currently Item 24)	Revised	Revised	Revised
Condensed Financial Information	• Form N-3: N/A (currently Item 4) • Form N-4: N/A (currently Item 4)	Eliminated	Eliminated	N/A
Illustrations	• Form N-6: Item 29 (currently Item 25)	N/A	N/A	Unchanged

a. Amendments Conforming Part B Items of Forms N-3 and N-4 to Presentation in Form N-6

As proposed, we are amending certain items of Part B of Forms N-3 and N-4 to reflect the more up-to-date presentation of corresponding items in Form N-6, and re-designating their numbering as shown in Table 5 above. To the extent that these amended items incorporate only minor wording changes,[800] they are indicated as "unchanged items" in Table 5. Otherwise, each of these amended items is discussed in more detail below.

Cover Page (Item 20 of Form N-3, Item 18 of Form N-4; Item 19 of Form N-6)

As proposed, we are amending the outside front cover page requirements for each registration form to include the name of the contract and classes to which the contract relates.[801] As proposed, we are also amending Forms N-3 and N-4 to: (1) require a statement whether and from where information is incorporated by reference;[802] (2) remove the current required statement that the SAI should be read with the prospectus;[803] and (3) consolidate the current item requiring a table of contents into the item specifying cover page disclosures.[804]

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800 For example, edits to use defined terms where appropriate, to use synonyms for consistency across forms (*e.g.*, "State the name . . ." instead of "Give the name . . ."), and to add titles to sub-paragraphs for clarity and consistency across forms (and to help the reader navigate the form).

801 Item 20(a)(3) of amended Form N-3; Item 18(a)(3) of amended Form N-4; Item 19(a)(3) of amended Form N-6.

802 Item 20(a)(4)(iii) of amended Form N-3; Item 18(a)(4)(iii) of amended Form N-4.

803 Item 16(a)(iii)(B) of current Form N-3; Item 15(a)(iii)(B) of current Form N-4.

804 Item 20(b) of amended Form N-3; Item 18(b) of amended Form N-4.

General Information and History (Item 21 of Form N-3, Item 19 of Form N-4, Item 20 of Form N-6)

As proposed, we are amending Item 18 of current Form N-3 and Item 17 of current Form N-4 (which we are re-designating as Items 21 and 19, respectively) to require: (1) the date and form of organization of the depositor, the name of the state or other jurisdiction in which the depositor is organized, and a description of the general nature of the depositor's business; and (2) the date and form of organization of the registrant and the registrant's classification pursuant to Section 4 of the Investment Company Act.[805]

Services (Item 24 of Form N-3,[806] Item 20 of Form N-4, Item 21 of Form N-6)

As proposed, we are amending Item 21 of current Form N-3 and Item 18 of current Form N-4 (which we are re-designating as Items 24 and 20, respectively) to require registrants to, unless disclosed elsewhere, identify and state the principal business address of any person who provides significant administrative or business affairs management services for the registrant (*e.g.*, an "administrator," "sub-administrator," "servicing agent"), describe the services provided, and the compensation paid for the services.[807]

Financial Statements (Item 31 of Form N-3, Item 26 of Form N-4, Item 28 of Form N-6)

As proposed, we are amending Item 28 of current Form N-3 and Item 23 of current Form N-4 (which we are re-designating as Items 31 and 26, respectively) to: (1) clarify that the depositor's financial statements must be prepared in accordance with generally accepted

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805 Item 21 of amended Form N-3; Item 19 of amended Form N-4.

806 In Form N-3, the title of this disclosure item is "Investment Advisory and Other Services." In addition to the amendments we are adopting to conform this disclosure item to the parallel item in Form N-6, we also are making additional amendments to this disclosure item, as discussed below, that will reflect the presentation of Item 19 in Form N-1A. *See infra* Section II.C.3.e.

807 Item 24(g) of amended Form N-3; Item 20(c) of amended Form N-4.

accounting principles ("GAAP") if the depositor prepares financial information in accordance with GAAP for use by the depositor's parent in any report under Sections 13(a) and 15(d) of the Exchange Act or registration statement filed under the Securities Act;[808] (2) specify how an investor may request certain additional financial information about the depositor that is omitted from the SAI and is included in Part C of the registration statement;[809] and (3) clarify how current the depositor's financial statements must be when the anticipated effective date of the registration statement falls within 90 days after the depositor's fiscal year-end.[810]

Several commenters requested that the Commission allow insurers to use financial statements prepared according to statutory accounting principles ("SAP") instead of generally accepted accounting principles.[811] Forms N-4 and Form N-6 currently permit a separate account depositor to file financial statements prepared using SAP in registration statements for contracts issued through the separate account if it would not have to prepare GAAP financial statements for use in its own registration statements or periodic reports or those of its parent company.[812] As noted in the release adopting Form N-6 ("Form N-6 Adopting Release"), the Commission believes allowing the use of SAP financials statements permitted by these forms appropriately

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808 Instruction 1 to Item 31(b) of amended Form N-3; Instruction 1 to Item 26(b) of amended Form N-4. This instruction will be consistent with prior guidance we have provided in the context of registration statements on Form N-6, namely that statutory financial statements could be used in those limited circumstances when GAAP financial statements are not otherwise required to be prepared for either the depositor or its parent. *See* Separate Accounts Offering Variable Life Release, *supra* note 29, at n.58 and accompanying and following text.

809 Instruction 2 to amended Item 31(b) of Form N-3; Instruction 2 to amended Item 26(b) of Form N-4.

810 Instruction 3 to amended Item 31(b) of Form N-3; Instruction 3 to amended Item 26(b) of Form N-4.

811 *See* VIP Working Group Comment Letter; CAI Comment Letter.

812 *See* Instruction 1 to Item 23(b) of Form N-3; Instruction 1 to Item 24(b) of Form N-6.

recognizes the cost burdens that would be imposed if we required GAAP financial statements in these circumstances.[813] To promote uniformity and consistency in financial reporting, however, we do not believe it is appropriate to broaden the use of SAP financial statements by separate account depositors beyond these limited circumstances. The Commission generally requires that all financial statements be presented on a GAAP basis. However, the Commission has permitted the use of SAP financial statements – which insurers use to comply with state insurance regulation – in these limited instances because preparing GAAP financial statements would be overly burdensome.

In addition, one commenter stated that financial statements are difficult to comprehend, and suggested the Commission should remove the requirement to include separate account financial statements in registration statements or instead create a risk metric to show the financial strength of the depositor.[814] We decline to adopt the suggestion to remove the requirement to include the separate account depositor's financial statements in these filings. As noted in the Form N-6 Adopting Release, the financial condition of the depositor is relevant to its ability to pay the insurance benefits offered under variable life insurance policies, and therefore investors may find financial information about the depositor useful.[815]

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813 *See* Registration Form for Insurance Company Separate Accounts Registered as Unit Investment Trusts that Offer Variable Life Insurance Policies, Securities Act Release No. 8088, Investment Company Act Release No. 25552 (Apr. 11, 2002) ("Form N-6 Adopting Release"), text preceding n.56.

814 *See* VIP Working Group Comment Letter.

815 See Form N-6 Adopting Release, *supra* note 813, text following n.58.

We also note that the Commission has recently amended certain rules applicable to and registration forms used by certain investment companies,[816] in compliance with the Congressional mandate in the Dodd Frank Act to remove references to credit quality ratings in these rules and forms to avoid any potential overreliance by investors of those ratings that might result from a perceived government endorsement of those ratings.[817] In adopting these amendments, the Commission noted the absence of "reliable and objective shorthand measure[s] of credit risk."[818] As discussed above, however, the Commission is currently engaged in an overall review of the retail fund investor experience, and will continue to consider ways to improve and simplify disclosure relating to separate account depositors.[819]

Amended Form N-3 will also retain certain requirements regarding the preparation of shareholder reports and disclosure of proxy voting information currently required by the form. These requirements were inadvertently omitted from the proposed Form N-3 at the time of our proposed amendments to that form and will be carried forward without change to the amended form.[820] In a conforming change, we are also eliminating the current Form N-3 requirement to

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816 *See* Removal of Certain References to Credit Ratings Under the Investment Company Act, Securities Act No. 9506, Investment Company Act No. 30847 (Sept. 27, 2013) ("Removal of Certain References to Credit Ratings Release").

817 *See* Section 939A of the Dodd-Frank Act.

818 *See* Removal of Certain References to Credit Ratings Release, *supra* note 816**,** text accompanying n.44.

819 *See* Request for Comment on Fund Retail Investor Experience, *supra* note 548.

820 *See* Instructions 2-6 to Item 31(a) of amended Form N-3.

include accumulation unit value tables in shareholder reports to parallel our elimination of those tables from variable contract prospectuses.[821]

b. Non-Principal Risks of Investing in the Contract (Item 20 of Form N-4, Item 21 of Form N-6)

In a change from the proposal and in response to commenters requesting clarification on where non-principal risk disclosures should be located,[822] we are adding a new item to Forms N-4 and N-6 regarding the non-principal risks of investing in the contract, to the extent not otherwise required to be disclosed in the prospectus.[823] Although registrants on Forms N-4 and N-6 currently include non-principal risks of investing in their registration statements, the forms lack an explicit disclosure requirement to do so. We believe the approach taken in Form N-3 of including an explicit requirement in the SAI of the non-principal risks associated with the contract is appropriate to clarify the scope of registrants' disclosure obligations.[824] Having a separate disclosure requirement for non-principal risks in the SAI also helps to provide a clear delineation between disclosure of principal risks (in the prospectus) and non-principal risks (in the SAI). For these reasons, we are adopting this new item, which should also provide greater consistency among the registration forms for variable contracts and allow investors to more easily compare risks between different variable contracts.

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821 *See* Instruction 5(ii) to Item 28 of Form N-3 (requiring the inclusion of AUV tables in shareholder reports); *see also infra* Section C.3.d (discussing elimination of the requirement to include AUV tables in variable contract prospectuses).

822 *See, e.g.*, CAI Comment Letter.

823 As discussed above, we believe that the inclusion of non-principal risks could add complexity and length to the prospectus's principal risks section and obscure principal risks that are more relevant to investors, and therefore non-principal risks (that are not otherwise required to be disclosed in the prospectus) are neither required nor permitted to be included in the prospectus. *See supra* note 690; General Instruction C.3.(b) to Forms N-3, N-4, and N-6.

824 *See* Item 22 of amended Form N-3.

c. Underwriters (Item 28 of Form N-3, Item 23 of Form N-4, Item 25 of Form N-6)

As proposed, we are amending Item 25 of current Form N-3 and Item 20 of current Form N-4 (which we are re-designating as Items 28 and 23, respectively) to specifically require identification of all principal underwriters of the registrant (other than the depositor), their principal business addresses, and the source of any affiliation.[825]

As proposed, we are also adding an instruction to this item in Forms N-3, N-4, and N-6 stating that information need not be provided about bona fide contracts with the registrant or its insurance company for outside legal or auditing services, or bona fide contracts for personal employment entered into with the registrant or its depositor in the ordinary course of business. This instruction is intended to focus disclosures on underwriting costs, as opposed to costs for legal or auditing services or other ancillary matters, and will parallel similar instructions in Part C of these same forms regarding disclosures for principal underwriters.[826]

Also as proposed, because we are amending Item 5 of current Form N-6 to include the disclosures on commissions to dealers currently required by current Item 20 in the SAI, we also are removing this disclosure from current Item 20 (which we are re-designating as Item 25).[827]

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825 Item 28(a) of amended Form N-3; Item 23(a) of amended Form N-4. Item 25(a) of current Form N-3 and Item 20(a) of current Form N-4 only require a registrant to state if the depositor or the affiliate of the depositor is the principal underwriter of the contract.

826 *See infra* text accompanying and preceding note 878. Forms N-3, N-4, and N-6 also include in their disclosure requirements regarding underwriters other similar instructions, such as instructions stating that information need not be given about the service of mailing proxies or periodic reports of the registrant.

827 *See supra* note 710 and accompanying text.

d. Calculation of Performance Data (Item 29 of Form N-3, Item 24 of Form N-4)

Largely as proposed, we are amending Item 26 of current Form N-3 and Item 21 of current Form N-4 (which we are re-designating as Items 29 and 24, respectively), to remove the instruction specifically permitting the registrant to furnish separate yield quotations for individual and group contracts.[828] Because the amended General Instructions state that individual and group contracts are not essentially identical, we would not expect to see both types of contracts presented in a single prospectus.[829]

One commenter asked whether this item is still relevant or needs to be adjusted to reflect features such as optional benefits, which were not commonly used when these disclosure requirements were drafted.[830] Accordingly, we are adding instructions to require registrants to disclose, if applicable, that the performance information may not reflect all contract charges, and that performance would be lower if these charges were included.[831]

e. Adjustment to Disclosure Thresholds (Items 28 and 31 of Form N-3, Items 23 and 26 of Form N-4, Items 25 and 28 of Form N-6)

Our variable contract registration forms currently include various dollar thresholds that date back to their initial adoption. In the SAI, for example, information need not be given about any service required to be disclosed pursuant to current Item 25 of Form N-3, current Item 20 of Form N-4, and current Item 20 of Form N-6, for which total payments of less than $5,000 were

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828 Item 29 of amended Form N-3; Item 24 of amended Form N-4.

829 *See* General Instruction C.3.e.(i) to amended Forms N-3, N-4, and N-6.

830 *See* VIP Working Group Comment Letter.

831 *See* Instruction 4 to Item 29(a), Instruction 7 to Item 29(b)(1), and Instruction 9 to Item 29(b)(2) of amended Form N-3; Instruction 4 to Item 24(a), Instruction 7 to Item 24(b)(1), and Instruction 5 to Item 24(b)(2) of amended Form N-4.

made during each of the last three fiscal years.[832] In addition, financial statements of the insurance company required to be included in the registration statement need not be more current than as of the end of the most recent fiscal year of the insurance company unless certain balance sheets of the sponsor show a combined capital and surplus (if a stock company) or an unassigned surplus (if a mutual company), of less than $1,000,000.[833] As part of our efforts to update the registration forms, and as proposed, we are increasing these thresholds to $15,000[834] and $2,500,000,[835] respectively, to account for the effects of inflation since 1985, the year of inception for Forms N-3 and N-4.[836]

f. Additional Amendments to Form N-3

As proposed, we are adopting additional amendments to Form N-3 that are generally intended to update and enhance disclosures related to investment options by requiring similar disclosures required for open-end management companies registered on Form N-1A. The revisions generally reflect the updated presentation and disclosure requirements of the parallel item in Form N-1A and harmonize the disclosure requirements across registration statements for different products.

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832 *See* Instruction 2 to Item 25 of current Form N-3; Instruction 2 to Item 20 of current Form N-4; Instruction 2 to Item 20 of current Form N-6.

833 *See* Instructions 3(ii) and (iii) to Item 28 of current Form N-3; Instructions 3(ii) and (iii) to Item 23 of current Form N-4; Instructions 3(ii) and (iii) to Item 24 of current Form N-6.

834 *See* Instruction 3 to Item 28 of amended Form N-3; Instruction 2 to Item 23 of amended Form N-4; Instruction 2 to Item 25 of amended Form N-6.

835 *See* Instructions 3(b) and (c) to Item 31(b) of amended Form N-3; Instructions 3(b) and (c) to Item 26 of amended Form N-4; Instructions 3(b) and (c) to Item 28 of amended Form N-6.

836 Indexing the $5,000 thresholds for inflation results in revised thresholds of $11,950, and indexing the $1,000,000 thresholds for inflation results in revised thresholds of $2,390,009. Calculations are based on the Bureau of Labor Statistics consumer price index average for all urban consumers (CPI-U) between January 1985 and August 2018. *See* CPI Inflation Calculator, Bureau of Labor Statistics, *available at* https://www.bls.gov/data/inflation_calculator.htm.

Investment Objectives and Risks (Item 22 of Form N-3)

As proposed, we are making certain amendments to Item 19 of Form N-3, which we are re-designating as Item 22.[837] Amended Item 22 contains a new instruction clarifying that if the registrant offers more than one investment option, the required disclosures should be made for each investment option. Paragraph (a) of amended Item 22 requires the registrant to describe any investment strategies that are not principal strategies, as well as the risks of those strategies. These disclosures complement the prospectus disclosures of principal investment strategies that will be required by amended Item 19.

As proposed, paragraph (b) of amended Item 22 requires the discussion of all policies regarding: (1) issuing senior securities; (2) borrowing money, including the purpose for which the proceeds will be used; (3) underwriting securities of other issuers; (4) concentrating investments in a particular industry or group of industries; (5) purchasing or selling real estate or commodities; (6) making loans; and (7) any other policy that the registrant deems fundamental or that may not be changed without shareholder approval, including, if applicable, the registrant's investment objectives. In contrast, Item 19 of current Form N-3 generally requires the disclosure of: (1) fundamental policies not described in the prospectus regarding those same topics, as well as short sales, purchases on margin, and writing of put and call options, and any other policy the registrant deems fundamental; and (2) any significant but non-fundamental investment policies not described in the prospectus and which can be changed without the approval of the majority of votes available to eligible voters. We believe that the amended disclosure requirements better

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837 *See* Item 22 of amended Form N-3. The amendments to this item will reflect the presentation of Item 16 of Form N-1A.

correspond with the requirements of Section 8 of the Investment Company Act than the current Form N-3 item requirements, since they more specifically reflect the disclosure that Section 8 mandates.[838]

As proposed, paragraph (c) of amended Item 22 requires registrants to disclose the types of investments that a registrant may make while assuming a temporary defensive position. We believe that investors should be informed about investment positions that an investment option can take from time to time that are inconsistent with the investment option's central investment focus.

Paragraph (e) of amended Form N-3 reflects amendments adopted by the Commission in 2017 that will become effective on May 1, 2020.[839] These amendments remove references to Form N-Q and replace them with references to Form N-PORT.[840]

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838 Section 8 of the Investment Company Act requires a fund to disclose in its registration statement, among other things, the fund's policies with respect to borrowing money, issuing senior securities, underwriting securities issued by other persons, investing in real estate or commodities, and making loans. Section 8 also requires a fund to disclose in the registration statement its policies on concentration and portfolio turnover, and any other policies that the fund deems fundamental or that may not be changed without shareholder approval.

When the Commission proposed amendments to Form N-1A in 1997, it noted that, although they are not required to do so, some funds disclose in the prospectus their policies with respect to the practices identified under Section 8. *See* Proposed New Disclosure Option for Open-End Management Investment Companies, Investment Company Act Release No. 22529 (Feb. 27, 1997) [62 FR 10943 (Mar. 10, 1997)]. To provide a clearer directive to disclose this information in the SAI, the Commission proposed (and later adopted) amendments to specifically require disclosure about these policies in the SAI. *See* Form N-1A Adopting Release, *supra* note 799. This amended Form N-1A requirement forms the basis for the amendments to paragraph (b) of amended Item 22 of Form N-3 described herein.

839 *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32936 (Dec. 8, 2017) [82 FR 58731 (Dec. 14, 2017)] (delaying the rescission of Form N-Q and the filing of Form N-PORT).

840 *See* paragraph (e) of Item 22 of amended Form N-3 (requiring the registrant to describe any ongoing arrangements to make available information about the registrant's portfolio securities to any person, except if certain conditions are met including certain disclosures about those portfolio

As proposed, paragraph (f) of amended Item 22 requires certain disclosures regarding material events by registrants or investment options that hold themselves out as "money market funds" or "money market accounts" pursuant to rule 2a-7 under the Investment Company Act.[841] That rule requires these same disclosures to appear on a fund's website, and for information about money market fund material events to be reported to the Commission on Form N-CR.[842] We believe that, to the extent investors may not be familiar with researching filings on EDGAR (or other equivalent platform), including these disclosures in a registrant's SAI (which investors may receive in hard copy through the U.S. Postal Service or may access on a registrant's website, as well as accessing on EDGAR or other equivalent platform) may make this information more readily available to these investors.[843] The remaining paragraphs of amended

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securities being made available and remaining available until no earlier than the registrant's filing on Form N-PORT). Other items of amended Form N-3 reflect similar amendments. *See* Instruction 4.b to Item 31(a) of amended Form N-3 (requiring the SAI to state that the registrant's portfolio holdings are filed on Form N-PORT and to explain how those reports on Form N-PORT may be obtained).

841 *See* Item 22(e) of amended Form N-3 (requiring prospectus disclosure of imposition of liquidity fees, temporary suspension of registrant redemptions, and financial support provided to money market funds or money market accounts).

842 *See* rule 2a-7 under the Investment Company Act (requiring a money market fund to prominently post this same information on its website); Form N-CR (requiring a money market fund to report this same information to the Commission); *see also* Item 16(g) of Form N-1A (requiring disclosure of certain material events for money market funds). Portfolio companies registered on Form N-1A and offered by registrants on Forms N-4 and N-6 are currently required to include these disclosures in their SAIs.

843 *See* Money Market Reform; Amendments to Form PF, Investment Company Act Release No. 31166 (July 23, 2014) [79 FR 47736 (Aug. 14, 2014)], at text accompanying and following n.1258.

Item 22 restate existing disclosure requirements to reflect the updated presentation and disclosure requirements of the parallel item in Form N-1A.[844]

Management of the Registrant (Item 23 of Form N-3)

As proposed, we are making certain amendments to Item 20 of Form N-3, which we are re-designating as Item 23, to restate existing disclosure requirements to reflect the updated presentation and disclosure requirements of the parallel item in Form N-1A.[845] Except as discussed below, these changes are not intended to significantly alter current disclosure obligations.

The amendments: (1) require disclosure of the responsibilities of the board of directors with respect to the registrant's management and any arrangements that result in breakpoints in, or elimination of, sales loads for directors and other affiliated persons of the registrant;[846] and (2) remove the current requirement to state that codes of ethics adopted by the registrant, its investment adviser, and principal underwriter can be viewed and copied at the Commission's Public Reference Room, because the Public Reference Room no longer maintains paper copies of filings on Form N-3.[847]

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844 Amended paragraphs (b), (d), and (e) will require disclosure regarding certain investment policies, portfolio turnover, and disclosure of portfolio holdings, respectively.

845 *See* Item 23 of amended Form N-3. The amendments to this item reflect the presentation of Item 17 of Form N-1A.

846 *See* paragraphs (b)(1) and (d) of Item 23 of amended Form N-3.

847 *See* paragraph (e) of Item 23 of amended Form N-3. These codes of ethics will continue to be filed as exhibits to Part C of the registrant's registration statement. *See* Item 32(q) of amended Form N-3.

Investment Advisory and Other Services (Item 24 of Form N-3)

As proposed, in addition to the amendments to Item 21 of Form N-3 (which we are re-designating as Item 24) that we discuss above, which conforms certain aspects of this item to the disclosure requirements of Form N-6,[848] we are also making amendments to restate existing disclosure requirements to reflect the updated presentation and disclosure requirements of the parallel item in Form N-1A.[849] Except as discussed below, these changes are not intended to significantly alter current disclosure obligations.

As proposed, we are amending the current requirement to disclose the total dollar amount that the registrant or the insurance company paid under the investment advisory contract for the last three fiscal years to also require disclosure of amounts paid to "to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser."[850] As proposed, we are also requiring a registrant to disclose any front-end sales load reallowed to dealers as a percentage of the registrant's units.[851] Finally, and as proposed, we are requiring additional disclosures regarding plans adopted under rule 12b-1 under the Investment Company Act.[852] Industry practices regarding the use of "12b-1 plans" have evolved

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848 *See supra* note 807 and accompanying text.

849 *See* Item 24 of amended Form N-3. The amendments to this item will reflect the presentation of Item 19 of Form N-1A.

850 *See* paragraph (a)(3)(i) of Item 24 of amended Form N-3.

851 *See* paragraph (e) of Item 24 of amended Form N-3.

852 Amended Form N-3 requires a registrant to disclose the relationship between amounts paid to the distributor and the expenses that the registrant incurs; the amount of any unreimbursed expenses incurred under the 12b-1 plan in a previous year and carried over to future years; and whether the registrant participates in any joint distribution activities with another investment company and, if so, whether fees paid under the plan may be used to finance the distribution of the shares of another investment company and the method of allocating distribution costs (*e.g.*, relative net

since Form N-3 was adopted in 1985, and the new disclosures are intended to enhance the information provided to investors by requiring information similar to that required by Form N-1A.

Portfolio Managers (Item 25 of Form N-3)

As proposed, we are making certain amendments to Item 22 of Form N-3, which we are re-designating as Item 25.[853] We are amending the current requirement to describe the compensation of each portfolio manager by including relocation expenses among the list of items that may be excluded from compensation disclosures, provided that those items do not discriminate in scope, terms, or operation in favor of the portfolio manager and are available generally to all salaried employees.[854] Otherwise, these changes rephrase certain disclosure requirements to conform to current presentation requirements in Form N-1A but are not intended to significantly alter current disclosure obligations.

Brokerage Allocation and Other Practices (Item 26 of Form N-3)

As proposed, we are making certain amendments to Item 23 of Form N-3, which we are re-designating as Item 26.[855] As proposed, the amendments will amend the current requirement to describe how transactions in portfolio securities are effected, by newly including markdowns on principal transactions among the items that must be discussed in a general statement about

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asset size, number of shareholder accounts). *See* paragraphs (f)(2) through (4) of Item 24 of amended Form N-3.

853 *See* Item 25 of amended Form N-3. The amendments to this item will reflect the presentation of Item 20 of Form N-1A.

854 *See* Instruction 2 to Item 25(b) of amended Form N-3 (discussing relocation expenses).

855 *See* Item 26 of amended Form N-3. The amendments to this item will reflect the presentation of Item 21 of Form N-1A.

brokerage commissions and markups.[856] This will mirror the parallel requirement of Form N-1A[857] and will provide additional relevant information regarding the ways portfolio security transactions involving negative, as well as positive, spreads could impact the separate account and its investors. As proposed, the amendments also slightly alter the instruction regarding the identification of securities issued by the registrant's regular broker or dealer and which the registrant has acquired by deleting the statement that if the registrant has issued more than one class or series of stock, information must be disclosed for the class or series that has securities that are being registered on Form N-3.[858] Otherwise, these changes rephrase certain disclosure requirements to conform to current presentation requirements in Form N-1A but are not intended to significantly alter current disclosure obligations.

g. Additional Amendments to Form N-6

Together with the cover page amendments described above,[859] we are making two additional amendments to Part B of Form N-6. First, as discussed above, and as proposed, we are relocating the disclosure on commissions paid to dealers from the SAI to the prospectus.[860]

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856 *See* Item 26(a) of amended Form N-3.

857 *See* Item 21(a) of Form N-1A.

858 *See* Instruction to Item 26(e) of amended Form N-3. We believe this aspect of the current instruction is not necessary, as disclosure in response to a registration form's requirements generally relates to the class or series for which securities are being registered.

859 *See supra* note 801 and accompanying text.

860 *See supra* note 710 and accompanying text; *see also* Item 20 of current Form N-6; Item 7 of amended Form N-6.

Second, as discussed above, and as proposed, we are eliminating current Item 23 (Loans) and consolidating required disclosures relating to contract loans into the prospectus.[861]

4. Part C (Other Information)

Table 6 shows how our amendments will amend the item requirements of Part C of our variable contract registration forms. These amendments are largely intended to update the disclosure requirements and provide greater consistency among variable contract registration forms. As proposed, we are eliminating certain disclosure items in light of recent regulatory developments and our goal of reducing duplicative disclosure requirements. Although commenters did not raise broad objections to our proposed amendments, commenters raised concerns with and/or requested clarification on various items, as discussed in more detail below. To the extent we received no comments on certain items, we are adopting them as proposed, as discussed further below.

TABLE 6. AMENDMENTS TO PART C OF FORMS N-3, N-4, AND N-6

ITEM DESCRIPTION	AMENDED ITEM NO.	FORM N-3	FORM N-4	FORM N-6
Exhibits (in Forms N-3 and N-4, currently "Financial Statements and Exhibits")	• Form N-3: Item 33 (currently Item 29) • Form N-4: Item 27 (currently Item 24) • Form N-6: Item 30 (currently Item 26)	Revised	Revised	Revised
In Form N-3: Directors and Officers of the Insurance Company In Forms N-4 and N-6: Directors and Officers of the Depositor	• Form N-3: Item 33 (currently Item 30) • Form N-4: Item 28 (currently Item 25) • Form N-6: Item 31 (currently Item 27)	Unchanged	Unchanged	Unchanged

[861] The disclosures required by current Item 23 will be consolidated with current Item 10 into a single amended Item 13. *See supra* paragraphs accompanying and immediately following note 765.

In Form N-3: Persons Controlled by or Under Common Control with the Insurance Company or the Registrant In Form N-4: Persons Controlled by or Under Common Control with the Depositor or the Registrant In Form N-6: Persons Controlled by or Under Common Control with the Depositor or the Registrant	• Form N-3: Item 34 (currently Item 31) • Form N-4: Item 29 (currently Item 26) • Form N-6: Item 32 (currently Item 28)	Revised	Revised	Unchanged
Number of Contractowners	• N/A (currently, Item 32 in Form N-3 and Item 27 in Form N-4)	Eliminated	Eliminated	N/A
Indemnification	• Form N-3: Item 35 (currently Item 33) • Form N-4: Item 30 (currently Item 28) • Form N-6: Item 33 (currently Item 29)	Revised	Revised	Unchanged
Business and Other Connections of Investment Adviser	• Form N-3: Item 36 (currently Item 34)	Unchanged	N/A	N/A
Principal Underwriters	• Form N-3: Item 37 (currently Item 35) • Form N-4: Item 31 (currently Item 29) • Form N-6: Item 34 (currently Item 30)	Revised	Revised	Revised
Location of Accounts and Records	• Form N-3: Item 38 (currently Item 36) • Form N-4: Item 32 (currently Item 30) • Form N-6: Item 35 (currently Item 31)	Unchanged	Unchanged	Unchanged
Management Services	• Form N-3: Item 39 (currently Item 37) • Form N-4: Item 33 (currently Item 31) • Form N-6: Item 36 (currently Item 32)	Revised	Revised	Revised
Fee Representation	• Form N-3: Item 40 • Form N-4: Item 34 • Form N-6: Item 37 (currently Item 33)	New Item	New Item	Unchanged
Undertakings	• N/A (currently, Item 38 in Form N-3 and Item 32 in Form N-4)	Eliminated	Eliminated	N/A

a. Amendments Conforming Part C Items of Form N-3 and N-4 to Presentation in Form N-6

As proposed, we are amending certain items of Part C of Form N-4 to reflect the more up-to-date presentation of corresponding items in Form N-6, and re-designating their numbering as shown in Table 6 above. To the extent that these amended items incorporate only minor wording changes,[862] they are indicated as "unchanged items" in Table 6. Otherwise, each of these amended items is discussed in more detail below.

Exhibits (Item 32 of Form N-3, Item 27 of Form N-4, Item 30 of Form N-6)[863]

As proposed, we are amending the Exhibits item: (1) for Forms N-3 and N-4, to eliminate the requirement to list the financial statements filed as part of the registration statement;[864] (2) for Form N-4, to require the filing of participation agreements;[865] and (3) for Forms N-3 and N-4, to require the filing of administrative contracts.[866]

Pursuant to amendments adopted by the Commission in 2019,[867] this Item also includes instructions regarding redaction or omission of schedules or information, as well as linking to exhibits filed with the registration statement or incorporated by reference.[868]

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862 *See supra* note 800.

863 In 2019, the Commission adopted amendments to its registration forms, including Forms N-3, N-4, and N-6, to require hyperlinks to most exhibits required to be filed with the registration statement. *See* FAST Act Adopting Release, *supra* note 501.

864 *See* Item 29(a) of current Form N-3; Item 24(a) of current Form N-4.

865 Item 27(h) of amended Form N-4.

866 Item 32(k) of amended Form N-3; Item 27(i) of amended Form N-4.

867 *See* FAST Act Adopting Release, *supra* note 501 (among other things, revising instructions regarding exhibits to registration statements). These rules became effective April 2 and May 2, 2019.

868 *See* Instructions 1-4 to Item 32(r) of amended Form N-3, Item 27(o) of amended Form N-4, and Item 30(r) of amended Form N-6.

One commenter suggested that many of the exhibits are not particularly useful, but did not identify specific exhibits or provide further explanation.[869] Although the lack of specificity makes it difficult for us to consider this comment further, we continue to believe that the list of required exhibits should include the material documents relating to the creation, administration, and offering of the contracts.

Persons Controlled by or Under Common Control with the Depositor or Registrant (Item 34 of Form N-3, Item 29 of Form N-4, Item 32 of Form N-6)

As proposed, we are amending Forms N-3 and N-4 to no longer require registrants to disclose the principal business of any persons controlled by or under common control with the depositor or registrant.[870] We believe that the revised item provides sufficient information for investors to assess the effects of control arrangements affecting the registrant (which effects are based largely on the percentage of voting securities owned by controlling persons, or other bases of control, as required to be disclosed under the item).

Indemnification (Item 35 of Form N-3, Item 30 of Form N-4, Item 33 of Form N-6)

For Forms N-3 and N-4, as proposed, we are amending the item relating to indemnification to eliminate the instruction specifying that, in responding to the item's requirements, a registrant should note the requirements of Securities Act rules 461 and 484, and Section 17 of the Investment Company Act.[871] We do not believe that specifically noting these legal requirements is necessary to remind registrants of the existence of separate legal requirements, since the forms are not intended to be a comprehensive source of all disclosure

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869 *See* VIP Working Group Comment Letter.

870 *See* Item 31 of current Form N-3; Item 26 of current Form N-4.

871 *See* Item 33 of current Form N-3; Item 28 of current Form N-4.

obligations relevant to registrants. Eliminating this item will also conform this aspect of Forms N-3 and N-4 to other registration statement forms and reflect the more streamlined presentation used in Form N-6.

Fee Representation (Item 40 of Form N-3, Item 34 of Form N-4)

As proposed, we are adding new Item 40 to Form N-3 and new Item 34 to Form N-4, which require registrants to provide a representation of the insurance company or depositor that the fees and charges deducted under the contracts, in the aggregate, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the insurance company or depositor. The new disclosure item mirrors Item 33 of current Form N-6 (which we are re-designating as Item 37). Because Section 26(f) of the Investment Company Act requires that the representation be made in the registration statement,[872] this new item merely requests the representation required by Section 26(f) and does not impose any new obligations on a Form N-3 or Form N-4 registrant.

b. Amendments Requiring Filing of Preliminary Form of Summary Prospectus

For each form, and as proposed, we are amending the "Exhibits" disclosure item to require a registrant to file a preliminary "form of" any initial summary prospectus that the registrant intends to use on or after the effective date of the registration statement as an

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872 Section 26(f)(2)(A) of the Investment Company Act provides that it shall be unlawful for any unit investment trust that is a registered separate account funding variable insurance contracts to sell any such contract unless the registration statement for the contract represents that the fees and charges deducted under the contract, in the aggregate, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the insurance company. Section 27(i)(2) of the Investment Company Act makes Section 26(f) of the Investment Company Act applicable to Form N-3 registrants.

exhibit.[873] As discussed above, and as proposed, registrants will only be required to file the form of initial summary prospectus in any initial registration statement filing, or in any pre-effective amendment or post-effective amendment filed in accordance with paragraph (a) of rule 485.[874] In a change from the proposal, we are not requiring the filing of the updating summary prospectus because its contents should either be derivative of information provided in the statutory prospectus (*e.g.*, the Key Information Table and the Appendix: Portfolio Companies/Investment Options Available Under the Contract) or readily discernible from comparison with the prior filing (*e.g.*, by examining redline tags in the updating summary prospectus filing).

This requirement is intended to permit the staff to review a summary prospectus in the form and manner in which a registrant would provide it to investors, prior to the registration statement's effective date. These amendments to the "Exhibits" item of each form accompany the other amendments that we propose to the "Exhibits" item of Forms N-3 and N-4 to conform to the parallel disclosure requirements in Form N-6.[875] Several commenters requested that the Commission permit registrants to file as an exhibit a "form of" summary prospectus that could

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873 Item 32(r) of amended Form N-3; Item 27(o) of amended Form N-4; Item 30(r) of amended Form N-6. To avoid confusion on the part of investors who might accidentally discover the form of a summary prospectus and mistake it for an effective prospectus, registrants must add a legend clearly identifying the document as a form of summary prospectus that the registrant intends to use on or after the effective date of the registration statement. *See* Instruction 5 to Item 32(r) of amended Form N-3; Item 27(o) of amended Form N-4; Item 30(r) of amended Form N-6.

874 *See generally supra* Section II.A.8.a.

875 *See supra* notes 864-866 and accompanying text.

be filed for multiple contracts that are substantially similar to or meaningfully representative of each other.[876] As discussed above, we will permit this practice under certain circumstances.[877]

c. Principal Underwriters (Item 37 of Form N-3, Item 31 of Form N-4, Item 34 of Form N-6)

For Form N-3, as proposed, we are adding an instruction stating that information need not be provided about bona fide contracts with the registrant or its insurance company for outside legal or auditing services, or bona fide contracts for personal employment entered into with the registrant or its depositor in the ordinary course of business. Likewise, for Forms N-4 and N-6, as proposed, we are adding a similar instruction stating that information need not be given about the service of mailing proxies or periodic reports of the registrant. Collectively, these instructions are intended to focus disclosures on underwriting costs, as opposed to costs for legal or auditing services or other ancillary matters, and parallel similar instructions in Part B of these same forms regarding disclosures for underwriters.[878]

Also, for Form N-3, as proposed, we are amending the instruction to subparagraph (c) of Item 35 of current Form N-3 to eliminate the portion of the first instruction requiring to include as "other compensation" any compensation received by an underwriter for keeping the registrant's securities in the hands of the public.[879] The category of "other compensation" is intended to encompass compensation that is not otherwise enumerated in one of the other categories. We believe deletion of this instruction will help streamline the form and remove any

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876 *See, e.g.*, Lincoln Comment Letter; Brighthouse Comment Letter; Transamerica Comment Letter.

877 *See supra* Section II.A.8.a.

878 *See supra* Section II.C.3.c.

879 Instruction 1 to Item 35(c) of current Form N-3.

suggestion that this category is limited only to disclosure of compensation received for keeping the registrant's securities in the hands of the public.

d. Adjustment to Disclosure Thresholds (Items 37 and 39 of Form N-3, Items 31 and 33 of Form N-4, Items 34 and 36 of Form N-6)

As proposed, in addition to amending certain updated disclosure thresholds in the SAI, we are similarly increasing certain disclosure thresholds in Part C. For example, when providing information required regarding commissions and other compensation received, directly or indirectly, from the registrant during the registrant's last fiscal year by each principal underwriter, a registrant currently may exclude information about any service for which total payments of less than $5,000 were made during each of the registrant's last three fiscal years.[880] In addition, when providing a summary of certain contracts under which management-related services are provided to the registrant, a registrant currently need not provide information about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.[881] As part of our efforts to update the registration forms, and as proposed, we are increasing these thresholds to $15,000[882] to reflect the effects of inflation since 1985.[883]

e. Amendments Eliminating Current Part C Disclosure Requirements

As proposed, to reduce overlapping regulatory requirements, we are eliminating Item 32 of current Form N-3 and Item 27 of current Form N-4 ("Number of Contractowners"), because

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880 *See* Instruction 3 to Item 35(c) of current Form N-3; Instruction 3 to Item 29(c) of current Form N-4; Instruction 3 to Item 30(c) of current Form N-6.

881 *See* Instruction 2 to Item 37 of current Form N-3; Instruction 2 to Item 31 of current Form N-4; Instruction 2 to Item 32 of current Form N-6.

882 *See* Instruction 3 to amended Item 37 and Instruction 2 to amended Item 39 of Form N-3; Instruction 3 to amended Item 31 and Instruction 2 to amended Item 33 of Form N-4; Instruction 3 to amended Item 34 and Instruction 2 to amended Item 36 of Form N-6.

883 For a discussion of the calculation methodology, *see supra* note 836.

registrants are separately required to disclose the number of contractowners in the registrant's filings on Form N-CEN.[884] Unlike registration statements on Forms N-3 and N-4, reports on Form N-CEN are filed with the Commission in a structured data format that permits the Commission and its staff to more easily collect, aggregate, and analyze the reported information. As proposed, we are also eliminating Item 38 of current Form N-3 and Item 32 of Form N-4 ("Undertakings"). These requirements are outdated[885] or redundant with similar requirements under the amendments to Forms N-3 and N-4.[886]

f. Additional Amendments to Form N-6

As proposed, we are amending the third column of the table required by Item 30 of current Form N-6 ("Principal Underwriters," which we are re-designating as Item 34) to reflect compensation received from the registrant on all redemptions, rather than the more narrow

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884 *See* Item F.13 of Form N-CEN (requiring disclosure of the number of individual contracts that are in force at the end of the reporting period).

885 Item 38(c) of current Form N-3 and Item 32(b) of current Form N-4 require an undertaking to include either (1) as part of any application to purchase a contract offered by the prospectus, a space that an applicant can check to request an SAI, or (2) a post card or similar written communication affixed to or included in the prospectus that the applicant can remove to send for an SAI. Because we understand that investors typically use the internet or—for investors who do not use the internet, telephonic means—to request an SAI, we believe that this undertaking is outdated.

886 Because the Commission's view is that issuers of variable insurance contracts are required by Section 10(a)(3) of the Securities Act to maintain a current prospectus for so long as payments may be accepted under the contracts, regardless of whether new policies are being sold, the undertakings to file post-effective amendments required by Items 38(a) and (b) of current Form N-3 and Item 32(a) of current Form N-4 simply restate an issuer's obligation under the Securities Act. *See* Form N-6 Proposing Release, *supra* note 688, at text following n.83

Compare Item 38(d) of current Form N-3 and Item 32(c) of current Form N-3 (requiring undertaking to deliver any SAI and any required financial statements promptly upon written or oral request) *with* Item 1(b) of amended Forms N-3 and N-4 (requiring registrants to state that the SAI is available, without charge, upon request and further requiring registrants to send the SAI within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery) and Item 17 of amended Form N-3 and Item 16 of amended Form N-4 (requiring registrants to explain how financial statements may be found or obtained).

requirement to disclose only compensation from events occasioning the deduction of a deferred sales load.[887] Because compensation may be paid upon redemptions not defined as deferred sales loads, we believe this change will clarify for investors the amount of redemption compensation received from the registrant.

5. Guidelines

The guidelines to current Forms N-3 and N-4 (the "Guidelines") were prepared by the Division of Investment Management when the Commission adopted the forms in 1985.[888] The Guidelines, which generally restate certain Division positions that may affect fund disclosure, were intended to assist funds in preparing and filing their registration statements.

Although certain Guidelines have been revised and new ones added in connection with the adoption of various rules, the Guidelines collectively have not been reviewed since 1985. As discussed in the Proposing Release, the Guidelines have become outdated and less useful, and have generally been superseded by other resources that are more frequently updated and accessible to the public.[889]

As with other registration forms that have more recently been amended to eliminate the guidelines for those forms,[890] the Commission proposed to rescind the Guidelines to Forms N-3 and N-4 but requested comment on whether all or parts of the Guidelines should be retained

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887 Item 34(c) of amended Form N-6. This change conforms Form N-6 with the comparable item of Form N-4. *See* Item 29(c) of current Form N-4.

888 *See* Forms N-3 and N-4 Adopting Release, *supra* note 29, at text following n.51 (stating that publication of the Guidelines was not intended to elevate their status beyond that of staff guidance).

889 *See* Proposing Release, *supra* note 6, at Section II.D.5.

890 *See* Form N-1A Adopting Release, *supra* note 799 (eliminating similar guidelines from Form N-1A).

(either as form items or instructions, or addressed as Commission guidance). We received no comments on our proposed elimination of the Guidelines, and are rescinding them as proposed.

D. Inline XBRL

We are adopting, generally as proposed, the requirement to use the Inline XBRL format for the submission of certain required disclosures in the variable contract statutory prospectus.[891] Inline XBRL is a specification of the XBRL format that allows filers to embed XBRL data directly into an HTML document, eliminating any need to submit a copy of the tagged information in a machine-readable document separate from the human-readable document. Information structured using the Inline XBRL format is both human-readable and machine-readable for purposes of validation, aggregation, and analysis. This is the same format required for operating companies, mutual funds, and ETFs.[892]

The amendments harness Inline XBRL technology to enhance the ability of an investor to analyze and compare variable contracts (directly and through his or her investment professional). That technology also assists the investor by facilitating the analysis of variable contracts by Commission staff, as well as data aggregators, financial analysts, and other data users who often provide information to an investor. This aspect of the amendments is in keeping with our ongoing efforts to implement reporting and disclosure reforms that take advantage of the benefits

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891 General Instruction 3.C.(h) of amended Forms N-3, N-4, and N-6; amendments to rules 485 and 497 under the Securities Act; amendments to rules 11 and 405 of Regulation S-T.

892 *See* Inline XBRL Filing of Tagged Data, Investment Company Act Release No. 33139 (June 29, 2018) [83 FR 40846 (Aug. 16, 2018)] ("Inline XBRL Adopting Release"). We believe the public's access to the specified disclosures will be facilitated by making the data available in a format with which many market participants will already be familiar as a result of reviewing and analyzing other disclosures in Inline XBRL.

of advanced technology to modernize the investment company reporting regime and to, among other things, help investors and other market participants better assess different products.

For filers, Inline XBRL can enhance the efficiency of review, yield savings in time and cost of preparing machine-readable data, and potentially enhance the quality of the data over other machine-readable standards as certain errors will be easier to identify and correct because the data is also human-readable. For investors and other data users, requiring information to be tagged in a structured format could facilitate analysis and comparison of variable contracts. In addition, making the data available in Inline XBRL should enhance the usability and ease of accessibility to the disclosures because users will not have to access two different documents (one machine-readable and one human-readable) for the same data, and users can leverage the enhanced search and filtering capabilities of the Commission's Inline XBRL Viewer.[893] Given the complexity of variable contracts, tagging certain sections within the statutory prospectus in Inline XBRL format could provide greater transparency regarding the products' features and risks.

Variable contract registrants will be required to embed a part of the Interactive Data File[894] within an HTML document using Inline XBRL and to include the rest in an exhibit to that document. The portion filed as an exhibit to the filing contains contextual information about the XBRL tags embedded in the filing. The information as tagged will continue to be required to

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893 *See* Inline XBRL Adopting Release, *supra* note 892 (discussing the Commission's Inline XBRL Viewer).

894 Regulation S-T defines the term "Interactive Data File" to mean the machine-readable computer code that presents information in XBRL electronic format pursuant to rule 405 of Regulation S-T and as specified by the EDGAR Filer Manual. *See* rule 11 of Regulation S-T; rule 405 of Regulation S-T. The EDGAR Filer Manual sets forth the technical formatting requirements for the presentation and submission of electronic filings through the EDGAR system.

satisfy all other requirements of rule 405 under Regulation S-T, including the technical requirements in the EDGAR Filer Manual.

Comments regarding our proposal to require variable contract filings to be tagged using Inline XBRL were mixed. Some commenters supported the proposed Inline XBRL requirements.[895] One commenter stated that making information about variable annuities available in a structured, machine-readable format would benefit investors by making the information more transparent and comparable.[896] Several commenters believed the proposed requirement would enable data aggregators, financial analysts, and other data users to offer services that would empower variable contract investors to make comparisons and better investment decisions.[897] Two commenters stated that the Inline XBRL requirement would encourage competition in the variable contract marketplace, serving to protect investors and promote efficiency and, potentially, innovation.[898] Another commenter stated that "requiring disclosures to be made in Inline XBRL has the potential to do more than the most innovative disclosure design changes to assist the many investors who lack the time and expertise to pore through disclosure documents to select the variable annuity and contract features that best meet their needs."[899]

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895 *See* Comment Letter of XBRL US (Mar. 13, 2019) ("XBRL US Comment Letter"); Better Markets Comment Letter; CFA Comment Letter; and Chemas Comment Letter.

896 *See* XBRL US Comment Letter; s*ee also* CAI Comment Letter (supporting the use of Inline XBRL for contracts currently offered for sale, noting that structured disclosures "would allow investors and their investment professionals (as well as data aggregators, financial analysts, and other data users) to efficiently analyze and compare available information about available contracts.").

897 *See* Better Markets Comment Letter; CFA Comment Letter; Chemas Comment Letter.

898 *See* CFA Comment Letter; Chemas Comment Letter.

899 *See* CFA Comment Letter.

By contrast, three commenters opposed requiring a variable contract registrant to tag its disclosures.[900] These commenters questioned the utility of tagged variable contract data, stating that XBRL data filed by funds has been minimally used by investors, Commission staff, or data aggregators.[901] One commenter concluded that because variable annuities are even more complicated and less standardized than mutual funds, Inline XBRL tagging of variable contract prospectuses "is simply not worth the cost."[902]

One commenter supported requiring structured data for current offerings, stating that Inline XBRL is primarily designed to help investors and other market participants compare investments for purposes of an initial investment decision, but opposed applying the requirements to insurance contracts no longer being sold as to do so would "impose unnecessary costs and burdens on insurers without providing any benefit to investors."[903]

We are adopting the Inline XBRL requirements for variable contracts as proposed, but in response to commenters, these requirements will only apply to contracts being sold to new investors. We believe that investors and other data users will benefit from information provided using the Inline XBRL format. In contrast to statements by some commenters that mutual fund XBRL disclosures are minimally used, staff have observed that the risk/return XBRL data are accessed on a regular basis by the public. Moreover, based on our experience with operating

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900 *See* VIP Working Group Comment Letter; Ameritas Comment Letter; Anonymous Comment Letter III.

901 *See* VIP Working Group Comment Letter; Anonymous Comment Letter III; Ameritas Comment Letter.

902 *See* VIP Working Group Comment Letter (also suggesting that tagging may not be necessary "as a data mining tool should be able to pull the data without tagging.").

903 *See* CAI Comment Letter.

company and mutual fund XBRL data use, we expect that data aggregators likely will begin using structured data, once it is available, to provide information to variable contract investors, Commission staff, financial analysts, and other data users. Requiring the use of the Inline XBRL format makes it easier and less costly for such entities to efficiently access and analyze variable contract data, because those entities will not have to spend time rekeying the filings to structure the data and correcting for data quality. And because variable contracts are primarily held by retail investors who often look to third-party information sites when evaluating their investment options, this data should help investors compare variable contracts, including their features, costs, and portfolio company options.

We agree with commenters' assertions that Inline XBRL will be primarily of use in connection with the initial investment decision, when investors can use tagged data to more readily compare key features of multiple variable contracts to find the variable contract that best meets their investment needs. We expect that Inline XBRL will be of more limited use to existing investors because variable contracts are intended to be long-term investments and variable contracts are priced and sold accordingly. For example, under some variable contracts, if an investor were to make a withdrawal in contract year 15 from his or her variable contract that has a 10-year surrender period (measured by each purchase payment), that withdrawal still could be assessed a surrender charge. In that case, the surrender charge would apply to any purchase payment made during the last ten years, even if the investor had submitted his or her initial purchase payment for the variable contract more than ten years ago. For these reasons, variable contract investors likely will have limited incentives to seek out alternative variable contracts following their initial investment. Existing investors may be offered a buyout of their contract by their issuing insurance company or offered to exchange their contract into a new contract that

may have different fees, benefits, or other terms. However, in those cases, the investor is typically presented with a specific alternative that the investor can more easily compare to his or her existing contract – as opposed to the initial investment decision process when the investor potentially is selecting from among a number of variable contracts and could benefit from the ability to use tagged data.

Accordingly, the requirement to structure the disclosure using the Inline XBRL format will apply to all contracts for which an insurance company is maintaining a current registration statement and that are being sold to new investors.[904] Thus, for registration statements with multiple contracts, tagging will be required for contracts that are still being sold to new investors, but will not be required for contracts that are not being sold to new investors even if those contracts are still accepting purchase payments or premiums from existing investors. We believe that this balances the benefits of these amendments to investors with the costs and burdens that would be associated with tagging contracts that are no longer being sold to new investors.

While we believe the use of Inline XBRL will ultimately benefit investors and other data users, we recognize that many insurers will face burdens in transitioning to the Inline XBRL format and as a result, are adopting a delayed compliance date for this new requirement, as discussed below in Section II.G of this release.

Filings to be tagged. Like mutual funds and ETFs, registrants will be required to submit to the Commission in Inline XBRL certain information discussed below in registration statements or post-effective amendments filed on Forms N-3, N-4, and N-6, and forms of

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[904] Discontinued contracts that are "Eligible Contracts" as defined below in Section II.E.3 are not subject to the Inline XBRL requirement. *See infra* Section II.E.

prospectuses filed pursuant to rule 497(c) or rule 497(e) under the Securities Act that include information that varies from the registration statement. We received no comments on this aspect of the proposal.

Information to be tagged. We are requiring, largely as proposed, that registrants tag the following statutory prospectus disclosure items using Inline XBRL: the Key Information Table; Fee Table; Principal Risks of Investing in the Contract; for Form N-6 registrants, Standard Death Benefits; [Other] Benefits Available Under the Contract; Portfolio Companies [Investment Options] Available Under the Contract; and for Form N-3 registrants, Additional Information About Investment Options Available Under the Contract.[905] We believe that these items—which provide important information about a variable contract's key features, costs, and risks— are most suited to being tagged in a structured format and will be of greatest utility for investors and other data users that seek structured data to analyze and compare variable contracts. We received no comments regarding the substantive disclosure items proposed to be tagged.

As proposed, we are requiring registrants to tag the Key Information Table, which provides a concise summary of fees and expenses, risks, restrictions, taxes, and conflicts of interest. We are also requiring that registrants tag the Fee Table, which provides detailed information about the variable contract's costs. We believe that tagging could facilitate analysis of the costs associated with variable contracts, and allow investors and their investment professionals to compare the costs of a particular contract with the costs of other variable

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905 *See* General Instruction C.3.(h) to Forms N-3, N-4, and N-6; *see also* Items 2, 4, 5, 11, 18, 19 of amended Form N-3; Items 2, 4, 5, 10, and 17 of amended Form N-4; Items 2, 4, 5, 10, 11, and 18 of amended Form N-6. This information largely parallels similar information contained in the Form N-1A risk/return summary. *See* Item 2 of Form N-1A (Risk/Return Summary: Investment Objectives/Goals); Item 3 of Form N-1A (Risk/Return Summary: Fee Table); Item 4 of Form N-1A (Risk/Return Summary: Investments, Risks and Performance).

contracts or other investment products, such as mutual funds. Registrants will also be required to tag the Principal Risks disclosures so investors and their investment professionals can analyze a contract's risks alongside the contract's features and benefits.

As proposed, we are requiring registrants to tag [Other] Benefits Available Under the Contract because these product features may be easier to analyze and compare if information pertaining to those features is available in a structured data format. While the Commission did not propose to require registrants to tag standard death benefit information, as discussed above, the Benefits Available Under the Contract disclosure item for Form N-3 and N-4 registrants will now include standard, as well as optional, death benefits.[906] As a result, Form N-3 and N-4 registrants will also be required to tag standard death benefit information.

As proposed, standard death benefits for variable life insurance contracts will be described in response to a separate Form N-6 item limited to for Standard Death Benefits.[907] To parallel the (standard and optional) death benefits tagging requirements for variable annuities, we are requiring variable life insurance registrants to tag the item for Standard Death Benefits.[908] Because investors principally, if not exclusively, buy variable life insurance contracts for their death benefits, which often include a choice among two or three death benefit options, tagging this information will make it easier to compare the key features of these products.

Finally, as proposed, we are requiring registrants to tag Investment Options Available Under the Contract, as this may allow investors and their investment professionals to more easily

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906 *See supra* note 734 and accompanying text.

907 *See supra* note 694 and accompanying text.

908 *See* General Instruction C.3.(h)(i) of amended Form N-6 (referencing Item 10 (Death Benefits)).

compare the mutual funds or other investment options that are offered by different variable contracts and assess whether a particular contract's investment options meet the investor's needs or goals.

While we received no comments regarding the substantive disclosure items to be tagged, several commenters inquired about a taxonomy for variable contracts.[909] One commenter expressed concern that "there is no taxonomy in existence [for variable contracts] and it would be exceptionally difficult to develop a taxonomy for these products with their bespoke features."[910] Another commenter stated that to help illustrate how such standards can be built and used to improve the usability of variable annuity data, it had developed a prototype Annuity Taxonomy, to which it provided a link in its comment letter.[911] This commenter suggested that to facilitate product comparisons and aid investors in their investment decisions, we should consider requiring insurers to tag additional elements beyond those likely to fall within the scope of the disclosure items proposed to be tagged.[912] A third commenter asked for guidance regarding whether a new XBRL taxonomy would be developed and circulated for comment, and if it the prototype Annuity Taxonomy developed by the other commenter might be an indicator of the actual taxonomy.[913] One commenter, though not supporting an Inline XBRL requirement,

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909 *See* VIP Working Group Comment Letter; XBRL U.S. Comment Letter; IRI Comment Letter I.

910 *See* VIP Working Group Comment Letter.

911 *See* XBRL US Comment Letter. ("[W]e developed a prototype Annuity Taxonomy (https://xbrl.us/xbrl-taxonomy/2019-var/) which . . . is available for the Commission or any other interested parties to download.").

912 *Id*. (identifying 57 additional terms to be tagged in XBRL format).

913 *See* IRI Comment Letter I.

observed that if tagging is mandated, we should require certain identifying information for the portfolio companies to be tagged to facilitate the cross-referencing of such information.[914]

As with other Commission XBRL taxonomies, staff will post a draft variable contracts XBRL taxonomy for public review and feedback.[915] When available, filers will be required to use the most recent version of the variable contracts XBRL taxonomy as specified by the EDGAR Filer Manual.[916] As discussed below, we are extending the proposed compliance period for the new Inline XBRL requirements, which will allow sufficient time for us to consider public comments on the draft taxonomy and subsequently adopt and publish a final taxonomy before variable contract registrants must comply with the new structured data reporting regime.[917]

Submission of Interactive Data File. As proposed, in a framework similar to that for mutual funds and ETFs under the recently adopted Inline XBRL regime,[918] we are requiring variable contract registrants to submit Interactive Data Files as follows:

- For post-effective amendments filed pursuant to paragraph (b)(1)(i), (ii), (v), or (vii) of rule 485, and in the case of registrants on Forms N-4 or N-6, paragraph (b)(1)(vi) of rule 485,[919] Interactive Data Files must be filed either concurrently with the filing

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914 *See* VIP Working Group Comment Letter (stating that "if you do tag, you should make sure you capture the class ID/tickers for the underlying funds so mutual fund information can easily be cross-referenced.").

915 Taxonomies are *available at* https://www.sec.gov/structureddata/dera_taxonomies.

916 *See* rule 405(c)(1) of Regulation S–T.

917 *See infra* Section II.G.

918 *See* Inline XBRL Adopting Release, *supra* note 892.

919 To help facilitate efficiencies in the variable contract post-effective amendment filing process, we will permit variable contracts to submit Interactive Data Files concurrently with these post-effective amendments because post-effective amendments filed pursuant to these paragraphs of rule 485 generally are not subject to further revision.

or in a subsequent amendment that is filed on or before the date that the post-effective amendment that contains the related information becomes effective;[920]

- For initial registration statements and post-effective amendments filed other than pursuant to paragraph (b)(1)(i), (ii), (v), or (vii) of rule 485, and in the case of registrants on Forms N-4 or N-6, paragraph (b)(1)(vi) of rule 485, Interactive Data Files must be filed in a subsequent amendment on or before the date the registration statement or post-effective amendment that contains the related information becomes effective;[921] and
- For any form of prospectus filed pursuant to rule 497(c) or (e), Interactive Data Files must be submitted concurrently with the filing.[922]

We believe this approach will facilitate the timely availability of important information in a structured format for investors, their investment professionals, and other data users yielding substantial benefits. For data aggregators responding to investor demand for the data, the availability of the required disclosures using the Inline XBRL format concurrent with filing or before the date of effectiveness will allow them to quickly process and share the data and related analysis with investors. We received no comments regarding this proposed approach.

Identification of Classes. As proposed, the Interactive Data File will be required to be submitted in such a manner that will permit the information for each contract (and, for any

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920 General Instruction C.3.(h)(i)(B) of Forms N-3, N-4, and N-6; *cf*. General Instruction C.3.(g)(i)(B) of Form N-1A.

921 General Instruction C.3.(h)(i)(A) to Forms N-3, N-4, and N-6; *cf*. General Instruction C.3.(g)(i)(A) of Form N-1A.

922 General Instruction C.3.(h)(ii) to Forms N-3, N-4, and N-6; *cf*. General Instruction C.3.(g)(ii) of Form N-1A.

information that does not relate to all of the classes in a filing, each class of the contract) to be separately identified.[923] We received no comments regarding this aspect of the proposal.

Consequence of failure to submit required Interactive Data File. Similar to the framework for mutual funds and ETFs, we are adopting, as proposed, amendments to rule 485 under the Securities Act to provide that if a registrant does not submit a required Interactive Data File, the registrant's ability to file post-effective amendments to its registration statement under subparagraph (b) of the rule will be automatically suspended until the required Interactive Data File is submitted.[924] We received no comments on this aspect of the proposal.

Availability of hardship exemptions. The Commission proposed that under the final rules registrants may request temporary and continuing hardship exemptions for the inability to timely file electronically the Interactive Data File.[925] One commenter expressed support for this aspect of the proposal,[926] and we are adopting this provision as proposed.

E. Discontinued Variable Contracts

Today, many variable contracts no longer offered to the public operate in a manner consistent with certain staff no-action letters and provide alternative disclosures to investors in lieu of filing post-effective amendments to update a registration statement and providing updated prospectuses to existing investors (these discontinued contracts are referred to as "Alternative Disclosure Contracts"). The staff letters will be withdrawn. In addition, the Commission is

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923 General Instruction C.3.(h)(iii) to Forms N-3, N-4, and N-6.

924 Rule 485(c)(3).

925 *See* 17 CFR 232.201 (rule 201 of Regulation S-T) (temporary hardship exemption) and 17 CFR 232.202 (rule 202 of Regulation S-T) (continuing hardship exemption).

926 *See* Chemas Comment Letter.

taking the position that, if an issuer of an Alternative Disclosure Contract that is discontinued as of July 1, 2020 that provides alternative disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided with the alternative disclosures or modernized alternative disclosures described below. We are not adopting any form of going-forward relief for discontinued contracts at this time, although we will continue to consider whether any form of going-forward relief for discontinued contracts might be appropriate. We welcome input as described below in Section II.E.4.

1. Background

An insurance company may choose to stop offering a variable contract to new investors while continuing to accept additional payments from existing investors. Each additional purchase payment under a variable contract, or reallocation of contract value from one sub-account to another, is considered a "sale" under Section 5 of the Securities Act requiring delivery of a current prospectus, and variable contract issuers generally maintain current prospectuses for their products through the filing of annual post-effective amendments to the registration statements and, as necessary, supplementing or "stickering" the contract prospectus or SAI.[927]

As the number of contracts outstanding declines over time, the proportion of fixed costs per contract and other burdens associated with maintaining a current registration statement and mailing prospectuses increase over a diminishing asset base. Unlike other types of registered investment companies that can liquidate or merge with another investment company when assets are reduced to such a level that continuing the investment company is not viable, an insurance

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927 *See* Forms N-3 and N-4 Adopting Release, *supra* note 29, at n.14 and accompanying text.

company is unable to liquidate or otherwise terminate a variable contract. We understand that an insurance company may sometimes seek to encourage investors to exchange into new contracts or make buyout offers, but it cannot unilaterally terminate an investor's contract.

a. Staff No-Action Letters

Beginning in 1977, the staff of the Division of Investment Management issued a series of no-action letters stating that the staff would not recommend enforcement action if issuers did not update the variable contract registration statement and deliver updated prospectuses to existing investors, so long as certain conditions were met, including distributing alternative disclosures to investors (each, a "Staff Letter," and collectively, the "Staff Letters").[928] The last Staff Letter was issued in 1995.[929]

The Staff Letters generally were limited to Securities Act registration statements for contracts that are no longer offered to new purchasers and that have fewer than 5,000 investors (or participants in the case of group contracts).[930] The Staff Letters also identified a set of

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928 *See, e.g.*, Great-West Life and Annuity Insurance Company, SEC Staff No-Action Letter (pub. avail. Oct. 23, 1990) ("1990 Letter"); MML Bay State Life Ins. Co., SEC Staff No-Action Letter (pub. avail. Apr. 12, 1990); Transamerica Occidental Life Insurance Co., SEC Staff No-Action Letter (pub. avail. Mar. 16, 1990); Connecticut Mutual Life Insurance Company, SEC Staff No-Action Letter (pub. avail. Mar. 7, 1990).

The staff declined to extend its no-action position to variable annuities funded by managed separate accounts. *See* Provident National Assurance Company, SEC Staff No-Action Letter (pub. avail. June 2, 1987); Great-West Life Assurance Company, SEC Staff No-Action Letter (pub. avail. June 4, 1987).

929 *See* Metropolitan Life Insurance Co., SEC Staff No-Action Letter (pub. avail. Apr. 26, 1995) ("Metropolitan Letter").

930 In the 1990 Letter, the staff stated that it would no longer respond to no-action requests "in this area unless they raise novel issues or involve more than 5,000 variable annuity or variable life insurance contracts." There are four Staff Letters concerning contracts where the number of contract owners exceeded 5,000. *See* Metropolitan Letter (42,910 contract owners); Monarch Life Insurance Co., SEC Staff No-Action Letter (pub. avail. June 9, 1992) ("Monarch Letter") (5,900 contract owners); New York Life Insurance and Annuity Corp., SEC Staff No-Action

circumstances in which the staff would not recommend enforcement action once the registration statement is no longer updated:[931]

- There are no material changes made to the contract;
- New contracts are not offered to the public, and the registrant does not contemplate such an offering in the future;[932]
- Investors are provided the following disclosures:
    - The portfolio companies' current prospectuses (or summary prospectuses) and any updates thereto, annual and semi-annual reports, proxy materials, and any other periodic reports or other shareholder materials for the portfolio companies;
    - Confirmations of transactions in accordance with 17 CFR 240.10b-10 (rule 10b-10 under the Exchange Act);
    - Within 120 days after the close of the fiscal year, updated audited financial statements of the registrant, and in the case of variable life insurance contracts, the depositor's updated audited financial statements;[933] and

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Letter (pub. avail. Nov. 15, 1989) (13,713 contract owners); Security Benefit Life Insurance Company, SEC Staff No-Action Letter (pub. avail. July 2, 1987) (28,019 contract owners).

931 Some of the circumstances identified in which the staff would not recommend enforcement action varied slightly across the Staff Letters over time, specifically with respect to the delivery and availability of the insurance company's audited financial statements. The circumstances discussed below reflect those identified in the most recent Staff Letters.

932 The Staff Letters do not address existing investors making additional purchase payments.

933 With respect to variable annuities, the depositor's updated audited financial statements would be available upon request. *See, e.g.*, Metropolitan Letter; Monarch Letter.

- At least once a year, a statement of the number of units and values in each investor's account (collectively, the "Alternative Disclosures").

- The registrant files periodic reports with the Commission pursuant to Section 30 of the Investment Company Act (*i.e.*, reports on Form N-CEN).[934]

b. Liability

As of August 2019, we estimate that the Alternative Disclosures that the Staff Letters describe are being provided for more than half of variable contract Securities Act registration statements:[935]

Status:*	Variable Annuity	Variable Life Insurance	Grand Total
Registration Statements That Are Updated Annually	477	223	700
Registration Statements Operating Under Staff Letters	584	360	944
Total Number of Registration Statements	1,061	583	1,644

* The number of registration statements is based on a count of unique Securities Act registration statements and amendments filed on EDGAR. The number of registration statements representing contracts that provide alternative disclosures instead of the contract statutory prospectus, as described in the Staff Letters, was based on the number of Form N-4 and Form N-6 registrants that did not file a registration statement or amendment in 2019, but made other regulatory filings, such as filings on Form 24f-2 (the form used by variable insurance contracts to pay registration fees to the Commission).

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934 The Staff Letters specifically identified a registrant's filing of reports on Form N-SAR as one of the set of applicable circumstances. Form N-SAR was recently rescinded and succeeded by Form N-CEN. *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] ("Investment Company Reporting Modernization Adopting Release"), at n.744 and accompanying text.

935 Our understanding is based on staff review of filings with the Commission and discussions with industry participants.

Providing the Alternative Disclosures, in lieu of updates to an issuer's registration statement, may have the effect of potentially limiting issuers' liability under certain provisions of Sections 11 and 12(a)(2) of the Securities Act, which require a registration statement or prospectus to contain whatever information may be necessary or appropriate to avoid material misstatements or omissions.[936] In addition, Section 34(b) of the Investment Company Act also imposes liability for misstatements in a registration statement; however, unlike Sections 11 and 12(a)(2), there is no private right of action available to aggrieved investors.[937] Although these Alternative Disclosures may not be subject to liability under Sections 11 or 12 of the Securities Act, or Section 34(b) of the Investment Company Act, they are subject to provisions prohibiting material misstatements in the offer or sale of a security.[938]

c. Approaches to Framework for Discontinued Contracts

In proposing the new variable contract summary prospectus disclosure framework, the Commission acknowledged the industry practice of providing Alternative Disclosures (which are significantly different from the requirements of both the current prospectus and the new summary prospectus regimes) under specific circumstances that the Staff Letters identify. The Commission proposed to take the position that if certain issuers currently operating under the Staff Letters do not file post-effective amendments to update a variable contract registration statement and do not provide updated prospectuses to existing investors, under certain

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936 *See supra* discussion at notes 505 (discussing Section 12(a)(2) liability) and 524 (discussing Section 11 liability).

937 *See Bellikoff v. Eaton Vance Corp.*, 481 F.3d 110 (2d Cir. 2007).

938 *See, e.g.*, Section 17(a) of the Securities Act; Section 10(b) and 17 CFR 240.10b-5 (rule 10b-5 under the Exchange Act). There may also be additional remedies for investors, for example, under state insurance law, state securities law, and contract law.

circumstances, this would not provide a basis for Commission enforcement action so long as investors continue to receive the Alternative Disclosures.

The Commission proposed to apply this position only to Alternative Disclosure Contracts operating in the manner that the Staff Letters describe as of the effective date of any final summary prospectus rules. The Commission proposed that all other variable contract issuers would be required to file post-effective amendments to update their registration statements and provide updated prospectuses under current regulatory requirements, and could avail themselves of the summary prospectus framework as adopted. Additionally, the Commission requested comment on two alternative approaches for discontinued contracts, including two methods of implementation that would apply these approaches to either contracts discontinued after the effective date of any final summary prospectus rules or all discontinued contracts (including Alternative Disclosure Contracts).[939]

2. Comments Received on Proposal

While one commenter stated that all investors should receive the same disclosures through a summary prospectus regardless of whether or not the variable contract is discontinued,[940] other commenters supported the general framework for discontinued contracts

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939 The Commission stated that it was considering two alternative approaches for discontinued contracts, "Approach 1," which would codify existing practices under the Staff Letters with certain modifications, as well as "Approach 2," which would permit registration statements to be updated using forward incorporation by reference. The Commission also stated that each of these approaches could be implemented using either "Method One," which would apply only on a going-forward basis, or "Method Two," which would apply to all discontinued contracts. *See* Proposing Release, Section II.C.

940 *See* Better Markets Comment Letter.

under the Staff Letters,[941] with a number citing the many decades that insurers have structured their operations consistent with the Staff Letters.[942] These commenters stated that the framework allowed insurers to reduce the disproportionate costs associated with updating the registration statement and delivering updated prospectuses for discontinued contracts over a diminishing asset base.[943] Some of these commenters also stated that the framework has enabled insurers to continually innovate and introduce new products for investors.[944] In addition, some of these commenters stated that the framework has helped to moderate fees and charges for variable contracts.[945]

Commenters stressed the importance of grandfathering Alternative Disclosure Contracts, as proposed.[946] These commenters urged, at a minimum, that we provide some form of grandfathering for registrants currently operating in a manner consistent with the Staff Letters due to the difficulties involved in updating those registration statements. One commenter urged

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941 *See* CAI Comment Letter; Brighthouse Comment Letter; Transamerica Comment Letter; ACLI Comment Letter; Lincoln Comment Letter; Ameritas Comment Letter; IRI Comment Letter I.

942 *See* CAI Comment Letter; Brighthouse Comment Letter; ACLI Comment Letter.

943 *See* CAI Comment Letter; Brighthouse Comment Letter; Transamerica Comment Letter; ACLI Comment Letter; Lincoln Comment Letter; Ameritas Comment Letter; IRI Comment Letter I.

944 *See* CAI Comment Letter; Brighthouse Comment Letter; Transamerica. One commenter indicated that in the absence of this relief, "insurers generally will be more hesitant to innovate and offer new products," which may "dampen competition in the variable contract market, limit investor choice, and stall innovation in the retirement income market where innovation is sorely needed." *See* CAI Comment Letter.

945 *See* CAI Comment Letter; Brighthouse Comment Letter.

946 *See, e.g.*, Transamerica Comment Letter ("failing to permit grandfathering…would cause significant disruption to our variable product business"); Brighthouse Comment Letter ("un-Great-Westing" contracts "would present a tremendous initial resource strain…to 'revive' registration statements, many of which have not been sold or updated in decades"); ACLI Comment Letter (the costs of eliminating relief "would greatly outweigh the very marginal benefits of such an action").

that any grandfathering be codified by rule rather than through a Commission position to provide more assurance to these registrants.[947]

Commenters emphasized that some of these contract prospectuses have not been updated for many years, and in some cases several decades, and that preparing new registration statements and prospectuses would involve significant costs and burdens.[948] One commenter stated that the maintenance costs of discontinued contracts would be high, and that the cost for obtaining auditor opinions alone would be significant.[949] Other commenters stated it may be impossible to prepare new disclosure documents for Alternative Disclosure Contracts that have operated in a manner consistent with the Staff Letters for many years. For example, one commenter stated that certain Alternative Disclosure Contracts have operated in a manner consistent with the Staff Letters for several decades and have never filed on EDGAR.[950]

We also received a number of comments on the importance of some form of going-forward relief for contracts that are discontinued after the date that the Staff Letters are withdrawn.[951] These commenters generally noted the benefits experienced by insurers operating in a manner consistent with the Staff Letters discussed above (*i.e.*, reduction in costs experienced over a diminishing asset base, increased product innovation, and moderation in product costs). Commenters also submitted views on the two alternative approaches for discontinued contracts,

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947 *See* IRI Comment Letter II.

948 *See, e.g.*, CAI Comment Letter; Brighthouse Comment Letter.

949 *See* Ameritas Comment Letter.

950 *See* CAI Comment Letter.

951 *See* CAI Comment Letter; ACLI Comment Letter; Transamerica Comment Letter; IRI Comment Letter I; IRI Comment Letter II.

including the two possible methods of implementation. We discuss these comments below in Section II.E.4.

3. Commission Position on Existing Contracts Whose Issuers Provide Alternative Disclosures to Investors

a. Commission Position

We are taking the position that if an issuer of an Alternative Disclosure Contract that is discontinued as of July 1, 2020 that provides Alternative Disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided with the Alternative Disclosures, or certain modernized alternative disclosures, under the Commission position described below. For the reasons discussed below, we have determined to not codify this approach. Rather, we are providing notice of the Commission's position with respect to the circumstances under which certain actions will not provide a basis for enforcement action.

We generally believe that all variable contract issuers should provide investors the same information and be subject to the same liability standards. We are only taking this Commission position to recognize the unique circumstances facing certain variable contracts currently operating in a manner consistent with the Staff Letters. The Commission's position is an exercise of its discretion and is designed primarily to assist the phase-out of these discontinued contracts. We believe that the need for this position will likely be temporary since the number of these contracts will diminish gradually over time. Accordingly, under the Commission position these issuers may continue to operate much as they do today, while also providing them the flexibility to provide more modern disclosure to investors.

Eligible contracts. We are taking the position that if an issuer of an existing discontinued contract that is discontinued as of July 1, 2020 that provides Alternative Disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors (each, an "Eligible Contract"), this would not provide a basis for enforcement action if:

- Registration statement. It has a Securities Act registration statement with fewer than 5,000 investors, as of July 1, 2020.
- No material changes. There are no material changes made to the contract.
- No new contracts offered to the public. New contracts are not offered to the public, and the registrant does not contemplate such an offering in the future.
- Alternative disclosures. Investors are provided each of the following disclosures:
    - *Portfolio company disclosures*. The portfolio companies' current prospectuses (or summary prospectuses) and any updates thereto, annual and semi-annual reports, proxy materials, and any other periodic reports or other shareholder materials for the portfolio companies.
    - *Financial statements*. Within 120 days after the close of the fiscal year, updated audited financial statements of the registrant, and in the case of variable life insurance contracts, the depositor's updated audited financial statements. In the case of variable annuity contracts, the depositor's updated audited financial statements are available upon request.[952]

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952 *See, e.g.*, Metropolitan Letter; Monarch Letter.

- *Transaction confirmations*. Confirmations of transactions in accordance with rule 10b-10 under the Exchange Act.
- *Statement of units and values*. At least once a year, a statement of the number of units and values in each investor's account.

- Option to provide modernized alternative disclosures. In lieu of providing the portfolio company prospectuses (or summary prospectuses) and any updates thereto and financial statements described in the first two sub-bullets in the list of alternative disclosures immediately above, a registrant may instead provide investors with the following:
  - *Notice document*. The issuer annually provides investors with, and files with the Commission, a notice document containing the same information as that required in an updating summary prospectus ("Notice Document").[953]
  - *Portfolio company prospectuses*. An issuer may elect to post a portfolio company's current summary prospectus, statutory prospectus, SAI, and most recent shareholder reports online in lieu of mailing the portfolio company's prospectuses (or summary prospectuses) and any updates thereto to investors, provided that:
    - A summary prospectus is used for the portfolio company (if the portfolio company is registered on Form N-1A); and

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953 The Notice Document must contain the same information as required in the updating summary prospectus under rule 498A and be filed with the Commission each year. Registrants are not required to use the Inline XBRL format for the submission of the Notice Document.

- The materials for the portfolio company are publicly accessible, free of charge, at the website address specified on the cover page or beginning of the Notice Document, and delivered (in paper or electronic format) upon request.

- *Financial statements*. The financial statements that would be delivered to investors as part of the alternative disclosures described above are instead made publicly accessible, free of charge, at the website address specified on the cover page or beginning of the Notice Document, and delivered (in paper or electronic format) upon request.

- Filings. The registrant makes the following filings with the Commission:
  - *Reports on Form N-CEN*. The registrant files periodic reports with the Commission pursuant to Section 30 of the Investment Company Act (*i.e.*, reports on Form N-CEN).
  - *Financial statements*. Within 120 days after the close of the registrant's fiscal year, the registrant files with the Commission its updated audited financial statements, and in the case of variable life insurance contracts, the depositor's updated audited financial statements.[954]

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954 The filing of financial statements with the Commission has not been a condition of the Staff Letters. Most of the Staff Letters predate EDGAR's adoption in 1993. EDGAR will be modified to create a new submission type under which registrants may file the required financial statements. Notice of EDGAR system readiness to accept filings pursuant to the new submission type will be provided in a manner similar to notices of EDGAR Filer Manual updates.

- *Notice Document*. A copy of any Notice Document sent to investors.[955]

In addition, if an issuer's Securities Act registration statement includes multiple contracts, the Commission position applies only if all of the contracts covered by the registration statement are consistent with the above. For purposes of the 5,000 investor threshold, the number includes investors in all contracts covered by the registration statement in the aggregate. This is consistent with the scope of the Staff Letters.

Table 7 below summarizes the disclosures that may be provided to investors in Alternative Disclosure Contracts, as compared with those of the new summary prospectus framework under rule 498A, for certain documents to either be: (1) delivered to all investors; (2) made available online; or (3) delivered to those investors who so request.

TABLE 7. DOCUMENTS AVAILABLE TO ALTERNATIVE DISCLOSURE CONTRACT INVESTORS COMPARED WITH SUMMARY PROSPECTUS FRAMEWORK

	ALTERNATIVE DISCLOSURES	MODERNIZED ALTERNATIVE DISCLOSURES	SUMMARY PROSPECTUS FRAMEWORK UNDER RULE 498A
Contract Statutory Prospectus	N/A*		Required to be available online and delivered (in paper or electronic format) upon request
Contract SAI	N/A		Required to be available online and delivered (in paper or electronic format) upon request
Contract Part C Information	N/A		Filed with registration statement (available on EDGAR)

[955] EDGAR will be modified to create a new submission type under which registrants may file Notice Documents. Notice of EDGAR system readiness to accept filings pursuant to the new submission type will be provided in a manner similar to notices of EDGAR Filer Manual updates.

Initial Summary Prospectus	N/A	Delivered to all new investors
Updating Summary Prospectus or Comparable Notice Document	N/A	Delivered to all existing investors
Financial Statements**	Delivered to all investors, and also available on EDGAR	Required to be available online and delivered (in paper or electronic format) upon request, and also available on EDGAR***
Portfolio Company Prospectuses	Delivered to all investors	Delivered to investors, or, if the new option under rule 498A(j) to satisfy portfolio company prospectus delivery is relied-upon, required to be available online and delivered (in paper or electronic format) upon request
Portfolio Company Shareholder Reports****	Delivered to all investors	Delivered to all investors, and, if the new option under rule 498A(j) to satisfy portfolio company prospectus delivery is relied-upon, required to be available online and delivered (in paper or electronic format) upon request
Portfolio Company Proxy Materials	Delivered to all investors	
Transaction Confirmations	Delivered to all investors	
Statement of Units and Values	Delivered to all investors	

* While the contract prospectus (and SAI and Part C information) would have been filed with the Commission earlier in the contract's life cycle, under the Commission position these documents need not be updated annually, and registrants would not need to make these documents available to investors either online or in paper format.

** These include updated audited financial statements of the registrant, and in the case of variable life insurance contracts, the depositor's updated audited financial statements. *See supra* note 933 and accompanying text.

*** The financial statements are part of the contract SAI, and rule 498A requires a registrant relying on the rule to make the SAI available online. *See* rule 498A(h)(1); Item 25 of Form N-4; Item 27 of Form N-6. Issuers providing modernized alternative disclosures under the Commission position will file financial statements separately on EDGAR.

**** Delivery of portfolio company shareholder reports may be made pursuant to rule 30e-3, which provides an optional method to transmit shareholder reports by

making such reports and other materials accessible at a website address specified in a notice to investors.

b. Notice Document

As we stated above with regards to the updating summary prospectus,[956] we believe that investors would benefit from a brief summary of the changes to their contracts along with certain information that we consider most relevant to investors when considering additional investment decisions. Thus, the Notice Document will include all the same information as an updating summary prospectus under rule 498A, and will therefore include, among other things, a brief description of certain changes to the contract that occurred during the previous year, as well as a Key Information Table and Appendix of portfolio companies or investment options.[957] We believe these disclosures will provide more useful information to investors in Alternative Disclosure Contracts than the financial statements they currently receive. Investors could continue to receive financial statements upon request or access them on EDGAR.

c. Option to Provide Modernized Alternative Disclosures

Some commenters suggested that we grandfather Alternative Disclosure Contracts while also facilitating registrants providing enhanced disclosures to investors. For example, one commenter suggested that we permit registrants operating in a manner consistent with the Staff Letters to deliver audited financial statements only upon request, and to permit them to rely on

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956 *See supra* Section II.A.2.

957 The Notice Document would not be deemed a prospectus under Section 2(a)(10) of the Securities Act, and therefore it would be not subject to liability under Section 12(a)(2) of the Securities Act. *See* Section 12(a)(2) of the Securities Act; *see also* discussion *supra* note 505. The Notice Document would, however, be subject to the general antifraud provisions of the federal securities laws. *See, e.g.*, Section 17(a) of the Securities Act; Section 10(b) of the Exchange Act; Section 34(b) of the Investment Company Act.

the new method of delivering portfolio company prospectuses by providing investors the information required in the Appendix and posting the portfolio company prospectuses and other materials online.[958]

We believe that investors will benefit from these modernized alternative disclosures for the same reasons that investors in active contracts will benefit when issuers utilize the summary prospectus regime available under rule 498A. For example, we believe that delivering a Notice Document similar to an updating summary prospectus will provide more usable and relevant information to investors than the financial statements of the registrant and/or depositor. In particular, we believe that providing key information relating to the contract's terms, benefits, and risks in a concise and reader-friendly presentation, will improve investor understanding of variable contracts.

Additionally, because issuers could experience cost savings by providing the modernized alternative disclosures, we expect many registrants may adopt this approach. However, we are also cognizant that many variable contracts have registration statements that have not been updated in many years, or decades, and it may be significantly burdensome for these issuers to provide a notice document with the same information as the updating summary prospectus. For this reason, we are providing issuers the flexibility to provide either set of alternative disclosures.

d. Other Considerations for Alternative Disclosure Contracts

Loss of Status as Eligible Contract. The Commission position will not be relevant to any discontinued contract if at any point in the future, the discontinued contract does not meet the criteria for being an Eligible Contract described above. Therefore, a contract that, for example,

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958 *See, e.g.*, CAI Comment Letter.

is subject to material changes, offered to new investors, or contemplated to be offered to new investors in the future, would no longer be considered an Eligible Contract for purposes of the Commission position.

A number of commenters suggested that we take the position that Alternative Disclosure Contracts will not lose their status in the event of a material change to the contract.[959] One commenter asserted that not providing this relief would disadvantage insurers that make material changes, including those beneficial to investors, and may inhibit common corporate transactions involving such contracts.[960] Another commenter suggested we provide a narrow range of conditions that would allow those contracts that lost their status to regain it.[961]

As discussed above, we generally believe that all variable contract issuers should provide investors the same information and be subject to the same liability standards. Considering a contract to continue to be an Eligible Contract in instances where the contract does not meet the criteria for being an Eligible Contract would not be consistent with these objectives. However, certain corporate transactions (such as insurance company or separate account merger) where a contract was an Eligible Contract prior to the transaction and there are no other material changes to the contract will be considered on a case-by-case basis.

Transition Date for Eligible Contracts under Commission Position. The Commission proposed that the position with respect to Alternative Disclosure Contracts and/or any final rules associated with discontinued contracts would start as of the effective date of rule 498A. We

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959 *See* CAI Comment Letter; Lincoln Comment Letter; and Brighthouse Comment Letter.

960 *See* CAI Comment Letter.

961 *See* Transamerica Comment Letter.

requested comment on whether the Commission should adopt a transition period after that time for its position with respect to Alternative Disclosure Contracts if a summary prospectus framework is adopted.

Several commenters urged that we grandfather not as of the effective date of the final rule, as proposed, but as of the May 1 following the effective date, or if the effective date was less than 6 months prior to that May 1, then as of the subsequent May 1.[962] One commenter asserted that using May 1 as a cut-off date would avoid ambiguity over whether a contract that could operate in a manner consistent with the Staff Letters has actually operated as such, since May 1 coincides with the annual update of the registration statement.[963] The same commenter also believed that a transition would provide insurers with meaningful time to react to any Commission action and develop business plans accordingly.[964]

We decline to provide a transition period for Alternative Disclosure Contracts beyond July 1, 2020. As discussed below, the effective date of the rule and form amendments is also July 1, 2020.[965] We believe that having the same date for the end of the transition period for Alternative Disclosure Contracts and the start of the summary prospectus framework will provide more regulatory consistency and certainty than a regime where dates differ. In addition, we believe that the July 1, 2020 date addresses concerns as to ambiguity and sufficient time for

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962 *See* CAI Comment Letter. *See also* Transamerica Comment Letter (proposing a cut-off date of May 1 following the effectiveness of the rule) and Lincoln Comment Letter (proposing the same unless the effective date falls between January 1 and April 30, in which case the cut-off should occur the following May 1).

963 *See* CAI Comment Letter.

964 *Id*. *See also* Lincoln Comment Letter.

965 *See infra* Section II.G.

insurers to develop business plans in response to the adoption of the Commission position. Insurers by that date will have already made a determination whether a contract could operate in a manner consistent with the Staff Letters as part of their 2020 annual update of their registration statements. As to all other contracts, insurers will have a period of time to modify their business plans to reflect the new framework prior to their 2021 annual registration statement updates.

4. Commission Declines to Adopt Going-Forward Relief

We are declining to adopt any form of going-forward relief for discontinued contracts at this time. A number of commenters urged the Commission to provide some form of going-forward relief for these contracts in the event the Staff Letters are withdrawn.[966]

We received considerable support from commenters for Approach 1,[967] which would adopt final rules reflecting practices under the Staff Letters with certain modifications.[968] For example, one commenter noted that Approach 1 would facilitate the disclosure of useful information to investors,[969] while another noted its substantial similarity to the approach available under the Staff Letters meant it would be less disruptive to its variable contract business than other alternatives.[970]

While we considered these comments, we note that Approach 1 would not require registrants to maintain a current registration statement and therefore the liability provisions

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966 *See, e.g.*, CAI Comment Letter; Lincoln Comment Letter; Ameritas Comment Letter; Transamerica Comment Letter; Brighthouse Comment Letter; ACLI Comment Letter.

967 *See* note 939 *supra* for a description of the alternative approaches.

968 *See, e.g.*, CAI Comment Letter; Transamerica Comment Letter; ACLI Comment Letter; IRI Comment Letter I.

969 *See* ACLI Comment Letter.

970 *See* Transamerica Comment Letter.

available under the federal securities laws would not apply to Approach 1 to the same extent as under the current variable contract prospectus delivery regime and under the summary prospectus regime for registrants that choose to rely on rule 498A. We believe it is important for investors to retain these liability protections and decline to adopt a form of going-forward relief at this time.

We received one comment supporting Approach 2,[971] which would permit registration statements for discontinued contracts to be updated by forward incorporation by reference. Another commenter stated it could support Approach 2 as preferable to having no form of going-forward relief at all, but had concerns regarding the costs to maintain an updated registration statement and post updated statutory prospectuses and SAIs online.[972] This commenter also believed the incremental increases in investor protection may not justify the additional burdens on issuers. Another commenter cited increased regulatory and administrative burdens on issuers under Approach 2.

After considering these comments, we are also declining to adopt going-forward relief under Approach 2. We believe that the Commission and its staff would benefit from further study and data regarding the potential cost savings and other burden reductions under this approach. We welcome input from the public as we undertake this further study. In particular, the Commission and its staff would benefit from input on topics including (1) the internal and external costs and other burdens associated with maintaining a registration statement under the summary prospectus framework versus those associated with providing the Alternative

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971 *See* VIP Working Group Comment Letter.

972 *See* CAI Comment Letter.

Disclosures or the modernized alternative disclosures under the Commission position (particularly any specific items that parties believe create inordinate burdens), and, if interested parties would recommend any alternative approach that may reduce those burdens relative to the adopted summary prospectus framework, (2) recommendations as to the set of proposed rules and general framework that implement the recommendation and an analysis of how the recommendation would retain investor protections. We encourage interested parties to share their views by contacting staff in the Division of Investment Management.

F. Technical and Conforming Amendments to Other Aspects of the Regulatory Framework for Variable Contracts

Conforming Amendments to Reflect Rule 498A, the Commission Position and Amended Registration Forms

We are adopting, as proposed, conforming amendments to various cross-references in our rules to reflect rule 498A, and the amendments to Forms N-3, N-4, and N-6. These cross-references are reflected in our amendments to: rules 159A, 431, 482, 485, 497, and 498 under the Securities Act; rules 11 and 405 of Regulation S-T; and rule 14a-16 under the Exchange Act. We are also adopting an amendment to rule 496 under the Securities Act acknowledging the Commission position regarding certain discontinued contracts, as discussed in Section II.E.

Rescission of Form N-1

We are rescinding, as proposed, Form N-1 under the Securities Act and the Investment Company Act. We received no comments on this aspect of the proposal. In 1984, the Commission prescribed Form N-1 as the registration form to be used by open-end management investment companies that are separate accounts of insurance companies for registering under

the Investment Company Act and for registering their securities under the Securities Act.[973] In 1985, Form N-3 superseded Form N-1 for open-end management investment companies that are separate accounts of insurance companies issuing variable annuity contracts.[974] As a result, only an open-end management investment company that is a separate account of an insurance company offering variable life insurance contracts would use Form N-1.[975] Today, it appears that all separate accounts issuing variable life insurance contracts are organized as unit investment trusts. For that reason, we do not believe any registrants continue to use Form N-1 and we are therefore rescinding the form.[976]

Technical Amendments to, and Rescission of, Certain Rules and Forms Governing Variable Life Insurance Contracts and Variable Annuity Contracts

We are adopting, generally as proposed, certain technical amendments to rules relating to variable life insurance contracts. As noted in the Proposing Release, the detailed regulation of sales loads and other fees and charges required by Sections 26 and 27 of the Investment Company Act no longer applies to variable insurance contracts as a consequence of the amendments to those sections enacted by the National Securities Market Improvement Act of 1996 ("NSMIA").[977] In lieu of these detailed provisions, NSMIA instituted a requirement that

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973 Form N-1 Amendments, Investment Company Act Release No. 14084 (Aug. 7, 1984) [49 FR 32058 (Aug. 10, 1984)].

974 Forms N-3 and N-4 Adopting Release, *supra* note 29, at text accompanying n.51.

975 When Form N-3 was adopted, separate accounts funding variable annuity contracts were permitted to continue to use Form N-1 if they no longer offered the contracts to new purchasers. Forms N-3 and N-4 Adopting Release, *supra* note 29, at text accompanying n.51. The Commission is not aware of any such variable annuity registrants that continue to use Form N-1.

976 Based on a review of EDGAR filings, it appears that Form N-1 has not been used in more than 20 years. *See* Proposing Release, *supra* note 6, at n.629.

977 *See* Proposing Release, *supra* note 6, at Section II.F; *see also* National Securities Market Improvement Act of 1996 (Pub. L. 104-290, 110 Stat. 3416 (1996).

all charges on variable insurance contracts, including sales charges, be reasonable "in the aggregate."[978]

The amendments we adopt in this document remove the rate regulatory provisions in rules 6e-2 and 6e-3 (former rule 6e-3(T)) under the Investment Company Act relating to variable life insurance contracts, and make conforming changes to other related rules and forms.[979] In addition, these amendments remove certain minimum capital requirements from Commission rules that insurers must satisfy for those insurers' separate accounts to qualify for exemptions from the capital requirements of Section 14(a) of the Investment Company Act.[980] The minimum capital requirements in those rules (*i.e.*, that an insurer have a minimum combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of not less than $1,000,000) are no longer necessary because NSMIA amended Section 26 of the Investment Company Act to require that any insurer serving as a variable life or variable annuity

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978 *See* Section 26(f)(2) of the Act (requiring that all such fees and charges "in the aggregate [be] reasonable in relation to the services rendered, the expenses expected to be incurred and the risks assumed by the insurance company…").

979 These rules include rules 0-1, 6c-7, 6c-8, 26a-1, and 27i-1 (former rule 27c-1) under the Investment Company Act. As part of these technical amendments, we are also rescinding rules 26a-2, 27a-1, 27a-2, 27a-3, 27d-2, 27g-1, and 27h-1 under the Investment Company Act, and Forms N-27I-1 and N-27I-2 under the Investment Company Act. Former rule 27c-1, relating to the redeemability of variable contracts, has been renamed as rule 27i-1, since as a result of NSMIA, the redeemability requirement addressed in the rule is now described in Section 27(i) of the Investment Company Act. Additionally, the proposal inadvertently omitted the elimination of the provision in rule 11a-2 under the Investment Company Act that specifies a numerical limit on the aggregate of deferred sales loads applicable to the exchanged and acquired contracts involved in an exchange. Therefore, for consistency with the other conforming amendments that were proposed, we are also rescinding paragraph (d)(2) of rule 11a-2. Finally, we are also amending rule 0-1 to correct an outdated reference to 17 CFR 270.22d-3 (rule 22d-3), which has since been renamed as 17 CFR 270.22d-2 (rule 22d-2).

980 The provisions affected are (1) renumbered paragraphs (b)(5) and (b)(14)(v) of rule 6e-2; (2) renumbered paragraphs (b)(6) and (b)(15)(iv) of renamed rule 6e-3; and (3) rule 14a-2(a).

separate account depositor have at least that level of combined capital and surplus or unassigned surplus, as applicable.[981]

We received three comments on these proposals[982] and, with one exception, the commenters supported the proposed amendments. One commenter objected to removing numerical load limits that are currently in place in two related rules, rules 6c-8 and 11a-2 under the Investment Company Act.[983] Rule 6c-8, among other things, provides an exemption from the redeemability requirements for sales charges deducted upon redemption or annuitization of all or a part of a variable annuity owner's interest in a registered separate account, by imposing a numerical limit on those charges.[984] Rule 11a-2 allows a separate account depositor to offer an exchange of variable annuity contracts to an investor owning a variable annuity issued by an account of the depositor without prior Commission review otherwise required by Section 11 of the Investment Company Act, but imposes sales load limits on both the acquired and exchanged contracts.[985]

This commenter asserted that NSMIA did not expressly touch on these provisions and that the limits in these rules are necessary to prevent excessive sales loads being imposed on the

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981 *See* Section 26(f)(2)(B) of the Investment Company Act.

982 *See* VIP Working Group Comment Letter; CAI Comment Letter; and IRI Comment Letter I.

983 *See* VIP Working Group Comment Letter.

984 *See* rule 6c-8(b)(1) (limiting the amount of sales load deducted upon redemption, when added to any sales load previously paid to nine percent of the purchase payments made to date).

985 *See* rule 11a-2(c)(2) (limiting the amount of front-end sales charges imposed on the exchanged and acquired contracts together to no more than nine percent), and rule 11a-2(d)(2) (limiting the sales charges imposed on the exchanged and acquired contracts together that are deducted upon redemption to no more than nine percent).

contracts.[986] On this point, we agree that the requirement in Section 27 that these securities be redeemable was not removed by NSMIA, and rule 6c-8 includes the redeemability requirement of Section 27 as one of the provisions from which the rule provides an exemption if the conditions specified in the rule, including sales charge limitations, are satisfied.

However, we decline to adopt the commenter's suggestion to retain the numerical sales load limits in rules 6c-8 and 11a-2. In the proposing releases for both rule 6c-8 and rule 11a-2, the Commission made clear that each of the rule limitations on sales charges is imposed as an "analogue" to the detailed rate regulation provisions in Sections 26 and 27 of the Investment Company Act – provisions that NSMIA subsequently made inapplicable to these contracts.[987] Therefore, with the enactment of the "reasonableness in the aggregate" standard for sales charges (considered together with all other contract fees and charges),[988] the numerical sales load limits in rules 6c-8 and 11a-2 were rendered moot and we are removing such limits as proposed.

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986 *See* VIP Working Group Comment Letter.

987 *See* Exemptive Relief For Separate Accounts to Impose A Deferred Sales Load On Variable Annuity Contracts Participating in Such Accounts and to Deduct from Such Contracts in Certain Instances an Annual Fee for Administrative Services That is Not Prorated, Investment Company Act Release No. 13048 (Feb. 28, 1983) [48 FR 9532, 9534 (Mar. 7, 1983)] (noting that the limitation on variable annuity deferred sales loads in rule 6c-8 being proposed in the release was "analogous to the [numerical load limitation] requirement in Section 27(a)(1)" of the Investment Company Act). *See also* Exchange Offers By Certain Registered Separate Accounts Or Others The Terms of Which Do Not Require Prior Commission Approval, Investment Company Act Release No. 12675 (Sept. 20, 1982) [47 FR 42374 (Sept. 27, 1982)] (noting that the front-end load limit in paragraph (c)(2) of rule 11a-2 being proposed in the release was "analogous to the [numerical load limitation] requirement in Section 27(a)(1)" of the Investment Company Act, and that the numerical load limitation requirement on deferred sales loads in paragraph (d)(2) of the rule was "similar in theory to paragraph (c)(2)").

988 Each registration statement for a variable contract must contain the representation that the fees and charges deducted under the contract satisfy this standard. *See* Section 26(f)(2)(A) of the Investment Company Act. Form N-6 was adopted after NSMIA was enacted and incorporates this requirement. *See* Form N-6, Item 36. Although Forms N-3 and N-4 were adopted before NSMIA was enacted, registrants have been providing the required fee representation, pursuant to

We are mindful of the regulatory concerns behind each of these rules, which have remained following the enactment of NSMIA, but we do not believe that it is necessary to retain specific numerical limits to address those concerns. With respect to rule 6c-8, we acknowledge the possibility that sales charges imposed upon redemption of variable contracts could raise an issue as to whether such charges present an undue burden on the contract's redeemability. In this regard, we affirm the position taken by the Commission in adopting rule 6c-8 that the rule provides no relief "where the facts and circumstances indicate the deduction [for a deferred sales load] is not intended to compensate the issuer for [distribution] expenses."[989] With respect to rule 11a-2, we note that the other protections contained in the rule against the potential for abuse in variable annuity exchanges remain in place. For example, the amended rule retains the provision that a separate account depositor offering an exchange of variable annuity contracts must give

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a staff statement published in 1996, together with the undertakings required by Part C of each form. *See* Letter to Registrants from Susan Nash, Assistant Director, Division of Investment Management, SEC (Nov. 7, 1996). These forms are being amended to explicitly incorporate the fee representation requirement. *See supra* note 872 and accompanying text.

989 *See* Exemptive Relief for Separate Accounts To Impose A Deferred Sales Load And To Deduct in Certain Instances a Non-Prorated Annual Fee for Administrative Services, Investment Company Act Release No. 13406 (July 28, 1983) [48 FR 36097, 36098 (Aug. 9, 1983)], at 2. In addition, as noted above, these charges must satisfy the "reasonableness in the aggregate" standard imposed on all charges under a variable insurance contract by Section 26(f)(2)(A) of the Investment Company Act. Staff will continue monitoring charges to guard against each of these concerns.

Separately, one commenter requested that the redeemability relief provided in rule 6c-8(d) for certain administrative charges imposed on variable annuity contracts on withdrawal or surrender be expanded to include relief for other charges, citing optional benefits as an example of those charges. *See* CAI Comment Letter. Because this request raises issues and considerations beyond the scope of the technical amendments proposed in light of NSMIA, we decline to adopt the requested amendments at this time.

credit for any deferred sales loads paid on the original variable annuity contract when calculating a deferred sales load on the newly purchased variable annuity contract.[990]

Rescission of Rules 27e-1 and 27f-1 and Related Forms

We are also rescinding, as proposed, rules 27e-1 and 27f-1 under the Investment Company Act and related Forms N-27E-1 and N-27F-1. We received no comments on this aspect of the proposal. These rules and forms were promulgated to prescribe the form of notices required by Sections 27(d) and (e) of the Investment Company Act relating to refund and withdrawal rights of periodic payment plan certificate holders, including those certificates not issued by insurance company separate accounts. We are rescinding these rules and forms because since 2006, Section 27(j) of the Investment Company Act has barred new certificate issuances,[991] and notice rights of holders of certificates issued before then have expired.

Technical Amendments to Rule 8b-1

We are also revising rule 8b-1 under the Investment Company Act to remove references to 17 CFR 270.8b-32 (rule 8b-32 under the Investment Company Act).[992] Rule 8b-32 was recently rescinded in a separate rulemaking pursuant to the Commission's implementation of the FAST Act.[993]

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990 *See* amended rule 11a-2(d).

991 Section 27(j) was enacted into law by the Military Personnel Financial Services Protection Act (Pub. L. 109-290, 120 Stat. 127) (2006).

992 *See* amended rule 8b-1.

993 *See* FAST Act Adopting Release, *supra* note 501.

G. Compliance Dates

To provide a transition period after the effective date of the amendments to give registrants sufficient time to update their prospectuses and to prepare new registration statements under the amendments, the Commission is adopting the following compliance and other dates:

July 1, 2020	A registrant can rely on rule 498A to satisfy its obligations to deliver a variable contract's statutory prospectus by delivering a summary prospectus if the registrant is also in compliance with the amendments to Forms N-3, N-4, or N-6 (as applicable).
	The Staff Letters will be withdrawn and the Commission position for eligible discontinued contracts will take effect.
January 1, 2022	All initial registration statements on Forms N-3, N-4, and N-6, and all post-effective amendments that are annual updates to effective registration statements on these forms, must comply with the rule and form amendments.
January 1, 2023	Registrants must submit to the Commission certain specified disclosures in Inline XBRL.

Use of Summary Prospectus

As proposed, a registrant could rely on rule 498A to satisfy its obligations to deliver a variable contract's statutory prospectus beginning on the effective date of the rule and form amendments (July 1, 2020) provided that the registrant is also in compliance with the amendments to Forms N-3, N-4, or N-6 (as applicable). We believe that this date will allow registrants to begin using summary prospectuses in advance of the compliance date discussed

below, and will provide the Commission staff with sufficient time to prepare to review filings under the new summary prospectus framework.

One commenter recommended that like the optional shareholder report delivery framework under rule 30e-3, there should be a two-year transition period during which investors would be (1) notified of the transition from delivery of statutory prospectuses to summary prospectuses, and (2) able to choose whether they preferred to receive summary prospectuses or statutory prospectuses.[994] Another commenter recommended that advance notice was unnecessary, given that the updating summary prospectus would serve as effective notice that the type of disclosure document that an investor expects to receive has changed.[995] The commenter further stated that the updating summary prospectus would provide information about how the previously provided documents may be obtained, and "a level of information about the variable contract that may itself be sufficient for most investors."

We decline to build these requirements into the final rule as we believe that given the documents at issue (*i.e.*, the prospectus as opposed to the shareholder report) and the contents of the documents permitted to be transmitted (*i.e.*, a summary prospectus under rule 498A versus a notice under rule 30e-3), the more appropriate analogous framework is that of the mutual fund summary prospectus. Under that framework as well as the variable product summary prospectus framework we are adopting in this document, investors receive a summary prospectus and can

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994 *See* Donnelley Financial Comment Letter I.

995 *See* CAI Comment Letter (noting that under rule 30e-3, "if a notice was not required, an investor would have no indication that the method of delivery of the documents he or she expects to receive is changing.").

request a print or electronic copy of the current statutory prospectus, but investors cannot elect to receive statutory prospectuses instead of summary prospectuses.

Compliance with New Form Requirements

All initial registration statements on Forms N-3, N-4, and N-6, and all post-effective amendments that are annual updates to effective registration statements on these forms, filed on or after January 1, 2022 are required to comply with the final rule and form amendments.[996] We believe that this period will give registrants sufficient time to update their prospectuses and to prepare new registration statements under the amendments.

Although post-effective amendments to existing registration statements filed to comply with the amendments to Forms N-3, N-4, and N-6 should be filed under Securities Act rule 485(a),[997] in appropriate circumstances, we will consider requests by registrants with respect to existing variable contracts to file these post-effective amendments pursuant to Securities Act rule 485(b)(1)(vii).[998] Appropriate circumstances may include, for example, situations where a

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996 As part of the proposal, the Commission proposed an 18-month compliance period. *See* Proposing Release, *supra* note 6, at Section II.G. One commenter supported this compliance period. *See* CAI Comment Letter ("the 18-month compliance period for updating variable product registration statements is necessary and appropriate"). Another commenter, in recommending that the Commission mandate use of the summary prospectus, recommended that there be a rolling effective date based on the size of the company starting 24 months after publication. *See* AARP Comment Letter.

997 A post-effective amendment filed under rule 485(a) [17 CFR 230.485(a)] generally becomes effective either 60 days or 75 days after filing, unless the effective date is accelerated by the Commission. A post-effective amendment filed under rule 485(b) may become effective immediately upon filing. A post-effective amendment may be filed under rule 485(b) if it is filed for one or more specified purposes, including to make nonmaterial changes to the registration statement. A post-effective amendment filed for any purpose not specified in rule 485(b) generally must be filed pursuant to rule 485(a).

998 Under rule 485(b)(1)(vii), the Commission may approve the filing of a post-effective amendment to a registration statement under rule 485(b) for a purpose other than those specifically

registrant has previously filed under rule 485(a) post-effective amendments for a number of variable contracts that implement the new requirements, and the staff determines not to review additional such filings by the registrant in light of the staff's experience with the previously filed amendments.

Inline XBRL

In a change from the proposal, we are requiring that registrants must submit to the Commission certain specified disclosures in Inline XBRL in specified filings made on or after January 1, 2023. This will provide registrants an additional year after the January 1, 2022 compliance date when all initial registration statements and post-effective amendments must comply with the final rule and form amendments.

The Commission proposed to require variable contract registrants to submit to the Commission certain specified disclosures using the Inline XBRL format within the same 18-month compliance period proposed for compliance with the new form requirements. While one commenter urged us to move forward expeditiously with the Inline XBRL requirement to support informed investment decision-making,[999] other commenters requested that the Inline XBRL compliance date be extended beyond the proposed 18-month compliance period to provide sufficient time to adapt to the new Inline XBRL requirements.[1000]

One commenter recommended allowing at least another 12 months after the 18-month compliance date for the new form requirements (or 30 months total) to give filers sufficient time

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enumerated in the rule. The Commission's staff has been delegated the authority to approve registrants' requests under rule 485(b)(1)(vii). 17 CFR 200.30-5(b-3)(1).

999 *See* CFA Comment Letter.

1000 *See* IRI Comment Letters I and II; XBRL US Comment Letter; CAI Comment Letter.

to adapt to the new Inline XBRL requirements and to enable the development of vendor systems and client self-service tools that can generate Inline XBRL tagged documents from the document content.[1001] Another commenter recommended extending the Inline XBRL compliance period to 24 months.[1002] This commenter stated that insurers will face greater challenges in making the transition than mutual funds because variable contract registrants have never filed in XBRL and will need extra time to identify an XBRL preparation solution and learn how to accurately tag their reported data. This commenter also noted that, unlike mutual funds, some large insurers currently use modules under EDGARLink to help prepare registration statement filings on EDGAR,[1003] and stated that because Type 1 and type 2 modules are currently only supported by HTML format, while filings using Inline XBRL require XHTML format, any future availability of modules would require upgrades to EDGAR.[1004]

A third commenter advocated for a 36-month compliance period, consistent with the amount of time small fund groups were given to comply with the 2018 Inline XBRL

1001 *See* IRI Comment Letter I (noting that the phased-in compliance period for tagging the mutual fund risk/return summary in Inline XBRL allowed two years after the effective date of the amendments for large fund groups, and three years for small fund groups).

1002 *See* XBRL US Comment Letter.

1003 EDGARLink is an application that is used by electronic filers to facilitate the preparation, validation, and transmission of electronic format documents to EDGAR. EDGARLink works interactively with EDGAR and is accessible on the Commission's website. Modules are partial or complete documents that are intended to be included in an electronic submission. Insurers commonly use type 1 modules for the inclusion of a set of financial statements that will be included as part of multiple registration statement filings.

1004 On June 10, 2019, EDGAR was upgraded to allow filers to reference modules and segments constructed in either ASCII or HTML format in their HTML submission documents, including Types 1 and 2. *See* Chapter 5 (Constructing Attached Documents and Document Types), Chapter 6 (Interactive Data), and Appendix A (Messages Reported by EDGAR) of the EDGAR Filer Manual, Volume II: "EDGAR Filing."

requirements.[1005] The commenter asserted that insurers are similarly situated to, but less prepared than, small funds with respect the transition to Inline XBRL. Unlike mutual funds and ETFs, insurers have not been required to tag variable product registration statements using XBRL, and the greater complexity of variable product disclosures could make such documents more difficult to tag than fund disclosures.[1006]

After considering commenters' suggestions, we are extending the proposed compliance period by an additional year. Registrants must comply with the Inline XBRL tagging requirements in all required filings made on or after January 1, 2023. We believe that this compliance date will provide sufficient time for filers, filing agents, and software vendors to transition to Inline XBRL.[1007] We decline to extend the compliance period to a 36-month period, as on commenter suggested, because due to registrants updating their registration statements by May 1 of each year, this would effectively delay the compliance period by an additional year until 2024. The extended compliance period will also provide time to adopt a new taxonomy, and to implement and pilot iXBRL, make any necessary taxonomy or EDGAR changes resulting from the pilot, and ensure compatibility of modules and iXBRL.

Similar to our transition approach with requiring Inline XBRL for operating companies, mutual funds, and ETFs, variable contract registrants will be permitted to file using Inline XBRL prior to the compliance date. Filers will be able to file in Inline XBRL once EDGAR has been

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1005 *See* CAI Comment Letter; *see also* Inline XBRL Adopting Release, *supra* note 892.

1006 *See* CAI Comment Letter.

1007 Because operating companies and mutual funds must transition to Inline XBRL no later than June 2021, we expect that many filing agents and software vendors will have already developed the Inline XBRL-related expertise necessary to assist variable contract registrants with meeting Inline XBRL requirements under the final rules.

modified to accept submissions in Inline XBRL for all forms subject to the amendments. Notice of EDGAR system readiness to accept filings in Inline XBRL will be provided in a manner similar to notices of taxonomy updates and EDGAR Filer Manual updates. We believe that offering filers the option to file using Inline XBRL before the compliance date will enable filers that are ready to transition to Inline XBRL to begin realizing the benefits of Inline XBRL sooner. It will also enable vendors and filing agents used by early Inline XBRL adopters to gain valuable expertise that may help facilitate the transition to Inline XBRL for variable contract registrants that transition to Inline XBRL at a later time.

Commission Position with respect to Alternative Disclosure Contracts

Consistent with the proposal, the Staff Letters will be withdrawn as of July 1, 2020. Additionally, the Commission is taking a position that if an issuer of a contract that is discontinued as of July 1, 2020 that provides alternative disclosures does not file post-effective amendments and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided the Alternative Disclosures or modernized alternative disclosures) and the registrant meets all specified conditions of the Commission position as of July 1, 2020.[1008]

III. OTHER MATTERS

Pursuant to the Congressional Review Act,[1009] the Office of Information and Regulatory Affairs has designated this rule a "major rule," as defined by 5 U.S.C. 804(2). If any of the provisions of these rules, or the application thereof to any person or circumstance, is held to be

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1008 *See* Section II.E.3.d. above for further discussion of this compliance date.

1009 5 U.S.C. 801 *et seq.*

invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

IV. ECONOMIC ANALYSIS

We are mindful of the costs imposed by, and the benefits obtained from, our rules. Section 3(f) of the Exchange Act, Section 2(b) of the Securities Act, and Section 2(c) of the Investment Company Act state that when the Commission is engaging in rulemaking under such titles and is required to consider or determine whether the action is necessary or appropriate in (or, with respect to the Investment Company Act, consistent with) the public interest, the Commission shall consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors. Further, Section 23(a)(2) of the Exchange Act requires the Commission to consider, among other matters, the impact such rules would have on competition and states that the Commission shall not adopt any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The following analysis considers, in detail, the potential economic effects that may result from the rule and form amendments, including the benefits and costs to investors and other market participants as well as the broader implications of the rule for efficiency, competition, and capital formation.

A. Introduction

New rule 498A allows insurers the option to satisfy prospectus delivery requirements for variable contracts by providing investors with a summary prospectus while making the statutory prospectus and other disclosure documents available online. The approach involves the use of two types of summary prospectus: an initial summary prospectus to be provided to new investors, and an updating summary prospectus to be provided to existing investors. To help investors make informed investment decisions, each type of summary prospectus uses a layered disclosure

approach designed to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly format, with access to more detailed information available online and electronically or in paper format on request. The new disclosure framework permits issuers to satisfy portfolio company prospectus delivery obligations by, among other conditions, posting the portfolio company summary and statutory prospectus at a website address specified on the variable contract summary prospectus.

The Commission is amending the registration forms for variable contracts to update and enhance the disclosure regime for these investment products. Additionally, our rule and form amendments require registrants to use Inline XBRL for the submission of certain disclosures contained in the contract statutory prospectus with the Commission with respect to contracts currently offered to new investors. We are also taking the position that if an issuer of a discontinued contract that is discontinued as of July 1, 2020 that provides Alternative Disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided the Alternative Disclosures or certain modernized alternative disclosures discussed above.[1010] Finally, we are also adopting certain technical and conforming amendments to our rules and forms, including amendments to rules relating to variable life insurance contracts, and rescinding certain related rules and forms.[1011]

[1010] *See supra* Section II.E.

[1011] With respect to those amendments intended to reflect new rule 498A and the amendments to the registration forms, we do not believe there are any economic effects of these amendments that can be separated from the economic effects of amendments to rule 498A and the registration forms.

B. Economic Baseline

1. Overview of Variable Products Market

In 2019 there were a total of 3,534 unique variable products offered by 73 insurance companies.[1012] Total assets were $1,714 billion[1013] held in 25.9 million accounts.[1014] Average contract value was $66,400.[1015] Also in 2019, insurance companies sold 1,289,500 contracts[1016] with sales totaling $132.1 billion.[1017] Our understanding is that investors typically purchase variable products through various distribution channels.[1018]

In addition, we do not believe there are any economic effects of the technical amendments regarding certain variable life insurance rules, since market participants have already adjusted to the changes enacted by NSMIA that the amendments reflect in the rules. Similarly, we do not believe there are any economic effects of the rescission of certain rules and forms relating to the rights of periodic payment plan certificate holders, as the 2006 amendments to Section 27 of the Investment Company Act barred new issuances of such certificates; and we believe the notice rights of holders of certificates issued before those amendments have since expired. For those reasons, the economic effects of these technical and conforming amendments are not addressed separately in this section.

1012 Based on Form N-CEN reports filed in calendar year 2019. The 3,534 variable products consist of 2,491 variable annuity products and 1,043 variable life insurance products.

1013 *Id*. The total assets of $1,714 billion consist of $1,576 billion of variable annuity assets and $138 billion of variable life insurance assets.

1014 *Id*. The 25.9 million accounts consist of 22.2 million variable annuity accounts and 3.7 million variable life insurance accounts.

1015 *Id*. Average contract value for variable annuity products and variable life insurance products was $71,100 and $37,800, respectively.

1016 *Id*. The 1,289,500 contracts consisted of 1,189,100 variable annuity contracts and 100,400 variable life insurance accounts.

1017 *Id*. The $132.1 billion in sales (after rounding) consisted of $122.2 billion for variable annuity products and $10.0 billion for variable life insurance products.

1018 *See* IRI Fact Book, *supra* note 7, at 161. For example, in 2018, investors purchased variable annuities across various distribution channels—independent broker-dealers, 23.9 percent of total sales; career agents, 20.6 percent; independent agents, 20.2 percent; banks, 18.9 percent; regional broker-dealers, 9.0 percent; full service national broker-dealers, 4.6 percent; and direct response 2.8 percent.

A variable contract investor may allocate his or her contract purchase payments to a range of options offered through an insurance company's separate account.[1019] Separate accounts may be registered as management companies or UITs. As of 2019, there were five separate accounts registered as management companies and 670 structured as UITs.[1020]

Eighty-six percent of individual annuity investors purchased their first annuity before age 65, including 47 percent who were between the ages of 50 and 64 years old.[1021] The average age of investors at first purchase of an annuity is 51.[1022] The average current age of annuity investors is 70.[1023] Eighty percent of individual annuity investor households have incomes under $100,000.[1024] Sixty percent of household incomes are below $75,000, and 35 percent are below $50,000.[1025]

2. Statutory and Regulatory Disclosure Requirements

Currently, the default method for delivering the variable contract prospectus and the underlying portfolio company prospectuses is printing and mailing paper copies of the

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1019 *Id*. at 167. In 2018, the average number of portfolio companies per registered variable annuity contract was 60.

1020 Based on Form N-CEN reports filed in 2019. Of the 670 separate accounts organized as UITs, 426 were variable annuity separate accounts and 246 were variable life separate accounts. This information is based on registration statement filings on Form N-3, Form N-4, and Form N-6 with the Commission.

1021 Gallup Survey, *supra* note 7, at 8.

1022 *Id*.

1023 *Id*.

1024 *Id.* at 8 and 9.

1025 *Id.* at 9. According the U.S. Census Bureau, in 2018 70 percent of households had incomes of less than $100,000, 57 percent had incomes of less than $75,000, and 40 percent had incomes of less than $50,000. *See* U.S. Census Bureau, U.S. Income and Poverty in the United States: 2018 (Sept. 2019), *available at* https://www.census.gov/data/tables/2019/demo/income-poverty/p60-266.html.

documents to investors. While the costs of providing paper copies of variable contract prospectuses are borne by the insurer, the allocation of the costs of printing and mailing the portfolio company prospectuses depends on the terms of the participation agreement between the insurance company and the portfolio company.[1026] We understand that most insurers also offer investors the option to elect to receive the variable contract prospectus and portfolio company prospectuses electronically. Investors who have opted for electronic delivery of prospectuses typically receive an email from the insurer containing a link to a website where the materials are available.

Because insurers are not required to report investors' delivery elections to the Commission, we lack verifiable data on the percentage of variable contract prospectuses that are currently delivered electronically. In a 2016 letter to the Commission, one commenter estimated based on a survey of insurers conducted in 2015 that, generally, less than 15 percent of contract owners have affirmatively consented to electronic delivery.[1027] Another industry source estimated in a 2016 report that approximately five percent of annuity investors had opted for electronic delivery at that time.[1028] Based on these estimates, and with consideration for the general increase in electronic delivery rates over time demonstrated in other investment

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1026 We expect that costs borne by insurers and portfolio companies in supplying variable contracts to the market will ultimately be borne by contract investors through the fees that investors pay.

1027 Comment Letter of the Committee of Annuity Insurers on Proposed Rule 30e-3 (July 22, 2016), *available at* https://www.sec.gov/comments/s7-08-15/s70815-612.pdf.

1028 *See* Broadridge, *Digital Transformation of Insurance Communications* (2016), *available at* https://www.broadridge.com/_assets/pdf/digital-transformation-ins-comm.pdf.

products,[1029] we estimate that currently 15 percent of variable contract statutory prospectuses and portfolio company summary prospectuses are delivered electronically.[1030]

As discussed in Section II.E above, Commission staff has issued a series of no-action letters, referred to in this release as the "Staff Letters," stating that the staff would not recommend enforcement action if issuers did not update the variable contract registration statement and deliver updated prospectuses to existing investors, so long as certain conditions were met, including distributing certain alternative disclosures to investors. We estimate that as of the end of calendar year 2019, approximately 13 percent of existing variable annuity contracts and 49 percent of variable life contracts were Alternative Disclosure Contracts.[1031]

C. Benefits and Costs of the Rule and Form Amendments

Where possible, we have attempted to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from the rule and form amendments. In some cases, however, we are unable to quantify the economic effects because

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1029 *See, e.g.*, Memorandum from the Division of Investment Management re: meeting with Broadridge (Sept. 27, 2017) (including attachments thereto containing the survey data presented), *available at* https://www.sec.gov/comments/s7-08-15/s70815-2604201-161127.pdf (demonstrating increasing rates of electronic delivery in investment company fund reports).

1030 We understand that variable contract investors typically make a single delivery method election that applies to both the variable contract statutory prospectus and the portfolio company prospectuses.

1031 Of the 1,061 Form N-4 variable annuity registration statements on file, 584 registration statements appear to be for Alternative Disclosure Contracts. Of the 584, there are four Staff Letters concerning contracts where the number of contract owners exceeds 5,000. As a result, we estimate that these 580 registration statements represent a maximum of 2.9 million investors. Staff estimates that the remaining four registration statements represent at most 90,542 investors. *See supra* note 930. As a result, we estimate that up to 2.99 million (= 90,542 + (580 * 5,000)) investors may hold Alternative Disclosure Contracts (13 percent of the total number of contracts = 2.99 million / 22.2 million). Of the 583 variable life registration statements on file, 360 registration statements appear to be for Alternative Disclosure Contracts. We estimate that these registration statements represent at most 1.8 million (= 360 * 5,000) contracts, or 49 percent (= 1.8 million / 3.7 million) of the total number of contracts.

we lack the information necessary to provide a reasonable and reliable estimate. For example, because summary prospectuses offer a less lengthy, less complex disclosure alternative compared to statutory prospectuses, we expect that readership of variable contract disclosure would increase. We do not have data on the extent to which the use of summary prospectuses enhances readership compared to a scenario in which variable contract investors were only to receive a statutory prospectus and not a summary prospectus.[1032] Similarly, summary prospectuses could reduce the amount of time and effort investors require making an investment decision. Also, summary prospectuses could facilitate investor comparison of different variable product contracts. We do not have data on the extent to which variable contract summary prospectuses would reduce the amount of time and effort investors require to make an investment decision or to compare different variable product contracts, or the value of that time and effort to investors.[1033] In those circumstances in which we do not have the requisite data to assess the impact of the rule and form amendments quantitatively, we have qualitatively analyzed the economic impact of the rule and form amendments.

[1032] Prior to the Commission's 2009 adoption of mutual fund summary prospectus rules, the Commission engaged a consultant to conduct focus group interviews and a telephone survey concerning investors' views and opinions about various disclosure documents filed by companies, including mutual funds. During this process, investors participating in focus groups were asked questions about a hypothetical summary prospectus. Investors participating in the telephone survey were asked questions relating to several disclosure documents, including mutual fund prospectuses. *See* Abt SRBI, Inc., *Final Report: Focus Groups on a Summary Mutual Fund Prospectus* (May 2008), *available at* https://www.sec.gov/comments/s7-28-07/s72807-142.pdf. Although the results from the investor testing reflect stated investor preferences, they do not provide us with information with respect to the extent to which variable contract investors will actually be more likely to read a variable contract summary prospectus relative to a statutory prospectus.

[1033] *Id*. The survey results do not provide data on the extent to which a variable contract summary prospectus will actually reduce the amount of time and effort required to make an investment decision using summary prospectuses rather than statutory prospectuses.

Direct costs incurred by insurers discussed below may, to some extent, be absorbed by the insurance company or be passed on to investors in the form of increased fees. The share of these costs borne by insurers and investors depends on multiple factors, including the nature of competition among insurers and investors' relative sensitivity to changes in fees.

1. Optional Summary Prospectus Regime

New rule 498A creates a choice for insurers. Insurers may continue to meet their prospectus delivery obligations by providing the statutory prospectus, or they may satisfy these obligations by providing a summary prospectus and making the statutory prospectus and other required documents available online. Those insurers that expect to benefit by providing summary prospectuses will choose to rely on the rule to meet their prospectus delivery obligations.[1034] Those insurers that do not expect to benefit from this optional prospectus delivery regime will choose to continue to provide statutory prospectuses to investors.[1035]

Insurers' choices of delivery methods will not reduce the information available to investors. If insurers choose to meet their prospectus delivery obligations by delivering summary prospectuses to investors, with other documents available online, investors will have a choice. Under the rule's layered disclosure framework, investors will receive information in the form of a summary prospectus, with more detailed information available online if the investor

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1034 If the expected costs of using summary prospectuses exceed the expected benefits of doing so, insurers could simply choose to maintain the status quo and continue to deliver statutory prospectuses to investors.

1035 Insurers that do not use summary prospectuses could be at a competitive disadvantage if investors choose variable products based on a preference for summary prospectuses, either because investors prefer summary prospectuses or because insurers that use summary prospectuses have lower expenses due to savings of printing and mailing costs. We expect that insurers will take any such competitive effects into account when assessing the costs of using summary prospectuses.

chooses to access it. Thus, investors can choose to continue to review the statutory prospectuses by accessing them online, or they may request paper or electronic delivery of statutory prospectuses on an ad hoc basis. Alternatively, investors may choose only to consult the summary prospectuses. Further, if investors want to rely on some combination of summary and statutory prospectuses to receive information about the contract, that choice is available to them as well.

We expect a vast majority of insurers will choose to use summary prospectuses. Thus, we expect that the vast majority of investors will have the option to use both summary prospectuses and statutory prospectuses in their decision-making, in whatever proportion investors think is best for their preferences. We discuss below the benefits and costs to both investors and insurers of the new options presented by the contract summary prospectus regime and associated new optional delivery method for portfolio company prospectuses.

a. Benefits and Costs for Investors

i. Summary Prospectus for Variable Contracts

(a) Benefits

(1) Initial Summary Prospectus

Should insurers choose to use summary prospectuses, investors may benefit in a number of ways.[1036] Variable contract prospectuses (particularly those that include optional benefits) are

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[1036] Some investors may prefer to read statutory prospectuses, and therefore, the advantages associated with summary disclosure, as described in this section, may not apply to those investors. Because the statutory prospectus will, under the rule, be available online and in paper or electronic format upon request, we recognize that the need to take additional action to review a statutory prospectus imposes some costs for these investors, which are discussed below.

typically lengthy and complex,[1037] and they also may describe different versions of the contract in one prospectus, some of which may no longer be available to new investors. In addition, investors generally allocate their purchase payments to one or more portfolio companies, each of which also has its own prospectus. Because industry practice is to bundle all portfolio company prospectuses with the variable contract prospectus, the disclosure documents that are delivered to investors at purchase and on an annual basis can be voluminous.

We believe investors will benefit from the simplification of disclosure associated with initial summary prospectuses.[1038] We understand that contract statutory prospectuses may include disclosure about contract features and options that the registrant may no longer offer to new investors. Aggregating disclosures for multiple contracts, or currently offered and no-longer-offered features and options of a single contract, creates complexity that may make it more difficult for investors to distinguish between contract features and options that apply to them and those that do not.[1039]

1037 One commenter stated that variable annuity contracts are among the most complex investment products sold. The commenter also analyzed variable annuity contracts in terms of reading level assessment and stated that variable annuity contracts are written in language that requires an advanced degree or at least a college level of comprehension. *See* Cardozo Clinic Comment Letter.

1038 One commenter, citing academic research, stated that to the extent summary disclosure reduces information overload, it could, in turn, increase financial literacy. *See* ACLI Comment Letter; Julie Agnew & Lisa Szykman, *Annuities, Financial Literacy and Information Overload* (Pension Research Council WP 2010-33, Nov. 11, 2010) *available at* https://ssrn.com/abstract=1707659. Three commenters were skeptical that certain aspects of the proposed initial summary prospectus would result in better investor comprehension of how a variable contract works, and recommended that we engage in investor testing to validate our assumptions. *See supra* note 38.

1039 Existing research notes that individuals bear costs in absorbing information and that the ability of individuals to process information is not unbounded. *See* Richard Nisbett & Lee Ross, HUMAN INFERENCE: STRATEGIES AND SHORTCOMINGS OF SOCIAL JUDGMENT (1980); David Hirshleifer & Siew Hong Teoh, *Limited Attention, Information Disclosure, and Financial Reporting*, 36 J. ACCT. & ECON. 337 (2003).

For example, a separate account could offer different contracts over time, but with the contracts having substantially similar names. Likewise, separate accounts could offer different contracts at a single point in time, but with the contracts also having substantially similar names. Thus, contract investors reviewing lengthy statutory prospectuses may find it difficult, confusing, and time-consuming to identify disclosures related to contract terms and features that are relevant to their investments. These characteristics of existing variable contract statutory prospectuses could result in a risk of inefficient allocation of funds among portfolio companies in variable contracts or inefficient matching of investors to variable contracts. Incomplete information about the variable contracts made available to investors may cause them to over- or underinvest in variable contracts or to misallocate parts of their investment portfolio held outside of variable contracts.

Whereas statutory prospectuses may describe contracts and features no longer offered to new investors in addition to contracts currently offered to investors, the new initial summary prospectus is limited to describing only the contract and features currently available under the statutory prospectus. We believe this narrower focus will facilitate investors' understanding of their variable contract's features and risks and make these features and risks more salient. In reviewing the more targeted information in the initial summary prospectus, investors will be able to more easily and more efficiently understand the product they are investing in, leading to more informed investment choices. We believe the concise content provided in the initial summary prospectus, presented in a standardized manner, will also facilitate investors' comparison of

contracts at the time of investment and re-evaluation of contracts during the free look period.[1040] This could reduce the risk of investors selecting variable contracts that do not align with their needs or inefficient matching of investors to variable contracts.

To facilitate investor understanding and investor comparison of contract, the initial summary prospectus is designed to provide investors with key information relating to the contract's terms, benefits, and risks. The Key Information Table includes aspects of variable contracts that investors have most frequently stated that they failed to fully understand according to the complaints database maintained by the Commission's Office of Investor Education and Advocacy,[1041] including: (1) risk of loss of principal and/or lack of guarantees of income; (2) fees, including surrender charges; (3) illiquidity prior to the pay-out period; (4) tax consequences; (5) death benefits; and (6) conflicts of interest.[1042] The overview describes the parties to the contract (the issuer and investor), and provides readers with basic information about the purpose of the contract, phases of the contract (for variable annuity contracts),

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1040 One commenter stated that the proposed summary prospectus requires too high a level of comprehension. Their analysis of the proposed initial summary prospectus concluded that it would require a college level of comprehension to understand. *See* Cardozo Clinic Comment Letter. We drew on our investor testing efforts in developing the summary prospectus framework and believe the adopted summary prospectus framework will help investors make an informed investment decision. Also, one commenter, citing academic research, questioned the relevance of the free look period to decision making, stating that choice-supportive bias is likely to cause consumers to ascribe benefits to their purchases in order to confirm that they made the right decision, and that this tendency increases with age. *See* CFA Comment Letter; Mara Maher & Marci Johnson, *Choice-Supportive Source Monitoring: Do Our Decisions Seem Better to Us as We Age?*, 15 PSYCHOL. & AGING 596 (2000). We acknowledge that certain investors may not re-evaluate contracts during the free look period, but for those investors that do, we believe the concise content provided in the initial summary prospectus will facilitate their re-examination of the contract.

1041 *See supra* note 108.

1042 *See supra* Section II.A.1.c.ii.(a).

premiums (for variable life insurance contracts), and contract features. We are also requiring registrants to summarize standard and optional benefits available to the investor under the contract.

Later sections of the initial summary prospectus provide investors more detailed information about the cash flows related to contract purchase. One section provides information about cash flows to the insurer, such as initial and subsequent purchase and premium payments. Other sections discuss cash flows investors can expect to receive, such as death benefits and other benefits. The initial summary prospectus for variable life insurance contracts also includes a section on how a contract could lapse, and thereby reduce payouts to investors. Also, a section on withdrawal and surrenders discusses how accessing the money in a variable contract early affects the payouts that an investor should expect to receive.

Initial summary prospectuses also include additional information about fees and expenses investors will pay when buying, owning, and surrendering the contract, as well as those paid each year during the time the investor owns the contract. Finally, initial summary prospectuses include an appendix that provides summary information in a tabular form about the portfolio companies or investment options offered under the contract.

In addition, given the time required to review a statutory prospectus, investors may benefit from summary prospectuses because they offer a shorter alternative to statutory prospectus disclosure. Indeed, there is evidence that suggests that consumers benefit from summary disclosures.[1043] Within the specific context of investing, there is evidence from related

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[1043] There is evidence that the summarization of key information is useful to consumers. *See, e.g.*, Sumit Agarwal et al., *Regulating Consumer Financial Products: Evidence from Credit Cards,* (Nat'l Bureau of Econ. Research, Working Paper 19484, 2013). The authors find that a series of

contexts that suggests that summary prospectuses allow investors to spend less time and effort to arrive at the same portfolio decision as if they had relied on a statutory prospectus.[1044] This research is consistent with the 2012 Financial Literacy Study, which showed that at least certain investors favor a layered approach to disclosure with the use, wherever possible, of summary documents containing key information about an investment product or service.[1045]

Further, investors allocate their attention selectively,[1046] and the sheer volume of disclosure that investors receive about variable contracts and the underlying portfolio companies may discourage investors from reading contract statutory prospectuses (and the prospectuses of the underlying portfolio companies).[1047] The observations of a telephone survey conducted on behalf of the Commission with respect to mutual fund statutory prospectuses (which are typically

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requirements in the CARD Act, including provisions designed to promote simplified disclosure, has produced decreases in both over-limit and late fees, saving U.S. credit card users $20.8 billion annually; *see also* Robert Clark et al., *Can Simple Informational Nudges Increase Employee Participation in a 401(k) Plan?*, (Nat'l Bureau of Econ. Research, Working Paper 19591, 2013). The authors find that a flyer with simplified information about an employer's 401(k) plan, and about the value of contributions compounding over a career, had a significant effect on participation rates.

1044 *See* John Beshears et al., *How Does Simplified Disclosure Affect Individuals' Mutual Funds Choices?*, in EXPLORATIONS IN THE ECONOMICS OF AGING, 75 (David A. Wise ed., 2011), *available at* https://www.nber.org/chapters/c11933.pdf. We note, however, that while the authors find evidence that investors spend less time making their investment decision when they are able to use summary prospectuses, there is no evidence that the quality of their investment decisions is improved. In particular, "On the positive side, the Summary Prospectus reduces the amount of time spent on the investment decision without adversely affecting portfolio quality. On the negative side, the Summary Prospectus does not change, let alone improve, portfolio choices. Hence, simpler disclosure does not appear to be a useful channel for making mutual fund investors more sophisticated …" *Id.* at 13.

1045 *See* 2012 Financial Literacy Study, *supra* note 108. Commenters also stated that their own client research found that investors prefer summary disclosure. *See* IRI Comment Letter I and WFA Comment Letter.

1046 *See* George Loewenstein et al., *Disclosure Psychology Changes Everything*, 6 ANN. REV. ECON. 391 (2014).

1047 *See supra* note 548.

shorter than variable contract statutory prospectuses) are consistent with the view that the volume of disclosure may discourage investors from reading statutory prospectuses.[1048] That survey observed that many mutual fund investors do not read statutory prospectuses because they are long, complicated, and hard to understand. To the extent summary prospectuses increase readership of variable contract disclosures, they could improve the efficiency of portfolio allocations made on the basis of disclosed information for those investors who otherwise would not have read the statutory prospectus.[1049]

Moreover, potential variable contract investors that choose to read disclosures despite their length may face "information overload," causing them to make inefficient decisions about the size of their variable contract positions, their selection of optional benefits, or the allocation of funds across underlying portfolio companies.[1050]

These benefits are potentially magnified given the demographic profile of variable contract investors. The average age of annuity investors is 70.[1051] Studies indicate that exposure to financial harms may increase with age, potentially exacerbated by a decline in the capacity to process financial information for some individuals.[1052] To the extent that summary prospectuses

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1048 *See supra* note 1032.

1049 Review of the complaints database maintained by the Commission's Office of Investor Education and Advocacy revealed that the most common type of complaint submitted by variable contract investors involved an investor's belief that a sales agent had made misrepresentations about the variable contract and/or recommended a variable contract despite the product being unsuitable for the investor. To the extent that summary prospectuses increase readership of variable contract disclosures, they may also facilitate stronger investor protection.

1050 *See* Troy Paredes, *Blinded by the Light: Information Overload and Its Consequences for Securities Regulation*, 81 WASH. U. LAW REV. 417 (2003).

1051 *See supra* note 1023 and accompanying text.

1052 *See e.g.*, David Schroeder & Timothy Salthouse, *Age Related Effects on Cognition Between 20 and 50 Years of Age*, 36 PERSONALITY & INDIVIDUAL DIFFERENCES 393 (2004);

allow investors to spend less time and effort to understand their investments and arrive at investment decisions, that benefit is magnified in the context of variable contracts given the demographic profile of the underlying investor base.[1053]

The initial summary prospectus may also reduce the investor effort required to compare variable products when an investor considers a new investment. Information provided in a concise, user-friendly presentation could allow investors to compare information across products and as a result, may lead investors to make decisions that better align with their investment goals.[1054] For example, the new rule requires insurers to distill certain key product information into tables, which could facilitate comparison across different products. The effect of the initial

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Timothy Salthouse, *Aging and Measures Of Processing Speed*, 54 BIOLOGICAL PSYCHOLOGY 35 (2000); Ray Fair, *How Fast Do Old Men Slow Down?*, 76 REV. ECON. & STAT. 103 (1994); Ulman Lindberger & Paul B. Baltes, *Sensory Functioning and Intelligence in Old Age: A Strong Correlation*, 9 PSYCHOL. & AGING 339 (1994); Ulman Lindberger & Paul B. Baltes, *Intellectual Functioning in Old and Very Old Age: Cross-Sectional Results From the Berlin Aging Study*, 12 PSYCHOL. & AGING 410 (1997); Patricia D. Struck, *NASAA Statement at SEC Seniors Summit*, *available at* http://www.nasaa.org/860/nasaa-presidents-statement-at-sec-seniors-summit/; Karla Pak & Doug Shadel, *AARP Foundation National Fraud Victim Study* (2011).

1053 If there are investors who would choose to rely on statutory prospectuses, one option available to them is to access the statutory prospectuses in electronic form online. If older investors are less likely to use the internet, that would attenuate the overall benefits of the rule for the older demographic.

1054 Research suggests that individuals are generally able to make more efficient decisions when they have comparative information that allows them to assess relevant trade-offs. *See, e.g.*, Christopher Hsee et al., *Preference Reversals between Joint and Separate Evaluations of Options: A Review and Theoretical Analysis*, 125 PSYCHOL. BULL. 576 (1999); *see also* Jeffrey Kling et al., *Comparison Friction: Experimental Evidence from Medicare Drug Plans*, 127 Q. J. ECON. 199 (2012). In a randomized field experiment, some senior citizens choosing between Medicare drug plans were randomly selected to receive a letter with personalized, standardized, comparative cost information. Plan switching was 28 percent in the intervention group, but only 17 percent in the comparison group, and the intervention caused an average decline in predicted consumer cost of about $100 a year among letter recipients.

summary prospectus alone on the ability of the investor to compare products may be limited, however, by the extent to which variable contracts are sold through agents.[1055]

Additionally, the framework for variable contract summary and statutory prospectuses also includes design elements to facilitate investor use. In particular, the new rule includes requirements for linking within the electronic versions of the contract statutory prospectus and SAI that are available online, and also for linking between electronic versions of contract summary and statutory prospectuses that are available online. The linking requirements permit investors who use the electronic versions of contract prospectuses to quickly navigate between a table of contents of the contract statutory prospectus or SAI and the related sections of that document, as well as each section of the summary prospectus and any related section of the contract statutory prospectus and contract SAI that provides additional detail.[1056] Further, the new rule also requires that investors either be able to view the definition of each special term used in an online summary prospectus upon command, or to move directly back and forth between each special term and the corresponding entry in any glossary or list of definitions that

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[1055] However, we expect the requirement to file certain information from variable contract statutory prospectuses in Inline XBRL will facilitate data collection by third-party aggregators and financial analysts, as well as facilitate investors' comparison of variable products. *See infra* Section IV.C.3.

[1056] The Commission recently adopted rules requiring registrants to include a hyperlink to each exhibit identified in the exhibit index in any registration statement or report that is required to include exhibits under 17 CFR 229.601 (Item 601 of Regulation S-K) or under Form F-10 or Form 20-F. In connection with this rulemaking, commenters indicated that hyperlinking would make it easier and reduce the amount of time required for investors to navigate to related documents. *See* Exhibit Hyperlinks and HTML Format, Release No. 34-80132 (Mar. 1, 2017) [82 FR 14130 (Mar. 17, 2017)] at nn.85 and 86. In 2019, the Commission adopted amendments to its investment company registration forms, including Forms N-3, N-4, and N-6, to require hyperlinks to exhibits required to be filed with the registration statement. *See* FAST Act Adopting Release, *supra* note 501.

the summary prospectus includes. This requirement should facilitate understanding of terms that may be confusing or unfamiliar among investors viewing the documents online.

Finally, the new rule requires that contract documents required to be posted online remain available on the website for at least 90 days. This requirement mirrors the online availability requirement for the mutual fund summary prospectuses. As a result, investors who prefer to access the disclosure documents online could be certain that the documents for both the contract and the portfolio companies would be available for the same period of time.

(2) Updating Summary Prospectus

The new updating summary prospectus will have many of the same benefits for investors associated with the initial summary prospectus discussed above associated with presenting key information in an easier and less time-consuming manner for investors. Specifically, because many terms of the variable contract do not change from year-to-year, the contract statutory prospectus may contain a large amount of disclosure that is duplicative of disclosure that the investor has previously received. Those changes that do occur may be important to investors, but the disclosure about these changes could be difficult for the investor to identify given the volume of prospectus disclosure that investors currently receive, and the current lack of a requirement to identify new or changed information.

Under the new rule, the updating summary prospectus includes a concise description of important changes affecting the statutory prospectus disclosure relating to certain topics that occurred within the prior year—namely the availability of portfolio companies (or investment options under a variable annuity registered on Form N-3) under the contract, the Key Information Table, the overview of the contract, the Fee Table, purchases and contract value (or premiums for variable life insurance contracts), lapse (for variable life insurance contracts),

surrenders and withdrawals, the standard death benefit (for variable life insurance contracts), and the benefits available under the contract. We believe that these are the topics most likely to be important to investors because they affect how investors evaluate variable contracts and are relevant to investors when considering additional investment decisions. The updating summary prospectus, if used by insurers to satisfy their prospectus delivery obligations, would likely reduce the burden on investors and increase their understanding of their contract by highlighting certain changes to the contract made during the previous year, while forgoing the repetition of most information that had remained unchanged.[1057]

The updating summary prospectus also includes the Key Information Table. The inclusion of this disclosure will benefit investors by reminding them of key facts about the variable contract, including the contract's fees and expenses, risks, restrictions, tax implications, and conflicts of interest. Finally, the updating summary prospectus includes an Appendix that

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[1057] Unlike with the initial summary prospectus, the new rule permits insurers to describe multiple contracts in the updating summary prospectus. However, given the limited number of changes in each contract on an annual basis, we do not believe that permitting multiple contracts in the updating summary prospectus will create significant confusion for investors or reduce any of the benefits associated with the description of key changes for each contract.

We further recognize that the changes highlighted in the updating summary prospectus are only those relative to the immediately preceding updating summary prospectus and statutory prospectus. Accordingly, if an investor wanted to understand the changes to his or her contract since he or she initially purchased the contract, the investor will need to review all of the updating summary prospectuses (or each updated statutory prospectus). However, we have designed the updating summary prospectus to allow investors to better focus their attention on new or updated information relating to the contract. As noted above, we believe that existing investors in a variable contract will benefit more from a brief summary of changes that have occurred in the contract than a document like the initial summary prospectus, which is designed for someone making an initial investment decision. Therefore, we believe that requiring the updating summary prospectus to only provide information on the most recent changes strikes the appropriate balance between increasing investor's understanding of and access to information about changes in the updated statutory prospectus and imposing additional costs on insurers to create more tailored updating disclosures comparing the current state of the contract to the original contract for each contract holder.

provides summary information about the portfolio companies that the registrant offers under the contract. The inclusion of this portfolio company information could benefit investors by providing them information to inform one of the most important decisions they face during the lifecycle of a contract—that is, whether and where to reallocate funds among the portfolio companies or investment options available to them.

(b) Costs

Should insurers opt to use summary prospectuses, we believe that the majority of investors will benefit from their disclosures; however, certain investors may also incur costs. For example, although research indicates that investors generally prefer to receive summary disclosures,[1058] there may be investors who prefer to rely on statutory prospectuses when making investment decisions. While statutory prospectuses will be available online and in paper or electronic copy upon request, access to those statutory prospectuses will require investors to take additional steps, imposing some burden. For example, investors choosing to access the statutory prospectus online rather than requesting a paper copy may need to manually enter a hyperlink from a paper updating summary prospectus or open an email link to a website containing the statutory prospectus.[1059] To the extent that internet access and use among variable contract investors is not universal, those investors without home internet access might experience a reduction in their ability to quickly and easily access statutory prospectus information.[1060] Even

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1058 *See supra* note 10455.

1059 Investors may also call or e-mail to obtain the statutory prospectus.

1060 According to the most recent U.S. census data, approximately 81.9 percent of U.S. households had some form of internet access in their home in 2016, and 89.3 percent had a computer (*e.g.*, desktop, laptop, tablet or smartphone). *See* Camille Ryan, *Computer and Internet Usage in the United States: 2016* (Aug. 2018), *available at*

for those investors with home internet access, there may be some resistance to taking the additional step of accessing the statutory prospectus online.[1061]

Moreover, those investors who prefer paper copies of statutory prospectuses and do not have ready access to the internet (and the ability to print out the statutory prospectus that is made available online[1062]), will not be able to elect paper delivery of statutory prospectuses on a going-forward basis. Rather, they will need to make an ad hoc request for paper delivery of the statutory prospectus each time one is made available. This may delay their review of the statutory prospectus as they await paper delivery, or, in some cases, if the investor does not take the additional step to request paper delivery, may result in the investor not receiving the statutory prospectus in his or her preferred format and ultimately receiving less information than they

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https://www.census.gov/content/dam/Census/library/publications/2018/acs/ACS-39.pdf. According to data provided by the Pew Research Center, in 2019 90 percent of U.S. adults use the internet with usage varying by age with 88 percent of U.S. adults between the ages of 50 and 64 using the internet and 73 percent of U.S. adults 65 and older using the internet. *See* Internet/Broadband Fact Sheet, *available at* https://www.pewresearch.org/internet/fact-sheet/internet-broadband/#who-uses-the-internet. *See also* Sarah Holden, Daniel Schrass & Michael Bogdan, *Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet, 2019*, 25:8 ICI RES. PERSPECTIVE (Oct. 2019), *available at* https://www.ici.org/pdf/per25-08.pdf ("In 2019, 94 percent of households owning mutual funds had Internet access, up from about two-thirds in 2000" and "86 percent of mutual fund-owning households with a household head aged 65 or older had internet access in 2019"); Andrew Perrin & Maeve Duggan, *Americans' Internet Access: 2000–2015* (June 2015), *available at* http://www.pewinternet.org/2015/06/26/americans-internet-access-2000-2015/ (finding in 2015, 84 percent of all U.S. adults use the internet).

[1061] One commenter urged us to require paper delivery as the default delivery of their prospectuses or summary prospectuses unless the retail investor has affirmatively chosen to receive these documents electronically. That commenter noted that in 2012 they commissioned a national survey of over 1,000 retirement plan participants and found that 66 percent of respondents ages 25 – 49 and 84 percent of those 50 plus preferred paper document delivery. *See* AARP Comment Letter, *supra* note 33. Investors who prefer paper delivery of the statutory prospectus may request paper copies from the insurer. To the extent that investors request paper copies of the statutory prospectus, insurers will incur associated printing and mailing costs. *See infra* Section IV.C.1.b.i.

[1062] *See supra* Section II.A.5.

would like about their contract.[1063] We believe that possibility is unlikely in this circumstance, however. We believe investors who prefer statutory prospectuses rather than summary prospectuses are likely investors who are willing to seek out detailed information to inform their investment decisions. We believe that for these investors, the additional effort required to access the statutory prospectus online or request paper or electronic statutory prospectuses would be incrementally minimal.

Also, the rule requires that a current version of each of the required contract documents remain available online for at least 90 days after the date of delivery of a security or communication in reliance on the rule. Some investors may not have the flexibility to access this online information within 90 days after receiving the summary prospectus. As discussed above, however, because variable contracts (and their underlying portfolio companies) are generally continuously offered, a current contract prospectus and related documents would likely remain online for longer than 90 days. As a result, we believe any loss of flexibility to access online information more than 90 days after receiving a summary prospectus would be minimal.

ii. Portfolio Company Prospectus Delivery

As described in Section IV.C.1.b below, we anticipate that the new optional delivery method for portfolio company prospectuses will result in cost savings from reduced printing expenses. To the extent that a portfolio company bears the printing expenses associated with

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[1063] This outcome is suggested by research which finds that investors can experience a "status quo bias." *See, e.g.*, Richard H. Thaler & Shlomo Bernatzi, *Save More Tomorrow™: Using Behavioral Economics to Increase Employee Saving*, 112 J. POL. ECON. S164 (2004); Richard H. Thaler & Cass R. Sunstein, *Libertarian Paternalism*, 93 AM. ECON. REV. 175 (2003). Thaler and Sunstein argue that a "status quo" bias results in the continuance of existing arrangements even if better options are available. The authors illustrate their argument with higher rates of initial enrollments in employee savings plans when enrollment is automatic as compared to when employees must first complete an enrollment form.

portfolio company prospectuses, we expect that the reductions will benefit the portfolio company, as well as variable contract investors who have allocated contract value to the portfolio company (except perhaps in certain circumstances such as where the portfolio company is operating under an expense limitation arrangement). To the extent that the insurance company bears these costs, we expect that the reductions will benefit the insurance company, which may pass on such cost savings to existing variable contract investors and to new variable contract investors in the pricing of variable contracts offered in the future.[1064]

Certain investors may incur additional costs. While the portfolio company prospectuses will be available online and in paper or electronically upon request on an ad hoc basis, investors may experience additional burdens when accessing the prospectuses. As with the summary prospectus for variable contracts discussed above, investors who prefer to review paper copies of the portfolio company prospectuses will be required to either affirmatively request delivery of paper copies, or bear the costs of printing the electronic versions of documents accessed through the website.

Also, as discussed with respect to variable contract prospectuses above, internet access is not universal among variable contract investors, and investors who would prefer paper copies of

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[1064] Because the fees charged under variable contracts investors are typically fixed when the contract is purchased, we recognize that cost savings realized by the insurance company may not be passed along to existing investors except in the case of contracts offered by mutualized insurance companies, which return any profits they make to their investors.

We expect the benefit in terms of lower pricing of variable contracts will be small. One commenter estimated a unit cost of $6.00 to print and mail a statutory prospectus to new investors and $2.20 to existing investors, inclusive of summary prospectuses for all portfolio companies offered by the contract. The commenter also estimated that portfolio company summary prospectuses would make up 300 pages of the 400-page mailing that includes the variable contract statutory prospectus and portfolio company prospectuses. *See* Broadridge Comment Letter. The average value of a variable contract investor's investment is $66,400.

prospectuses will be required to request paper delivery of those prospectuses on an ad hoc basis which could, in turn, delay investor review of those prospectuses.[1065] Further, to the extent that investors prefer paper copies of prospectuses, but do not request a paper copy or access the document online, there will be no investor review of those prospectuses.

b. Benefits and Costs for Insurers

i. Summary Prospectus for Variable Contracts

The total cost of providing disclosure in any particular framework is the sum of costs associated with producing the disclosure materials, including labor and legal fees, and the costs associated with delivery of the disclosure materials, including printing and mailing costs and costs of making the disclosures available on a website. Insurers will benefit from the options provided by the new rule, to the extent that providing layered disclosure through a summary contract prospectus regime (including costs of producing and delivering initial summary and updating summary prospectuses and of making statutory prospectuses, portfolio company prospectuses, and other documents available online) is less expensive than providing statutory prospectuses to new investors and updated statutory prospectuses to existing investors annually, along with portfolio company prospectuses and other related documents.

[1065] As we discuss in Section IV.C.3 below, we understand that sales agents assist investors by providing information about underlying portfolio companies and sometimes recommending that investors allocate their contract value into specific portfolio companies. We anticipate that this will continue under the adopted framework, and that sales agents will assist investors in understanding key facts about the portfolio companies, obtaining portfolio company prospectuses, and understanding the proposed portfolio company prospectus delivery framework. For this reason, to the extent that sales agents continue to play a significant role in providing information about portfolio companies to investors, even if investors were to no longer automatically receive paper copies of portfolio company prospectuses, we expect the adopted framework to yield lower costs and higher benefits for investors.

As discussed later in this section, because we expect a primary driver of the benefit for insurers providing summary prospectuses to be cost savings associated with no longer printing and mailing lengthy statutory prospectuses for investors that currently receive these documents in paper, the magnitude of the benefit depends in part on the extent to which investors currently elect electronic delivery of materials associated with their variable contract. The higher the percentage of investors currently electing electronic delivery rather than paper, the smaller the benefit derived from forgoing the printing and mailing costs. Accordingly, to estimate the potential cost reduction associated with the rule, as noted above, we assume that 15 percent of the contract investors currently elect electronic delivery of the statutory prospectus both at sale, and annually thereafter.[1066] Moreover, we assume that at least 15 percent of variable contract investors will elect electronic delivery of the summary prospectus going forward.

To estimate the overall impact of the rule on insurers' cost of prospectus delivery, we begin by estimating the number of variable contract statutory prospectuses delivered in paper format. This requires a number of assumptions:

- We estimate that insurers will ultimately use summary prospectuses for 90 percent of contracts[1067] that are not Alternative Disclosure Contracts.[1068]

1066 We lack verifiable data on current electronic delivery election rates among variable contract investors but are estimating 15 percent based, in part, on the range of estimates provided by commenters and with consideration for the general increase in electronic delivery rates over time demonstrated in other investment products. *See supra* notes 1027 through 1029. If variable contract investors exhibit lower electronic delivery rates today than we estimate, the cost savings from reducing the amount of paper mailings under the amendments will be higher than estimated here. If variable contract investors exhibit higher electronic delivery rates today than we have estimated, the cost savings from reducing the amount of paper mailings under the amendments will be lower than estimated here.

1067 In response to the 2012 Financial Literacy Study, the Committee of Annuity Insurers submitted a comment letter in which it states that "The Committee believes the Commission should embrace

- Issuers of Alternative Disclosure Contracts provide alternative disclosures in lieu of statutory prospectuses.[1069] Based on staff analysis, approximately 57 percent of variable contract registration statements are for Alternative Disclosure Contracts, and these registration statements apply to up to approximately 18 percent of variable contracts.[1070] We further assume that each investor in an Alternative Disclosure Contract owns exactly one contract issued under a registration statement for an Alternative Disclosure Contract.
- We assume 15 percent of investors elect electronic delivery of prospectuses.

Together with the baseline estimate of 25.9 million contracts in force at the end of 2019, these assumptions imply that insurers will no longer send approximately 16.1 million statutory prospectuses each year.[1071]

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the use of layered disclosure for variable annuities (and other retail products, including other SEC-registered annuities), as it has done for mutual funds." According to its comment letter, the Committee of Annuity Insurers "represent more than 80% of the annuity business in the United States." Although the layered disclosure framework for variable contracts is not identical to the corresponding framework for mutual funds and the creation of initial and updating summary prospectuses may be more costly for variable contracts than the creation of mutual fund summary prospectuses, we nevertheless anticipate that choosing to deliver summary prospectuses will provide cost savings for insurers. Given expressed industry support for layered disclosure with summary prospectuses, our experience that approximately 95 percent of mutual funds have adopted layered disclosure with summary prospectuses, and our anticipation that the rule will provide costs savings to insurers, we believe it is appropriate to assume that 90 percent of insurers will choose delivery of summary prospectuses.

1068 *See supra* note 1066 and accompanying text.

1069 *See supra* note 928 and accompanying text.

1070 (2.99 million variable annuity contracts + 1.8 million variable life contracts) / 25.9 million variable contracts.

1071 25.9 million x (1-18 percent) x 90 percent x (1-15 percent) = 16.1 million contracts.

Next, we estimate the number of statutory prospectuses that will no longer be provided to investors in paper in connection with new contract purchases. In 2019, there were 25.9 million contracts in force.[1072] Total sales of variable annuity contracts during 2019 was 1,289,500 contracts. Based on these estimates, we further estimate that among investors who elect to receive paper copies of prospectuses, the new option to use a summary prospectus will be applied to 986,000 new contracts annually.[1073]

We next estimate the cost difference, per prospectus, of sending summary prospectuses (initial summary prospectuses, as well as updating prospectuses) rather than statutory prospectuses.[1074] In the Proposing Release, we estimated that printing and mailing expenses for statutory prospectuses are $0.53 per statutory prospectus. We received additional information on printing and mailing expenses from a commenter that persuaded us to revise our estimate.[1075] In a change from the proposal, we estimate that printing and mailing expenses for statutory prospectuses are $1.50 per statutory prospectus for new investors and $0.55 for existing investors.[1076] Also in a change from the proposal, we estimate that printing and mailing

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1072 *See supra* Section IV.B.1.

1073 *See supra* note 1071. The number of new contracts falling within the proposed regime is calculated as: 1,289,500 contracts x (1 - 0.15) x 0.90 = 986,468 contracts.

1074 Variable contract issuers generally maintain current prospectuses for their products through the filing of annual post-effective amendments to the registration statements. *See supra* note 333. As a result, we assume updating prospectuses will be delivered annually.

1075 *See* Broadridge Comment Letter.

1076 *See id*. The commenter assumes the use of First Class or Priority Mail for documents mailed to new investors and the use of Standard Class "bulk" mail for documents mailed to existing investors. The commenter estimates the cost of printing and mailing expenses of statutory prospectuses, inclusive of summary prospectuses for each of the funds the contract offers, to be $6.00 for new investors and $2.20 for existing investors. The commenter also estimates that the variable contract prospectus constitutes 25 percent of the printed and mailed material and summary prospectuses for each of the portfolio companies offered constituting the other 75

expenses for initial summary prospectuses and updating summary prospectuses to be $1.20 and $0.55, respectively.[1077] Assuming the 2019 level of contracts in force and contract purchases remains stable, we estimate the printing and mailing cost to insurers of meeting their disclosure requirements, as they relate to the delivery of disclosure documents, using initial and updating prospectuses will decline by up to $4,845,000.[1078]

As noted earlier in this section, another key component of costs that insurer will consider when determining whether to provide summary prospectuses under the new rule is the cost of producing the initial and updating summary prospectuses. Insurers choosing to provide summary prospectuses will bear a one-time cost of preparing both the initial summary prospectus and the updating summary prospectus, as well as costs associated with preparing updated

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percent. As a result, we estimate the cost of printing and mailing variable contract prospectuses to be $1.50 (= $6.00 x 25 percent) for new investors and $0.55 (= $2.20 x 25 percent) for existing investors. Also, we estimate the cost of printing and mailing summary prospectuses for each of the portfolio companies offered by the contract to be to be $4.50 (= $6.00 x 75 percent) for new investors and $1.65 (= $2.20 x 75 percent) for existing investors.

1077 *See id*.

1078 Calculated as ($1.50 - $1.20) x 16,148,735 = $4,844,621. The calculation only includes initial disclosures as the printing and mailing costs of providing updated disclosure with respect to existing investors is assumed to be the same, $0.55. *See supra* note 1076.

versions of both documents in the future on at least an annual basis.[1079] We estimate the aggregate cost to prepare initial and updating summary prospectuses to be $3,299,285.[1080]

Insurers that choose to provide summary prospectuses are required to make statutory prospectuses and other materials available online.[1081] We estimate the annual burden to comply with the website posting requirements of the rule for documents relating to variable contracts will be 1,217 hours,[1082] at an internal cost equivalent of $301,816.[1083]

Insurers are also required to include inter- and intra-document linking and special terms definitions. One linking requirement will allow the reader to move back and forth between a table of contents of the contract statutory prospectus or SAI and the related sections of each document. Although prospectuses and SAIs are not required to have individual headings corresponding to the items in the registration forms, we assume that the sections of a prospectus or SAI will correspond with the item requirements of the forms. We estimate that Form N-3

1079 We understand that even those contracts with existing initial summary prospectuses may have changes that need to be reflected in an initial summary prospectus sent to new investors, which will require modifications to the existing initial summary prospectus. However, we believe that once an initial summary prospectus is drafted for a particular contract, that document can serve as a basis for future versions of the initial summary prospectuses sent to new investors of the contract. Thus, we believe that drafting an "updated" initial summary prospectus will be less costly than drafting the original initial summary prospectus. Similarly, we believe that preparing subsequent updating summary prospectuses will be less costly than preparing the original updating summary prospectus.

1080 *See infra* note 1230.

1081 The requirement that contract disclosure materials be available online for a period of 90 days mirrors the online availability requirement for disclosure materials associated with mutual funds using summary prospectuses, including most portfolio companies. While there are operational differences between the variable contract and mutual fund summary prospectus regimes, to the extent that the new rule harmonizes certain requirements, this could create efficiencies for contracts organized as UITs. This efficiency will not apply to Form N-3 registrants, which do not have underlying portfolio companies due to a single-tier investment company structure.

1082 *See infra* note 1234.

1083 *See infra* note 1235.

registrants will require 33 back-and-forth internal links, Form N-4 registrants will require 27, and Form N-6 registrants will require 28. The other linking requirement will allow the reader to move back and forth between each section of the summary prospectus and any related section of the contract statutory prospectus and SAI that provides additional detail. This back-and-forth movement could occur either directly from the summary prospectus to the relevant section of the statutory prospectus or SAI, or indirectly by linking from the summary prospectus to a table of contents for the statutory prospectus or SAI, and vice versa. For our analysis, we assume direct links will tend to be more costly when compared with indirect linking through a table of contents.

An initial summary prospectus for a Form N-3 registrant or a Form N-4 registrant includes seven sections and an initial summary prospectus for a Form N-6 registrant includes nine sections. However, the Key Information Table has instructions stating that a registrant should provide cross-references or links to the location in the statutory prospectus where the subject matter is described in greater detail, or should provide a means of facilitating access to that information through equivalent methods or technologies. There are 12 sections of the Key Information Table. Therefore, we estimate that there will be 18 back-and-forth links between Form N-3 and Form N-4 registrant initial summary prospectuses and statutory prospectuses, and 20 back-and-forth links between Form N-6 registrant initial summary prospectuses and statutory prospectuses.

An updating summary prospectus for a Form N-3, Form N-4, or Form N-6 registrant includes three sections, one of which, the Key Information Table, includes 12 sections. One section is the "Updated Information About Your Contract" section. The number of links in this section will depend on the number of updates discussed. For example, assuming discussion of

four updates, we estimate the number of back-and-forth links between a Form N-3, Form N-4, or Form N-6 registrant's updating summary prospectus and statutory prospectus to be 18.

The rule will also require that investors either be able to view the definition of each special term used in an online summary prospectus upon command (*e.g.*, by "hovering" the computer's pointer or mouse over the term), or to move directly back-and-forth between each special term and the corresponding entry in any glossary or list of definitions that the summary prospectus includes. We assume that registrants could replicate links to a glossary or the computer code required to implement access to definitions by "hovering" over a term with little or no burden, but that there will be a burden associated with creating the requisite link or code for each special term. Accordingly, we estimate the aggregate cost to comply with the requirement to include inter- and intra-document linking and special terms definitions as described above will include 3,812 burden hours and a cost of $508,320 annually.[1084]

[1084] These burden hours and cost estimates are a portion of the overall burden and cost estimates associated with the collection of information for rule 498A discussed below in Section V.E. In a separate rulemaking, we required registrants that file registration statements and reports subject to the exhibit requirements under Item 601 of Regulation S-K, or that file Forms F-10 or 20-F, to include a hyperlink for each exhibit listed in the exhibit index of these filings. *See* Exhibit Hyperlinks and HTML Format Adopting Release, *supra* note 1056. We estimated the burden of including hyperlinks to be between one and four hours with 75 percent of the burden carried by the registrant internally and 25 percent of the burden carried by outside professionals retained by the registrant at an average cost of $400 per hour. Filings for which we estimated a burden of four hours had approximately 33 to 35 hyperlinks, on average. We do not have data on extent to which providing the "two-way" inter- and intra-document linking and special terms definitions differs from providing "one-way" hyperlinks from one document to another. We estimate the burden of including inter- and intra-document linking and special terms definitions to be eight hours with 75 percent of the burden carried by the registrant internally and 25 percent of the burden carried by outside professionals at an average cost of $400 per hour. In the proposal, based on 726 registrants, we estimated total burden hours to be 5,518 with 4,138 hours burden hours being carried by registrants internally and the cost of the burden carried by outside professionals to be $552,000. We are revising our estimates to reflect the number of registrants, 706], that filed during 2019. Revising our estimate of the number of registrants to 706, we estimate the total burden hours to be 5,083 = (706 registrants) x (90 percent relying on rule) x (8

Finally, insurers may incur costs in connection with the requirement to provide a statutory prospectus and other documents upon request of an investor. We estimate that the annual cost associated with printing and mailing these documents will be $500 per registrant.[1085] We estimate that the aggregate annual costs associated with printing and mailing statutory prospectuses will be $304,200.[1086]

ii. Portfolio Company Prospectus Delivery Option

Form N-4 and Form N-6 registrants that use summary prospectuses may also benefit from the option to provide prospectuses for all underlying portfolio companies online.[1087] While there will be certain costs associated with complying with the requirements for posting the portfolio company materials online, as discussed below, we anticipate that this new optional delivery method will result in overall reduced costs due to a reduction in printing and mailing costs. To the extent that insurers bear these costs, we expect the reductions will benefit the insurance company, which may pass such cost savings on to new variable contract investors in the pricing of variable contracts offered in the future, and possibly to existing variable contract investors. To the extent that a portfolio company bears these costs, cost savings will typically be passed along to investors.

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burden hours per registrant). We estimate the burden hours carried by the registrants internally to be 3,807 = 5,083 x .75. We estimate the cost of the burden carried by outside professionals to be $508,320 = (5,083 x .25) x $400.

1085 *See infra* note 1233.

1086 *See infra* note 1236.

1087 *See supra* Section II.B. This new delivery option will not be available to Form N-3 registrants because they do not have underlying portfolio companies. As of the end of calendar 2019, 700 of 706 (99 percent) registrants were either Form N-4 registrants (477) or Form N-6 registrants (223).

Moreover, as with the reduction in printing and mailing costs associated with the delivery of the contract statutory prospectus, the magnitude of these cost savings is dependent on the extent to which investors currently elect to receive electronic versions of the portfolio company prospectuses rather than receive them in paper. The higher the percentage of investors who currently receive paper copies of portfolio company prospectuses, the greater the reduction in printing and mailing costs arising from the new delivery option. We estimate that 85 percent of investors currently receive paper copies of these documents.[1088]

In the Proposing Release, we estimated that printing and mailing expenses for summary prospectuses for underlying portfolio companies would be $0.53 per summary prospectus. We received additional information from a commenter that persuaded us to revise our estimate.[1089] In a change from the proposal, we estimate that printing and mailing expenses for summary prospectuses for underlying portfolio companies to be $4.50 per set of prospectuses for new investors and $1.65 for existing investors.[1090] Assuming the 2019 level of contracts in force and contract purchases remains stable, we estimate the printing and mailing cost will decline by

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1088 We recognize that by permitting the satisfaction of delivery obligations through the posting of portfolio company statutory prospectuses online (under the conditions specified in the rule), there may be a disincentive for portfolio companies to use a summary prospectus, as concerns about costs of printing and mailing the statutory prospectus will be reduced. However, the rule requires, as a condition of relying on the new delivery method, that the mutual fund summary prospectus be made available online. In addition, the Commission continues to believe that the costs of continuing to produce the mutual fund summary prospectus, which reflects a portion of the statutory prospectus, will be minimal. *See* 2009 Summary Prospectus Adopting Release, *supra* note 17.

1089 *See* Broadridge Comment Letter.

1090 *See supra* note 1076.

$4,439,000 for new investors and $26,645,000 for existing investors,[1091] for aggregate cost savings of $31,085,000.[1092] Registrants will incur costs associated with making the underlying portfolio company summary prospectus, statutory prospectus, SAI, and most recent shareholder reports available online under the conditions set forth in the rule. We estimate the annual burden to comply with the website posting requirements of the rule for documents relating to portfolio companies will be 1,206 hours,[1093] at an internal cost equivalent of $299,088.[1094]

Insurers and portfolio companies may incur costs in connection with the requirement to provide summary prospectuses for underlying portfolio companies upon request of an investor. We estimate that the annual cost associated with printing and mailing these prospectuses will be $500 per registrant.[1095] We estimate that the aggregate annual costs associated with printing and mailing portfolio summary prospectuses will be $301,500.[1096]

1091 Calculated as $4.50 x 986,468 = $4,439,104 for new investors and $1.65 x $16,148,735 = $26,645,413 for existing investors.

1092 Calculated as $4,439,104 + $26,645,413 = $31,084,517.

1093 *See infra* note 1234.

1094 *Id*. Although we do not have data on the use of summary prospectuses for the underlying portfolio companies offered in variable contracts, we understand that delivery of summary prospectuses is typical. To the extent that there are portfolio companies for which no summary prospectus has been created, there will be costs associated with the summary prospectus requirement. Those costs will include the cost of creating the document, making sure that the summary prospectus is structured appropriately, and costs associated with filing the summary prospectus after it is first used under rule 497. We believe that these costs will be small, however. For example, the content of a mutual fund summary prospectus consists of Items 2 through 8 of Form N-1A, with the cover page as specified by rule 498.

1095 *See infra* note 1241. Also, currently contract investors may request paper copies of online documents related to portfolio investments (*e.g.*, SAIs). As a result, we estimate the cost of updating systems to accommodate requests for paper copies of prospectuses for portfolio investments will be minimal.

1096 $500 x 90 percent x (477 Form N-4 registrants + 223 Form N-6 registrants) = $315,000.

Thus, we estimate a reduction of costs related to delivery of portfolio company summary prospectuses of $30,479,000.[1097]

2. Changes to Forms N-3, N-4, and N-6

a. Benefits and Costs for Investors

The amendments to Forms N-3, N-4, and N-6 are intended to reflect the evolution of variable contract features including, in particular, the prevalence of optional benefits that insurers offer under these contracts, and to provide greater consistency among the forms. For example, the amended forms require additional information about standard and optional benefits that a contract may offer. There is no current form requirement regarding optional benefits.

The amended forms also increase consistency of disclosure presentation requirements among variable contracts that register on different form types. This increased consistency could help investors compare variable contracts that register on different form types. Certain investors who are considering variable annuities may also be considering variable life insurance (and vice versa). We believe a consistent presentation and common disclosure of elements that we consider useful in explaining variable contracts' features and risks could reduce investor confusion and promote investor understanding across types of variable products. Also, we believe that more uniformity of disclosures across variable contract types may make it easier for investors to compare similar products.

We are amending the General Instructions of Forms N-3, N-4, and N-6 regarding the preparation and filing of registration statements. First, these amendments prescribe the ordering and location of the Key Information Table, the Overview of the Variable Annuity Contract, and

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[1097] $31,084,517 - $304,200 – $301,500 = $30,478,817.

the Fee Table. In particular, the amendments place this information at the beginning of the prospectus, benefitting investors to the extent that this placement makes information about a variable contract's key features, costs, and risks more readily available. We do not anticipate that these changes will impose substantial costs on investors. We acknowledge that investors familiar with the current ordering of information on Forms N-3, N-4, and N-6 could bear one-time costs associated with adjusting to the presentation of information on these forms.

Second, we are amending the General Instructions to provide new guidance in each of the forms that addresses when a single prospectus may be used to describe multiple contracts and when multiple prospectuses may be included in a single registration statement. To the extent that ensuring that prospectuses and registration statements cover contracts with similar features, costs, and risks facilitates investors' understanding of contract characteristics, these amendments may benefit investors. While we do not have information available to quantify these benefits, we believe that these amendments are consistent with current industry practice and we therefore do not expect these benefits to be substantial. We do not anticipate that these changes will impose substantial costs on investors. We acknowledge that to the extent that the guidance results in presentation of information that investors are unaccustomed to, investors may bear one-time costs associated with adjusting to a new presentation of variable contract information.

In a change from the proposal, we have decided to eliminate AUV tables currently in Forms N-3 and N-4 in their entirety.[1098] Eliminating AUV tables may impose costs on current and potential investors, to the extent that such investors could make use of historical summary performance information as part of their decision to make additional investments or their

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[1098] *See supra* Section II.C.2.e.

decision to choose between insurers or variable products. We believe these costs are substantially mitigated, however, because investors can get summary information with respect to the net performance of an individual option from the Appendix to the summary prospectus.

b. Benefits and Costs for Insurers

The form amendments will increase consistency of disclosure presentation requirements among variable contracts that are registered on different form types. We anticipate that this increased consistency among Forms N-3, N-4, and N-6 could have the benefit of reducing costs among sponsors that register variable contracts on multiple registration form types. For example, we anticipate that this will make the production of registration statements simpler, in that form instructions and content requirements will in many cases be the same (except in cases where structural differences or product differences that the different form types indicate will lead to requirements that will differ across the form types).[1099]

In a change from the proposal and as discussed above, we have decided to eliminate AUV tables currently in Forms N-3 and N-4 in their entirety. For registrants utilizing these forms, we believe the amendments will reduce the costs related to preparing registration statement disclosure of information relating to the contract's accumulation unit values. We estimate the implementation costs for each of the three registrant types, while netting the reduced burden for Form N-3 and Form N-4 registrants, below.

[1099] In 2019, 73 insurers filed Form N-CEN reports for separate accounts with registrations on Forms N-3, N-4, and N-6. 5 of the 73 (7 percent) insurers filed Form N-CEN reports for all three form types (N-3, N-4, and N-6). 58 of the 73 (79 percent) issuers filed Form N-CEN reports for two form types. Overall, 63 (86 percent) insurers filed Form N-CEN reports for more than one form type.

Form N-3 Estimates. We estimate that there are currently six insurer separate accounts that file on Form N-3. We estimate the total annual hour burden to comply with amended Form N-3 to be 2,836 hours, at an internal time cost equivalent of $762,884.[1100] We also estimate the total external cost burden to comply with amended Form N-3 to be $123,114.[1101]

Form N-4 Estimates. We estimate that there are currently 477 insurer separate accounts that file on Form N-4. We estimate the total annual hour burden to comply with amended Form N-4 to be 300,937 hours, at an internal time cost equivalent of $80,952,053.[1102] We also estimate the total external cost burden to comply with amended Form N-4 to be $30,342,168.[1103]

Form N-6 Estimates. We estimate that there are currently 223 insurer separate accounts that file on Form N-6. We estimate the total annual hour burden to comply with amended Form N-6 to be 65,123 hours, at an internal time cost equivalent of $17,518,087.[1104] We also estimate the total external burden to comply with amended Form N-6 to be $7,840,000.[1105]

In addition to these implementation costs, the form amendments could impose costs related to changes in presentation of information. In particular, the amendments may impose costs on insurers to the extent that they limit insurers' flexibility in choosing the placement of information within the statutory prospectuses. While we do not have data necessary to quantify these costs, we do not expect them to be substantial.

1100 *See infra* note 1172.

1101 *See infra* note 1173.

1102 *See infra* note 1183.

1103 *See infra* note 1184.

1104 *See infra* note 1194.

1105 *See infra* note 1195.

3. Inline XBRL

Generally as proposed, except as discussed below, we are requiring certain information from variable contract statutory prospectuses to be filed with the Commission in Inline XBRL. Inline XBRL is a specification of XBRL that is both human-readable and machine-readable for purposes of validation, aggregation, and analysis.

The Inline XBRL requirement is expected to benefit investors directly by facilitating and enhancing the analysis and comparison of variable contracts by investors and by investment professionals working on their behalf, and indirectly by facilitating the analysis of variable contracts by financial analysts, data aggregators, Commission staff, variable contract issuers, and others. For example, we expect that investors will benefit from more accurate and timely information provided by data aggregators as a result of the Inline XBRL requirement.

These benefits are expected to be greatest in instances of filings by a large number of registrants and for information from variable contract disclosures that is not aggregated by data aggregators today and therefore requires greater effort to extract and analyze on the part of investors. To the extent that some of the variable contract investors and other data users also review disclosures of mutual funds and ETFs, those investors and other data users will have familiarity with using Inline XBRL to view and analyze disclosures from having reviewed prospectus risk/return summaries filed in Inline XBRL under the recently adopted Inline XBRL requirements for mutual funds and ETFs.[1106]

For contracts being sold to new investors, variable contract registrants will incur costs to tag and review the required information in Inline XBRL. Some filers may perform the tagging

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[1106] *See* Inline XBRL Adopting Release, *supra* note 892.

in-house while others may retain outside service providers. We expect the outside service providers to pass along their costs to filers. Various XBRL preparation solutions have been developed and used by operating companies and open-end fund filers, and some evidence suggests that, for operating companies, XBRL tagging costs have decreased over time.[1107] Because Inline XBRL allows filers to embed XBRL data directly into an HTML document, we expect costs to be even lower than with XBRL since Inline XBRL eliminates the need to tag a copy of the information in a separate XBRL exhibit. For filers that currently report information in Inline XBRL for other investment products they offer, such as open-end funds, filing variable contract information in Inline XBRL under the amendments will likely incur lower costs of compliance than filers adopting Inline XBRL for the first time.

In a departure from the proposal, we are applying the Inline XBRL requirement only to contracts that are being sold to new investors. As discussed in further detail below, we believe the benefits of structured data are less significant for contracts that are not being sold to new investors and do not justify the additional yearly tagging cost on filers of such contracts.[1108] As a result, contracts that are offered to new investors after the Inline XBRL compliance date will include current structured data only until those contracts are no longer offered to new investors, at which point the structured data will no longer reflect any subsequent changes to the formerly

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1107 *See, e.g., XBRL Costs for Small Companies Have Declined 45%, According to AICPA Study* (Aug. 15, 2018), *available at* https://www.aicpa.org/press/pressreleases/2018/xbrl-costs-have-declined-according-to-aicpa-study.html (stating that " the cost of XBRL formatting for small reporting companies has declined 45 percent since 2014, according to an updated pricing survey… 68.6 percent of the companies paid $5,500 or less on an annual basis (as compared to 29.9 percent of companies in the 2014 survey) for fully outsourced creation and filing solutions for their XBRL filings. Meanwhile, 11.8 percent of the companies paid annual costs between $5,500 to as much as $8,000 for their full-service outsourced solutions.").

1108 *See infra* Section IV.E.5.

tagged disclosures. Investors that use this structured data could therefore incur the cost of using potentially outdated information in their analysis. However, because prospectus disclosures related to contracts that are no longer sold to new investors are unlikely to materially change from year to year, and because these contracts are not potential investments for new investors comparing variable contract options, we believe this cost is of low significance.

Similar to the risk/return summary requirements for mutual funds and ETFs, (1) the amendments require variable contract registrants to submit to the Commission in Inline XBRL certain information from registration statements, post-effective amendments, and prospectuses with certain information that varies from the registration statement, and (2) the Interactive Data File will be submitted in post-effective amendment filings to the registration statement, which may make the filing incrementally more efficient than if the Interactive Data File was submitted in a separate filing.

Those registrants affected by the requirement that have not had experience structuring disclosures in other contexts will likely incur initial costs to acquire the necessary expertise and/or software as well as ongoing costs of tagging required information in Inline XBRL, and any fixed costs of complying with the Inline XBRL requirement may have a relatively greater impact on smaller filers.[1109] On an ongoing basis, registrants are expected to expend time to review the tagged information in Inline XBRL using their in-house staff. Some registrants may also incur an initial cost to license filing preparation software with Inline XBRL capabilities from a software vendor, and some may also incur an ongoing licensing cost. Other registrants may incur an initial cost to modify their existing filing preparation software to accommodate

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[1109] *See supra* note 897.

Inline XBRL preparation. Some registrants will incur the costs of filing agent services to rely on a filing agent to prepare their Inline XBRL filings. Initial costs involving investments in expertise and modifications to disclosure preparation solutions, or switching to a different software vendor or outside service provider, may result in a higher compliance cost during the first year of using Inline XBRL than in subsequent years. While the costs of compliance with the Inline XBRL requirement are likely to vary across registrants, we estimate that the average annual internal burden for a variable contract registrant on Forms N-3, N-4, and N-6 will be approximately $20,880, $14,616, and $14,616 per year, respectively, and the average external cost will be approximately $1,800, $900, and $900 per year, respectively.[1110]

The compliance dates under the amendments are expected to give registrants additional time to obtain the necessary expertise and software, and mitigate the impact of transition on all filers, including smaller filers. However, we also expect that filers may realize benefits from the Inline XBRL requirement to the extent that making disclosures available in a structured format reduces some of the information barriers that make it costly for variable contract registrants to find new investors, as discussed in Section IV.D below.

By making it easier to perform automated comparisons of disclosures across variable contracts, the amendments also might affect sales agents. Sales agents play a significant role in the distribution of variable contract products. For non-captive sales agents that independently compare variable contract products for recommendation to investors and prepare their own sales materials, we believe that those sales agents could benefit from the easier access and enhanced usability of information about variable contracts in Inline XBRL. Inline XBRL can facilitate

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[1110] *See infra* Section V.D.

faster search features across a larger set of variable contracts, with the Inline XBRL Viewer providing enhanced filtering and aggregation features. By using these features, sales agents may be able to select variable contract offerings that are better tailored to investors' demands. Similar benefits could also accrue to captive sales agents, to the extent that Inline XBRL permits them to more easily compare different variable contracts offered by a single issuer compared to manual review. Because having the required data in a structured format facilitates the analysis, aggregation, and comparison of information about variable contracts, the amendments might increase competition for investor capital among sales agents offering variable contract products of individual insurers or a narrow range of variable contract products.[1111]

4. Treatment of Discontinued Variable Contracts

As discussed above, the Commission is taking the position that if an issuer of an Eligible Contract that is discontinued as of July 1, 2020 that provides alternative disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided with the Alternative Disclosures or certain modernized alternative disclosures.[1112]

Issuers providing alternative disclosures currently experience reductions in costs associated with updating registration statements and delivering updated prospectuses, compared

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[1111] Requiring variable contract registrants to file certain key information in Inline XBRL could facilitate comparisons of information across registrants which could increase competition among variable contract registrants for investor capital. Also, requiring variable contract registrants to file certain key information in Inline XBRL could reduce barriers to entry for third-party aggregators and induce competition among firms that supply information about variable contracts to investors. These possibilities are discussed in greater detail below.

[1112] *See supra* Section II.E.

to other variable contract issuers. In addition, the Commission position creates an option for issuers of Eligible Contracts. In lieu of providing financial statements and portfolio company prospectuses, issuers can send a Notice Document and post the portfolio company prospectuses and other required documents online. Issuers of Eligible Contracts will benefit from this position to the extent preparing and sending the Notice Document, in lieu of providing portfolio company prospectuses and financial statements, is less costly than providing Alternative Disclosures. This determination will be specific to agreements between insurers and portfolio companies as well as the circumstances of each contract, including the number of remaining contract investors, the number of underlying portfolio companies, and the proportion of the costs of printing and mailing the portfolio company prospectuses allocated to the variable contract issuer.

We acknowledge that there are certain other costs and burdens that are currently reduced for issuers providing alternative disclosures, but would not be similarly reduced under the rule and form amendments. For example, a registrant relying on rule 498A will bear burdens of maintaining and updating the contract registration statement,[1113] preparing and filing updating summary prospectuses, delivering the updating summary prospectus to investors annually, and making the contract statutory prospectus and SAI and other required documents available online. In addition, while the form amendments will simplify certain current disclosure requirements,[1114] in other instances they will result in new or amended disclosures that, in the aggregate, we

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[1113] Even when there are not material updates to the contract, the updating process still will entail internal burdens (*e.g.*, for the registrant to confirm the continued accuracy of the information in the registration statement and to update information about the portfolio companies) and external expenses (*e.g.*, for outside legal and auditor services).

[1114] For example, the amendments to Form N-3 and Form N-4 include certain changes that eliminate burdens related to preparing and disclosing contract accumulation unit values. *See supra* Section II.C.2.e.

anticipate will result in a net increase in the burden associated with preparing an initial registration statement and post-effective amendments thereto.[1115]

We estimate that approximately 4.79 million variable contracts are currently providing alternative disclosures.[1116] For those contracts, the extent of the impact, compared to the baseline, of the Commission's position with respect to Eligible Contracts will depend on the extent to which insurers choose to provide modernized alternative disclosures. If insurers choose to provide the Alternative Disclosures, the impact would be minimal.[1117] Alternatively, if issuers choose to provide modernized alternative disclosures, we believe investors will receive more useful information than the financial statements they currently receive.

With respect to insurers with variable contracts outstanding, the Commission position likely will result in some costs. Existing contracts whose issuers are not currently operating in the manner described in the Staff Letters may have been structured or offered by insurers with the expectation that the insurer could provide alternative disclosures if a product launch is unsuccessful or the number of investors diminishes over time. Those contracts may experience unexpected future costs associated with updating the registration statement and delivering prospectuses under current regulatory requirements. However, those contracts could avail themselves of the summary prospectus regime, which, as discussed above, may mitigate some of those costs.

1115 *See infra* Section IV.C.2.b.

1116 *See supra* note 1031.

1117 We note that insurers will have to file financial statements with the Commission as described in Section II.E.3.a above. *See supra* note 954.

Many of the burdens that are currently reduced for issuers providing alternative disclosures are also expected to be reduced under the summary prospectus framework; in particular, we expect reductions in costs associated with printing and mailing the contract summary prospectus and underlying portfolio company prospectuses to investors.[1118] However, to the extent that the summary prospectus framework does not reduce future costs to the same extent as currently for issuers providing alternative disclosures, insurers may seek to terminate contracts with few remaining investors.

D. Effects on Efficiency, Competition, and Capital Formation

This section describes the effects we expect the rule and form amendments to have on efficiency, competition, and capital formation.

Efficiency. To investors, the costs of purchasing a variable contract are more than just the dollar cost of the contract and include the value of an individual's time spent gaining an understanding of the contract as well as various aspects of the contract including optional benefits and fee structures, both prior to contract purchase and during the free look period following purchase. Further, for those investors who do not gain a full understanding of the contract, there could be a cost stemming from a potential mismatch between an investor's goals and the purchased contract. Depending on the size of an individual's potential purchase, certain of these additional costs could be considerable in comparison to the monetary costs associated with contract purchase and could discourage investors from considering variable contracts even in circumstances where investment in a variable contract would be beneficial.

[1118] *See supra* Section IV.C.1.b.

For their part, insurers only supply variable contracts to the extent they expect the benefits derived from providing the contracts to be greater than cost of supplying the contract.[1119] For insurers, costs include not only those costs associated with producing and servicing variable contracts, but also those costs associated with meeting various statutory and regulatory obligations.

These costs borne by both insurers and individuals are examples of market "frictions." Market frictions have the effect of reducing the benefits from contracting between market participants.[1120] Rules that reduce costs for investors, insurers, or both, reduce market frictions. The summary prospectus framework offers the opportunity for both insurers and investors to reduce their costs associated with variable contracts. Summary prospectuses provide information in a concise, user-friendly way that may allow investors to better understand variable products. The summary prospectus framework offers opportunities for insurers to reduce the costs of producing and delivering required disclosures to investors.[1121]

Similarly, the amendments to the registration forms will make key information more salient for investors and will make the presentation of this information more consistent across variable contract types. Additional consistency across forms will also reduce compliance burdens for insurers that are required to file using multiple form types, as will the amendments that reduce or eliminate certain disclosure requirements such as the AUV table requirement. The

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[1119] Insurers who expect the benefits derived from supplying contracts to be equal to the cost of supplying the contract will be indifferent between supplying and not supplying the contract.

[1120] If market frictions are sufficiently large, market frictions could eliminate exchange altogether.

[1121] For example, as discussed above, greater investor understanding of variable products could lead to a better match between investor goals and purchased variable contracts. In other words, investment efficiency could increase.

resulting decrease in market frictions should lead to greater efficiency by reducing barriers that insurers may face in supplying variable contracts to investors, and reducing barriers investors may face in evaluating variable contracts sold to them by insurers, particularly during the free look period.[1122] In addition, requiring variable contract registrants to file certain information in Inline XBRL will enable investors to capture and analyze that information more quickly and efficiently than is possible using the same information provided in a static, text-based format. This improved functionality is expected to also facilitate the analysis performed by other data users (such as financial analysts, data aggregators, Commission staff, academics, and financial journalists) to the ultimate benefit of investors.

These increases in efficiency could manifest as a higher likelihood that investors make investment decisions that are informationally efficient. First, it may increase the likelihood that investors choose a level of participation in variable contracts that is consistent with their overall financial needs and objectives—a level that may be higher or lower than current levels. The rule and form amendments may help promote investment in variable contracts by investors who would benefit from them. Second, more concise, user-friendly disclosure facilitates comparison across variable contracts and could make it more likely that investors choose the contracts that best meet their needs and reject those that do not. We also note that in facilitating comparison across variable products, concise, user-friendly disclosures may promote competition among insurers on dimensions such as fees, costs, and conflicts which could, in turn, improve investor

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[1122] As noted above, there may be investors who prefer to rely on statutory prospectuses when making an investment decision who may not take the steps necessary to access the statutory prospectus. To the extent there are both investors who prefer to rely on statutory prospectuses when making an investment decision and who do not take the steps necessary to access the statutory prospectus, the increased barrier (the steps necessary to access the statutory prospectus) could lead to reduced efficiency in investor evaluation of variable contracts.

welfare. Third, improved access to information resulting from more concise disclosure could facilitate more efficient investor allocation of assets across portfolio companies within variable contracts. Finally, access to clearer information about the contract terms may reduce the chances that an investor surrenders a variable contract when the costs of surrender do not justify the benefits of surrender.

Furthermore, we considered the potential impact of our position on Alternative Disclosure Contracts on efficiency. We recognize that our position likely will cause insurers with non-Alternative Disclosure Contracts outstanding to incur additional costs due to the disclosure obligations that they may not have anticipated. To the extent that these unexpected costs drive insurers to take actions to encourage investors to exchange old contracts for new contracts or to buy out existing contracts, the Commission's position may result in inefficiencies. However, we believe that this reduction in efficiency may be offset by the expected increase in informational efficiency associated with the disclosures that will be afforded to contract holders in lieu of the alternative disclosures described in the Staff Letters.

Competition. If the rule and form amendments increase efficiency of exchange in the variable contracts market, then we may observe a change in investment in variable contracts. For example, if there are individuals who currently do not invest in variable contracts (or invest less than they would have) because the costs other than the price of the contract are too high, then to the extent the rule lowers those costs we would expect to observe more people entering the variable contract market. Conversely, there may be investors who, because of the burden, choose not to read statutory prospectuses. To the extent those investors are more likely to read summary prospectuses, those investors may decide, as a result, that other investments or products are better suited to their investment goals. This could result in fewer investments in variable

contracts. If there are insurers who limit their participation in the variable contract market, or limit the portfolio companies they offer as a result of the costs of current prospectus delivery requirements, those insurers may increase participation or increase the number of portfolio companies they offer as a result of this rule. To the extent that competition in a market is related to the size of the market, the net effect of these potential changes in investor demand for, and insurer supply of, variable contracts could affect competition in the variable contract market.

The rule could also affect competition by requiring that information about the variable contract be presented in a concise, user-friendly way in the summary prospectus, which enhances the ability of investors to compare information across products. Requiring variable contract registrants to file certain information in Inline XBRL will further facilitate comparisons of information across contracts by making it easier for investors (directly or through data aggregators) to extract and aggregate information through automated means for analysis and comparison, which could increase competition among variable contract registrants for investor capital, particularly in combination with the free look period.[1123] For example, the rule and form amendments require insurers to distill certain information into tables. The presentation of this

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[1123] Competitive dynamics are more effective in areas where comparisons can be more easily made. For example, we believe that in the market for mutual funds and exchange-traded funds – particularly index funds – the enhanced comparability provided by mutual fund summary prospectuses and competition, among other factors, have driven down fees significantly. Comparability among index funds that follow the same market index is facilitated in part by their passive style of investing. Actively managed funds that follow the same investment strategy can show different performance due to, among other things, the "skill" of the manager of outperforming the market (or any other benchmark). This skill is unobservable and generally hard to measure, which makes comparisons across actively managed funds difficult. In contrast, comparisons across index funds that follow the same market index and that have passive investment styles are based more on observable variables, such as fees, rather than unobservable variables, such as managerial skill. In this context, disclosure that is more salient with respect to these observable variables may facilitate comparisons across index funds.

information in a table facilitates comparison across different products. Greater comparison across different variable products could lead to greater competition on dimensions which could improve investor welfare. Insurers could leverage the enhanced comparative capabilities arising from the Inline XBRL requirement (as well as the broader informational benefits arising from the summary prospectus and registration statement updating requirements) to better survey the variable contract products offered by their competitors and develop innovations to differentiate their own products from those offered by their competitors. Furthermore, the comparative benefits discussed above could increase further to the extent third-party data aggregators enter the market and use information disclosed in prospectuses to provide consolidated data on variable products, as search and processing costs could be reduced even further for investors. By reducing the costs associated with aggregating data across variable contracts, the Inline XBRL requirements could reduce barriers to entry for third-party data aggregators and induce competition among firms that supply information about variable contracts to investors, including other third-party aggregators and sales agents.

The effect on competition between insurers could be limited, however, to the extent variable contract investors continue to rely on an agent to help them select and customize their variable contract(s) and do not have access to broad comparisons of variable contracts enabled by the Inline XBRL requirements at the time of sale or during the free look period.[1124] Agents generally only provide their customers with a subset of the variable contracts available in the general marketplace. Thus, while the product information in summary prospectuses will

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[1124] *See* IRI Fact Book, *supra* note 16, at 176.

facilitate comparison across products offered by the agent, the effect will likely be limited to the agent's set of products rather than to the broader market.

We recognize that any fixed costs of compliance with the new requirements, including Inline XBRL requirements, could have a relatively greater impact on small filers. However, the overall magnitude of such costs, discussed in greater detail in Section V below, and thus the magnitude of the associated competitive effects, is expected to be modest.

We also considered the potential impact of our position on Alternative Disclosure Contracts on competition between insurers. Above, we discussed the possibility that, because contracts that are not Alternative Disclosure Contracts as of the effective date of the final summary prospectus rules could not provide alternative disclosures after such date, the Commission's position could cause these insurers to experience future costs of disclosure obligations that they may not have anticipated. The Commission's position thus may place at a competitive advantage those insurers with a greater proportion of contracts that may operate under the Commission position.[1125] We note, however, that Alternative Disclosure Contracts are no longer offered for sale to the public and, therefore, do not compete for investment by new investors. The competitive effect will be limited to additional investment by existing investors in existing Alternative Disclosure Contracts.

Commenters stated that the Alternative Disclosure Contract framework has enabled insurers to continually innovate and introduce new products for investors.[1126] One commenter

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1125 One commenter stated that our position on Alternative Disclosure Contracts would create an advantage to insurance companies with large existing bases of variable contract investors. *See* Better Markets Comment Letter.

1126 *See* CAI Comment Letter; Brighthouse Comment Letter; Transamerica Comment Letter.

indicated that in the absence of the Alternative Disclosure Contract framework, insurers would be less likely to innovate and offer new products which could, in turn, limit investor choice and dampen competition among insurers.[1127] As discussed above, however, we generally believe that all variable contract issuers should provide investors the same information and be subject to the same liability standards.[1128]

Finally, four commenters stated that our requirement to base certain fee calculations in the Key Information Table on an assumed account balance of $100,000 would put insurers offering variable contracts at a competitive disadvantage to mutual funds which are required to assume a $10,000 balance.[1129] As we note above, $100,000 more closely approximates the current average value of a variable annuity, and therefore we continue to believe that figure is more likely to result in cost projections that align with actual investor expectations and experience.[1130]

Capital Formation. As discussed in connection with the potential effects of the rule on competition, if the rule increases the efficiency of exchange in the variable contracts market, then we may observe a change in investment in variable contracts. Greater investment in variable contracts could lead to increased demand for securities held by the portfolio companies that

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1127 *See* CAI Comment Letter.

1128 *See* Section II.E.3.a.

1129 *See supra* note 132.

1130 *See supra* note 133. We note also that while variable contracts and mutual funds share certain characteristics, variable contracts provide insurance benefits that mutual funds do not. *See, e.g.*, "How is a Variable Annuity Different from a Mutual Fund?" *available at* https://irionline.org/consumer-articles/how-is-a-variable-annuity-different-from-a-mutual-fund-. The insurance benefits of variable contracts may limit competition between variable contracts and mutual funds. The extent of competition between insurers and mutual funds depends on the extent to which investors view variable products and mutual funds as substitutes for one another, even though variable contracts provide insurance benefits that mutual funds do not.

underlie the variable contracts (or held directly by the separate account in the case of a Form N-3 registrant).[1131] The increased demand for securities could, in turn, facilitate capital formation.[1132] Diminished investment, however, could lead to reduced demand for such securities. We expect either of these effects to be small. We further note that to the extent increased or decreased investment in variable contracts reflects substitution from other investment vehicles, the effect on capital formation will be attenuated.

The Inline XBRL requirements could increase the efficiency of capital formation to the extent that making disclosures available in a structured format reduces some of the information barriers that make it costly for variable contract registrants to find new investors. Smaller registrants in particular may benefit more from enhanced exposure to investors. If reporting the disclosures in a structured format increases the availability, or reduces the cost of collecting and analyzing, key information about variable contracts, smaller variable contract registrants may benefit from improved coverage by third-party information providers and data aggregators.

To the extent that the rule reduces costs for some variable contract registrants, we expect reduced costs to increase the portion of investor money that is retained as the investor's contract value, rather than used to cover expenses, resulting, over time, in a net positive effect on the level of capital invested through variable contracts. Furthermore, to the extent that reductions in expenses have a positive effect on the performance of variable contracts and attract new

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1131 This would be true to the extent funds invested in variable contracts would not otherwise have been invested in securities.

1132 One commenter stated that summary disclosure could facilitate capital formation by enabling consumers to understand the role of variable life insurance and variable annuities in financial and retirement security. *See* ACLI Comment Letter.

investors or additional capital from existing investors, the rule may result in greater capital formation. We expect this effect to be small.

E. Reasonable Alternatives

1. Mandating Summary Prospectuses

New rule 498A will provide registrants the option to use the summary prospectus regime the rule establishes. Alternatively, we considered mandating the use of summary prospectuses.[1133] We expect that use of summary prospectuses will provide net benefits to investors because they are shorter, simpler, and designed to make salient the most important variable contract terms. A mandatory regime would ensure that those benefits are available to all investors, not just those who have invested in variable contracts offered by insurers that would elect to deliver summary prospectuses.[1134]

We believe that insurers will only choose to rely on the optional summary prospectus regime where they expect that the benefits will outweigh the costs. While we believe that reliance on the summary prospectus regime will yield cost savings for insurers, we acknowledge that these cost savings will vary across insurers and there may be insurers that do not expect benefits in excess of the expected costs of relying on summary prospectuses. Registrants will likely assess the relative benefit of using a summary prospectus based on the types of products they offer and the length of their current prospectuses—as well as the benefit of more concise

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1133 *See supra* note 42

1134 As discussed above, we understand that some investors who prefer statutory prospectuses may experience costs if they are given summary prospectuses and need to request statutory prospectuses. Under a mandatory regime, this cost would be borne by all investors who prefer statutory prospectuses, not just those who have invested in variable contracts offered by insurers that would elect to deliver summary prospectuses. Regardless, as noted above, we believe the number of investors who would prefer statutory prospectuses, as well as the number of insurers that would not elect to deliver summary prospectuses, to be a minority.

disclosure to investors—when evaluating whether to opt into the new layered disclosure regime. Imposing a mandatory summary prospectus regime would entail imposing net costs on these insurers.

Based on our analysis of cost savings and other efficiencies above, our expectation is that insurers offering variable contracts to new investors will choose to use summary prospectuses. We believe that making reliance on rule 498A optional will give insurers the opportunity to gradually transition to the new summary prospectus regime while minimizing disruption to their current registration and business processes. Given our expectation that most insurers offering variable contracts to new investors will chose to use summary prospectuses, and the anticipated cost-savings and other efficiencies available to insurers that rely on the rule, we do not at this time believe a mandatory approach is necessary to achieve the goals of the variable contract summary prospectus regime.

2. Summary Prospectuses Delivered with Statutory Prospectuses.

New rule 498A requires the variable contract statutory prospectus, as well as the contract's SAI, to be publicly accessible, free of charge, at a website address specified on the cover of the summary prospectus. As we discuss above, investors who wish to use statutory prospectuses as well as summary prospectuses will bear an additional burden of accessing statutory prospectuses online. Alternatively, the rule could require insurers to provide both summary and statutory prospectuses together in paper or, if the investor has elected to receive the document electronically, in electronic form. This alternative would offer the benefit, for those investors choosing to receive the documents in paper, that any investor wishing to use both summary and statutory prospectuses in his or her decision making would not be required to bear the additional burden of accessing statutory prospectuses online.

While providing both summary and statutory prospectuses together would eliminate the necessity of those investors who wish to use both summary and statutory prospectuses having to bear the burden of accessing statutory prospectuses online, we have decided against this alternative for two reasons. First, rather than reducing printing and mailing costs, this alternative would create additional printing and mailing costs. We believe that the increased printing and mailing costs would cause few insurers to choose to provide both summary and statutory prospectuses. Thus, *de facto*, the potential benefits of layered disclosure would likely not be available to most investors.

Second, summary prospectuses will provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly document. We are concerned that variable contract investors may not read or understand the disclosures they currently receive. If investors were to receive both summary and statutory prospectuses, the increase in materials received could lead to potentially fewer investors reading either of the documents.[1135]

3. Contract-Specific Updating Summary Prospectuses

The adopted variable contract summary prospectus regime requires that the initial summary prospectus only describe a single contract that the registrant currently offers for sale, but permits an updating summary prospectus to describe more than one contract covered in the statutory prospectus to which the updating summary prospectus relates. Commenters supported

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[1135] This effect is mitigated to the extent that investors want to receive the additional disclosure. For example, those investors who currently read statutory prospectuses in consideration of their investment decisions may find the incremental burden associated with receiving the additional disclosure in the form of summary prospectuses to be small.

the optionality to allow the updating summary prospectus to include multiple contracts under the statutory prospectus to which the summary prospectus relates.[1136] As an alternative, we considered requiring that the updating summary prospectus describe only a single contract.

An updating summary prospectus that describes solely the contract held by an investor could be easier for that investor to consume than an updating summary prospectus that describes more than one contract, and therefore could be more beneficial to investors than the final rule's approach. The magnitude of this increase in benefits depends on the extent to which information about multiple contracts confuses investors or causes investors not to read the information, which, in turn, likely depends on the number of changes to contracts and the number of different contracts that would be presented in the updating summary prospectus.

We acknowledge that this alternative would permit investors to easily focus on key information on a single contract. However, we believe this increase in benefits would be limited because, based on our current understanding of variable contracts, there are a limited number of changes to contracts in any given year, and many of those changes (such as changes to the available portfolio companies or the addition of new optional benefits) typically apply to similar contracts in the same prospectus. Accordingly, although the section of the updating prospectus that describes changes to the contracts will cover multiple contracts, the number of changes concerning any individual contract is expected to be relatively brief, thus minimizing the amount of inapplicable information the investor would read.

We do note that under this alternative, an insurer could limit the costs associated with printing and mailing by only delivering those updating summary prospectuses to an investor that

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1136 *See supra* note 344.

holds the contracts they describe. However, such a process would likely entail systems upgrades and changes to back-office operations needed to tailor mailings on an investor-by-investor basis.[1137]

4. Do Not Provide Updating Summary Prospectuses

We considered two closely related alternative approaches to the final summary prospectus regime in which only initial contract purchasers would receive a summary prospectus, and afterwards, investors who make additional purchase payments or who reallocate contract value would either (1) receive no updating summary prospectus or (2) receive only a notice that the statutory prospectus is available online. Such an alternative would likely yield larger cost savings for insurers because insurers would not be required to produce, print, and mail updating summary prospectuses and would instead incur only costs associated with providing the initial summary prospectus when an investor first purchases the contract or reallocates contract value.

However, under either of these alternatives, investors would not benefit from the ongoing layered disclosure provided by the updating summary prospectus. As discussed above, the Commission believes that the updating summary prospectus's brief description of any important changes to the contract that occurred within the prior year will allow investors to better focus their attention on new or updated information relating to the contract. Relatedly, the updating summary prospectus includes certain information required in the initial summary prospectus that we consider most relevant to investors when considering additional investment decisions, and

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[1137] We understand that the process involved in drafting and printing an updating summary prospectus that only describes the changes made to a single contract (and then distributing a tailored updating summary prospectus to each investor based on their particular contract) is quite complex. In contrast, the same process with respect to the initial summary prospectus is relatively straightforward since the document, which would only describe the currently available contract, would be provided all new investors.

investors would not have access to this concise presentation of key information under either alternative.

5. Inline XBRL

The amendments require variable contract registrants to file certain information from statutory prospectuses with the Commission in Inline XBRL. As an alternative, we considered allowing, but not requiring, variable contract registrants to file the information in Inline XBRL. Compared to the amendments, a fully voluntary Inline XBRL program would lower costs for those filers, particularly filers that do not already file information in Inline XBRL.[1138] However, a voluntary program would reduce the usability of the required data. If information was not submitted by the registrant in a structured, machine-readable format, investors and other data users who wish to instantly analyze, aggregate, and compare the data would be required to incur the costs of paying a third-party provider to manually rekey the data, review the data for data quality problems during the duplication process, and disseminate the data to the users. Alternatively, investors or data users unwilling to pay a third-party provider would incur the time to conduct that process themselves. In either scenario, the data would not be usable in as timely a manner as if it were made machine-readable. In addition, under a voluntary program, data that is not submitted in Inline XBRL would not be validated in EDGAR. Validations are technical restrictions that test for completeness of the data and that the data is appropriately formatted. Validations enable the Commission to ensure consistency of the data so that the disclosures can

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[1138] In expressing support for the availability of hardship exemptions for Inline XBRL tagging, one commenter stated, "Generally speaking, it could be helpful to conceive of a transition from voluntary to mandated use, especially with respect to smaller organizations for which implementation could potentially be unduly burdensome." *See* Chemas Comment Letter.

be immediately used for aggregation, comparison, and analysis. Without validations, data would likely be submitted inconsistently, thus decreasing the overall data quality of the data submitted. Poor data quality reduces any data user's ability to meaningfully analyze, aggregate, and compare data.

Under the amendments, filing the information in Inline XBRL will be required for the Key Information Table, Fee Table, Principal Risks of Investing in the Contract, Standard Death Benefits (for Form N-6), Benefits Available Under the Contract (for Forms N-3 and N-4), Other Benefits Available Under the Contract (for Form N-6), Portfolio Companies Available Under the Contract (for Forms N-4 and N-6), Investment Options Available Under the Contract (for Form N-3), and Additional Information about Investment Options Available Under the Contract (for Form N-3). The information required to be filed in Inline XBRL largely parallels the information that is required of mutual funds and ETFs, and we believe it is likely to be of greatest utility for investors and others that seek to use the information in a structured format to assist with decisions about variable products.

As another alternative, we considered requiring variable contract registrants to submit all, or a larger subset, of the information from the statutory prospectus, rather than only the information covered by the amendments, in Inline XBRL. Compared to the amendments, this alternative would improve the timeliness and usability of the required disclosures, but potentially impose additional costs on registrants. To the extent that the other required disclosures in the affected forms contain information that is more specific to individual registrants without any comparability or aggregation utility, the benefits of having those additional required disclosures in a structured format may be lower than the more limited subset of disclosures required to be filed in Inline XBRL under the amendments.

Under the proposal, the Inline XBRL requirement would have applied to all variable contracts. As discussed above, under the amendments, the Inline XBRL requirement will not apply to contracts that are not being sold to new investors.[1139] One commenter who opposed the requirement to tag such contracts stated, "Inline XBRL is primarily designed to help investors and other market participants compare investments and decide which, if any, to buy. Applying the Inline XBRL requirements to insurance contracts no longer being sold would impose unnecessary costs and burdens on insurers without providing any benefit to investors."[1140] Other commenters emphasized the need for all filers to structure disclosures in the Inline XBRL format, and noted that comparability of information would be impaired if only some products reported data in structured format.[1141] We agree that applying the Inline XBRL requirements to contracts no longer being sold to new investors could provide some additional benefit to investors by expanding the overall comparability of variable contracts, however as discussed below, we believe this additional benefit would be limited and would not justify the additional tagging costs to filers because such contracts do not represent potential investment targets for new investors.

Requiring filers to structure contracts that are not being sold to new investors on an ongoing basis would impose additional costs on filers each year, although we expect such costs would be limited. As discussed in further detail below, a significant portion of the costs to filers associated with the tagging requirement will be incurred the first time a registration statement for

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1139 *See supra* Section II.D.

1140 *See* CAI Comment Letter.

1141 *See* XBRL US Comment Letter; Better Markets Comment Letter.

the contract is filed.[1142] Furthermore, prospectuses for contracts that become discontinued after the effective date of the amendments are unlikely to materially change from year to year.

Existing investors in a contract that is not being sold to new investors often consider various investment decisions that would likely derive some benefit from analysis facilitated by Inline XBRL tagging. For example, such investors may decide to make additional investments in the contract, purchase different optional benefits available under the contract, or reallocate value among the contract's investment options. In addition, as discussed above, investors in a contract that is not being sold to new investors may consider whether to accept a buyout offer from their insurer or exchange their current contract for a new contract with different optional benefits.[1143] In such instances, having their contract's disclosures available in structured format could benefit investors by simplifying the comparison of their current contract to other available contracts. However, these investors would likely already be familiar with the disclosures in their contracts, and would only need to compare those disclosures to the disclosures in other currently offered contracts, which will be tagged in Inline XBRL and therefore suitable for instant comparison and analysis. Thus, the benefit to investors of tagging disclosures in contracts that are not being offered to new investors is significantly lower than the benefit to investors of tagging contracts that are being offered to new investors. In addition, while Inline XBRL does facilitate comparisons across reporting periods, investors would derive a related benefit from the Inline XBRL tagging of contracts that are not being sold to new investors only to the extent they

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1142 *See infra* Section V.D.

1143 *See supra* Section II.D.

find historical information of what was formerly offered to be useful in their review of currently offered products.

The proposed amendments would have provided filers with an 18-month transition period after the effective date of the amendments to give registrants sufficient time to update their prospectuses and to prepare new registration statements that comply with the amendments, including with the Inline XBRL tagging requirement. As discussed in Section II.G above, in a departure from the proposal, the new rule includes an additional 12-month transition period for compliance with the Inline XBRL tagging requirement. Compared to the proposed amendments, this additional transition period will permit filers to defer Inline XBRL compliance costs and may ease the transition for filers, particularly smaller filers and filers that encounter challenges in acquiring expertise and software solutions needed to prepare Inline XBRL filings.[1144] However, the longer transition period will also defer the benefits of making the information available in a structured format to investors in variable contracts.

As another alternative, we considered requiring the disclosures to be filed in another structured format, such as the XBRL or XML format. Compared to the Inline XBRL requirement, the use of the XBRL format entails complete duplication of the data, which can adversely affect the quality and usability of the structured data as well as the efficiency and cost of preparation and review of the structured data. Compared to the requirement to use Inline XBRL, the alternative to requiring the use of XML could have resulted in lower costs for filers.

[1144] As noted in Section IV.C.3 above, some evidence suggests that, for operating companies, the costs of tagging in XBRL format have decreased over time. *See supra* note 1107. To the extent this trend applies to Inline XBRL tagging of variable contract registration statements, providing an additional 12-month transition period may impose lower initial tagging costs compared to the proposal.

However, compared to the amendments, XML would have provided less flexibility in tagging complex information as well as less extensive data quality validation capabilities. In addition, neither the XBRL nor XML options are human-readable. As a result, investors and other data users would not have the benefits of having a document that is both machine-readable and human-readable, or the benefits of using an inline viewer when accessing the filing, such as enhanced search features, filtering capabilities, and built-in definitional references. Investors and other data users would have needed to access two different documents to view and analyze the same data. Filers would also have diminished data quality benefits. Because Inline XBRL embeds structured data directly into an HTML document, filers will not need to review a separate structured data document to identify and correct data quality errors. Moreover, by using an Inline XBRL viewer, filers can more easily identify discrepancies in their data before filing.

6. Alternatives to Form N-3, N-4, and N-6 Amendments

The Commission is adopting amendments to Forms N-3, N-4, and N-6. Collectively, these amendments are meant to update and enhance the disclosures to investors in variable annuity contracts, and to implement the summary prospectus regime.

We considered adopting a subset of the amendments to the registration forms. Fewer amendments to the registration forms could be less costly for registrants, because registrants would be required to make fewer changes to their disclosure. However, the adopted form amendments also simplify certain current disclosure requirements, and so the net economic effects of proposing only a subset of the amendments depends on the particular subset of amendments. As described in Section II.C above, we believe that the form amendments that we have adopted promote investor understanding of variable contracts by presenting information in a clear manner and by reflecting industry developments. Requiring only a subset of these

amendments could result in less investor understanding relative to the understanding resulting from the adopted amendments.

Additionally, the Commission is adopting a new General Instruction in each of Forms N-3, N-4, and N-6 to encourage the use of disclosure effectiveness principles in variable contract disclosure. Specifically, General Instruction C.3.(c) in each form encourages registrants to use, as appropriate, question-and-answer presentations, tables, side-by-side comparisons, captions, bullet points, numeric examples, illustrations or similar presentation methods.[1145] We considered mandating the use of these presentation methods. Investors might gain a clearer understanding of the features and risks of variable contracts as a result. We are concerned, however, that mandating a particular presentation method (besides the presentation methods that the form amendments specifically require) could provide less flexibility to registrants to describe variable contracts in the manner they think is most appropriate. Moreover, there could be a risk that mandating the use of certain presentation methods could unintentionally obscure, or not clearly explain, certain variable contract features and risks.

Also, we are adopting a requirement that the Key Information Table include cross-references to the location in the statutory prospectus where the subject matter is described in greater detail (and that cross-references in electronic versions of the summary prospectus and/or statutory prospectus should link directly to the location in the statutory prospectus where the subject matter is discussed in more detail, or should provide a means of facilitating access to that information through equivalent methods or technologies). As an alternative to this instruction, we considered requiring that, where a topic is summarized in the statutory prospectus

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1145 *See supra* note 597.

and is discussed in more detail elsewhere in the statutory prospectus, the summarized topic must include a cross-reference (and a hyperlink in electronic document versions) to the location in the statutory prospectus where the topic is discussed in more detail. This alternative requirement would make use of the layered disclosure approach that underlies the rulemaking proposal in a manner that could make information in the prospectus more accessible to investors and leverage technology in a way that could further assist investors in navigating the prospectus. We believe, however, that adding additional cross-references and hyperlinks would increase costs for insurers and could lead to greater uncertainty among registrants about where cross-references and hyperlinks are required (*i.e.*, whether a topic is summarized in one part of the prospectus and then discussed in more detail later could be viewed as a subjective determination). Further, the benefits of cross-references and hyperlinks might be limited, given that rule 498A will require electronic versions of the statutory prospectus to include a table of contents that would allow the reader to move directly between it and the related sections of the document.

7. Requiring All Variable Contracts (Including Eligible Contracts) to Prepare Updated Registration Statements and Deliver Statutory or Summary Prospectuses

Instead of permitting Eligible Contracts to operate under the Commission position, we considered requiring issuers of all contracts to prepare updated registration statements and comply with either the current standard prospectus delivery requirements or the optional summary prospectus regime. In this scenario, investors in Eligible Contracts would receive the statutory prospectus or the optional updating summary prospectuses, while continuing to have access (either upon request or online, under the summary prospectus regime) to financial statements. As explained in detail above, the optional summary prospectus regime, if relied on,

provides significant additional benefits for investors in terms of facilitating the review and understanding of available disclosures.[1146] At the same time, the optional summary prospectus regime also permits insurers to satisfy delivery obligations for the underlying company prospectuses by making those documents available online, which could create a burden for investors who prefer to use those prospectuses when making allocation decisions and who would have been sent those documents as part of the Alternative Disclosures.

With respect to the impact on insurers, under this alternative, issuers of Eligible Contracts could incur significant costs to update their registration statements under the new form requirements, most of which have not been updated for many years.[1147] These costs could vary, including based on the period of time since the insurer had last updated the relevant registration statement. In addition, insurers would bear the ongoing costs associated with maintaining an effective registration statement and sending investors documents under the current standard prospectus delivery requirements or the optional summary prospectus regime. We expect these costs would exceed the costs associated with providing investors with the Alternative Disclosures or modernized alternative disclosures particularly when combined with electronic delivery of underlying portfolio company prospectuses.

On balance, given the burdens associated with preparing an updated registration statement and compliance with either standard prospectus delivery requirements or the optional summary prospectus regime, Eligible Contracts may operate in the manner discussed above.[1148]

1146 *See supra* Section IV.C.1.a.i.(a).

1147 *See supra* Section II.E.2.

1148 *See supra* Section II.E.

8. Alternative Approaches to Discontinued Contracts

The Commission is declining to extend its position to contracts that are not Eligible Contracts. For Eligible Contracts, the Commission position will allow insurers to choose whether to provide Alternative Disclosures or modernized alternative disclosures.[1149]

We considered and received comment on two alternative approaches; each alternative approach could have been implemented only on a going forward basis or for all contracts, including Eligible Contracts.[1150] For Method 1, under which each approach would be applied only on a going forward basis for contracts that become discontinued in the future, we analyze the costs and benefits of each approach relative to the adopted summary prospectus framework. For Method 2, under which each approach would also be applied to Eligible Contracts, we analyze the costs and benefits of each approach relative to the options under Commission position. In addition to these economic impacts to existing contracts, the costs and benefits of these approaches could also affect the development of new variable contracts in the future. For example, to the extent that an approach represents additional costs/cost savings associated with a variable contract relative to the adopted rule, these alternative approaches could result in higher/lower fees and charges for future variable contracts. Similarly, these relative costs and benefits may affect insurers' willingness to develop and offer new variable products.

For the reasons described above, the Commission is declining to adopt either alternative and believes that it will benefit from further study and data regarding the potential cost savings

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1149 *See supra* Section II.E.3. Alternatively, issuers of currently discontinued contracts could choose to begin using the summary prospectus framework.

1150 *See supra* note 939.

and other burden reductions under Approach 2.[1151] We welcome input from the public as we undertake this further study.

a. Approach 1

Approach 1 would codify existing practices under the Staff Letters with certain modifications.[1152] The Commission could have implemented Approach 1 only on a going forward basis (Method 1) or for all contracts, including Eligible Contracts (Method 2).

i. Method 1

New rule 498A and Approach 1 would require generally the same information to be delivered to investors. For example, Approach 1 would require insurers of discontinued contracts to deliver an annual notice to investors that contains information substantially similar to that included in an updating summary prospectus under 498A. In addition, under both frameworks, portfolio company prospectuses and shareholder reports would be delivered to all investors but insurers could satisfy portfolio company prospectus delivery requirements by making the portfolio company prospectuses available online and delivering them to investors upon request. As a result, we do not believe that Approach 1 would have a substantial effect on the costs incurred by insurers associated with preparing and delivering disclosures to investors in contracts that become discontinued in the future.

The summary prospectus framework is a layered disclosure regime, however, with a contract's current statutory prospectus (and certain other information) available online and delivered upon request. This additional information would not be available to investors under

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1151 *See supra* Section II.E.4.

1152 *See* Proposing Release, *supra* note 6, at Section II.C.

Approach 1. Unlike the summary prospectus framework, Approach 1 would also allow issuers of certain contracts that become discontinued in the future to cease maintaining an updated registration statement.[1153] As a result, investors also would not have access to the more detailed information that would be included in an updated registration statement under the summary prospectus framework but not in the materials delivered to investors or available upon request under Approach 1. Under Approach 1 issuers of certain contracts that become discontinued in the future would face lower costs relative to the summary prospectus framework because they would not be required to maintain an updated registration statement for the duration of the contract.

As a further consequence, under Approach 1 the liability provisions available under the federal securities laws would not apply to the same extent as under the current variable contract prospectus delivery regime and under the summary prospectus regime for registrants that choose to rely on rule 498A. The loss of these liability protections represents a potential cost to investors in contracts that may become discontinued in the future.

ii. Method 2

The Commission could also choose to apply Approach 1 not only to future discontinued contracts but to all contracts, including Eligible Contracts. Under the Commission position, insurers of Eligible Contracts may choose whether to provide Alternative Disclosures or modernized alternative disclosures. Issuers of Eligible Contracts who elect to utilize modernized alternative disclosures may provide investors a notice containing information comparable to that in an updating summary prospectus and post the portfolio company prospectuses, statutory

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1153 *Id.*

prospectus, SAI, and shareholder reports online in lieu of mailing these materials to investors. This is similar to Approach 1 and therefore, where insurers elect to utilize modernized alternative disclosures, we do not believe that investors or insurers in those contracts would realize additional costs or benefits associated with preparing and delivering disclosures under Approach 1.

In contrast, issuers of Eligible Contracts who elect to provide Alternative Disclosures under the Commission position would face additional costs under Approach 1 associated with providing an annual notice to investors. This cost may be mitigated by savings on printing and mailing costs resulting from Approach 1's option to provide portfolio company prospectuses and updated financial statements by posting them on a website. However, investors in these contracts would benefit by receiving the additional information included in the annual notice they would be provided under Approach 1 but would not receive as part of the Alternative Disclosures.

b. Approach 2

Approach 2 would require that insurers maintain an updated registration statement, but would allow financial statements to be forward incorporated by reference into the registration statement.[1154] The Commission could have implemented Approach 2 only on a going forward basis (Method 1) or for all contracts, including Eligible Contracts (Method 2).

i. Method 1

Under Approach 2, the documents insurers would prepare and deliver to investors are similar to those that are prepared and delivered in the summary prospectus framework. As a

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[1154] *See* Proposing Release, *supra* note 6, at Section II.C.

result, we do not believe that Approach 2 would have a substantial effect on the costs incurred by insurers associated with preparing and delivering disclosures to investors in contracts that become discontinued in the future. Like the summary prospectus framework, Approach 2 would require issuers of discontinued contracts to maintain a current registration statement and to make the statutory prospectus and SAI available online. However, Approach 2 would only require insurers to file post-effective amendments to update their registration statements when there are material changes to the offering, and would allow forward incorporation by reference of updated financial statements in the registration statement. This approach could reduce costs for issuers of future discontinued contracts to the extent that it reduced the number of post-effective amendments compared to the summary prospectus framework.

For investors in contracts that may become discontinued in the future, the disclosures that would be delivered to them under Approach 2 are similar to those they will receive under the adopted summary prospectus framework. Further, because the summary prospectus framework and Approach 2 would both require insurers to maintain an updated registration statement for the life of the contract, investors in future discontinued contracts under both frameworks would have access to the more detailed information included in the updated registration statement.

ii. Method 2

The Commission could also choose to apply Approach 2 not only to future discontinued contracts but to all contracts, including Eligible Contracts. If the Commission chose to apply Approach 2 to all contracts, insurers issuing Eligible Contracts would likely face additional costs relative to the Commission position. Issuers of Eligible Contracts who choose to provide modernized alternative disclosures under the Commission position would face similar costs associated with preparing and delivering disclosures to investors under Approach 2, but these

insurers would incur an additional cost to bring their registration statement up to date. Insurers who choose instead to provide Alternative Disclosures under the Commission position would similarly incur costs under Approach 2 to bring their registration statement up to date, as well as the additional cost of providing the notice document. However, Approach 2's option to post portfolio company statements and updated financial statements on a website would likely mitigate these additional costs to insurers that would otherwise opt to provide Alternative Disclosures under the Commission position.

Under Approach 2, investors in all Eligible Contracts would benefit from the liability protections of the federal securities laws, which they would not receive under either option under the Commission position. Investors who would receive Alternative Disclosures under the Commission position would further benefit from the disclosures provided in the annual notice they would receive under Approach 2.

V. PAPERWORK REDUCTION ACT

New rule 498A will result in new "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[1155] In addition, the new rule and other amendments will impact the collections of information under Form N-3, Form N-4, Form N-6, and Mutual Fund Interactive Data (which will be retitled as "Investment Company Interactive Data") within the meaning of the PRA.[1156]

1155 44 U.S.C. 3501-3520.

1156 We recently issued a release that, among other things, proposed to retitle the "Mutual Fund Interactive Data" information collection as "Investment Company Interactive Data." *See* Closed-End Offering Reform Release, *supra* note 18.

The titles for the existing collections of information are: (1) "Form N-3, Registration Statement under the Securities and Investment Co. Acts for Insurance Co. Separate Accounts Issuing Variable Annuity Contracts" (OMB Control No. 3235-0316); (2) "Form N-4, Registration Statement under the Securities and Investment Co. Acts for Insurance Co. Separate Accounts Issuing Variable Annuity Contracts" (OMB Control No. 3235-0318); (3) "Form N-6 under the Investment Company Act of 1940 and the Securities Act of 1933, Registration Statement of Variable Life Insurance Separate Accounts Registered as Unit Investment Trusts" (OMB Control No. 3235-0503); and "Mutual Fund Interactive Data" (OMB Control No. 3235-0642) (re-titled as "Investment Company Interactive Data"). The title for the new collection of information under rule 498A is "Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts."[1157] The Commission is submitting these collections of information to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

We published notice soliciting comments on the collection of information requirements in the Proposing Release and submitted the proposed collections of information to OMB for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. We received two comments that discussed our estimates of burdens and costs associated with certain collection of

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[1157] As discussed above, we are adopting minor revisions to Form N-14. *See supra* note 587 and accompanying text. However, such changes do not impact the form's existing collection of information (titled "Form N-14, Registration Statement under the Securities Act of 1933" (OMB Control No. 3235-0337)).

information requirements under the proposal.[1158] We address these comments below, along with a discussion generally of the collection of information burdens and costs associated with new rule 498A and where applicable, the existing collections of information.

The amendments to Forms N-3, N-4, and N-6 update and enhance the required disclosures provided to variable contract investors. For example, the amendments require registrants to summarize certain key information about the contract at the beginning of the prospectus, as well as update the presentation of fee information and require additional information about standard and optional benefits that a contract may offer. They also standardize presentation requirements to make the information more accessible to retail investors, while retaining key elements of the disclosure that is available today.

In addition, we are amending Forms N-3, N-4, and N-6, along with certain rules that effectuate the Commission's requirements regarding the use of Inline XBRL format for the submission of certain required disclosures[1159] in variable contract statutory prospectuses. These amendments are intended to harness technology to allow investors (directly and through their investment professionals), data aggregators, financial analysts, Commission staff, and other data users to efficiently analyze and compare the available information about variable contracts.

1158 *See* Broadridge Comment Letter; Memorandum from the Division of Investment Management re: May 29, 2019 meeting with representatives of the Committee of Annuity Insurers (including attachments), *available at* https://www.sec.gov/comments/s7-23-18/s72318-5604687-185508.pdf. ("CAI Presentation Materials").

1159 We are amending rules 485 and 497 of Regulation C (OMB Control No. 3235-0074), which describes the procedures to be followed in preparing and filing registration statements with the Commission, and rules 11 and 405 of Regulation S-T (OMB Control No. 3235-0424), which specifies the requirements that govern the electronic submission of documents. The additional collection of information burden that will result from these changes, as well as the burdens that we estimate will result from the amendments to the General Instructions of Forms N-3, N-4, and N-6, are included in our estimates for the "Investment Company Interactive Data" collection of information.

New rule 498A permits a person to satisfy its prospectus delivery obligations under the Securities Act for a variable contract by providing a summary prospectus to investors and making the statutory prospectus available online. The rule also will consider a person to have met its prospectus delivery obligations for any portfolio companies associated with a variable contract if these prospectuses are posted online. Pursuant to the rule, registrants using a summary prospectus also are required to send these documents to investors upon request.

Finally, the amendments to rule 497 provide the requirements for filing summary prospectuses with the Commission and for submitting information to the Commission in Inline XBRL format. These amendments do not constitute a separate collection of information under rule 497. The burden required by these amendments is part of the collection of information under new rule 498A, and for filings of Interactive Data Files, are part of the "Investment Company Interactive Data" collection of information.

A. Form N-3

Form N-3 is the form used by separate accounts offering variable annuity contracts that are organized as management investment companies to register under the Investment Company Act and/or to register and offer their securities under the Securities Act. Form N-3 contains collection of information requirements. Compliance with the disclosure requirements of Form N-3 is mandatory. Responses to the disclosure requirements are not confidential.

Form N-3 generally imposes two types of reporting burdens on investment companies: (1) the burden of preparing and filing the initial registration statement; and (2) the burden of preparing and filing post effective amendments to a previously effective registration statement. The hour and cost burden estimates for preparing and filing initial registration statements and post-effective amendments on Form N-3 are based on the Commission's experience with the contents of the form. The number of burden hours and cost may vary depending on, among

other things, the complexity of the filing and whether preparation of the form is performed by internal staff or outside counsel. We currently estimate for Form N-3 a total of 2,518 internal burden hours, with a total annual external cost burden of $164,144.[1160]

We are adopting amendments to Form N-3 to update and enhance the disclosures to investors in variable annuity contracts, and to implement the new summary prospectus regime. We are amending certain disclosures that Form N-3 currently requires with respect to the separate account's investment objectives and risks, management of the registrant, investment advisory and other services, portfolio managers, and brokerage allocation and other practices. In addition, amended Form N-3 requires certain new disclosures regarding, among other things: the Key Information Table, an overview of the contract, principal risks, optional benefits, loans, and the Appendix of available investment options. We are also reducing or eliminating certain disclosures currently required by the form, such as the AUV tables.[1161]

The table below summarizes the estimated adjustments to the Form N-3 collection of information from the proposed amendments,[1162] the estimated adjustments to the Form N-3

1160 These estimates are included in Form N-3's current information collection, which was approved in July 2019 and reflects the adoption of certain form amendments associated with rule 30e-3 under the Investment Company Act. *See* Investment Company Shareholder Reports Release, *supra* note 19.

We currently estimate that registrants spend 922.7 internal burden hours per investment option to prepare and file an initial registration statement on Form N-3, and 156.2 internal burden hours per investment option for each post-effective amendment. We also estimate that Form N-3 registrants spend $24,873 in external costs per investment option for each initial filing, and $10,259 per investment option for each post-effective amendment.

1161 *See supra* Section II.C.2.e.

1162 As part of these estimates, Commission staff estimated that there would be no initial filings and eight post-effective amendments on Form N-3 per year, and further estimated that these filings would be made by five registrants covering an average of three investment options per filing. *See*

collection of information from the final amendments, and the final PRA estimates for internal and external burdens associated with amended Form N-3:

FORM N–3 PRA ESTIMATES

	Internal Hour Burden		Wage Rate	Internal Time Costs	Annual External Cost Burden
PROPOSED ESTIMATES FOR INITIAL REGISTRATION STATEMENTS					
Amendments (not related to investment options)	1.7 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$571	–
Amendments (per investment option x 3 investment options)	2 hours × 3 = 6 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$672 × 3 = $2,016	–
Total additional burden per filing	7.7 hours			$2,587	–
Number of initial registration statements	× 0			× 0	
Total additional burden for initial registration statements	0 hours			$0	–
PROPOSED ESTIMATES FOR POST-EFFECTIVE AMENDMENTS					
Amendments (not related to investment options)	10 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$3,360	–
Amendments (per investment option x 3 investment options)	3 hours × 3 = 9 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$1,008 × 3 = $3,024	–
Total additional burden per filing	19 hours			$6,384	–
Number of post-effective amendments	× 8			× 8	
Total additional burden for post-effective amendments	152 hours			$51,072	–
FINAL ESTIMATES FOR INITIAL REGISTRATION STATEMENTS					
Amendments (not related to investment	1.7 hours	×	$269 (blended rate for	$457	–

Proposing Release, *supra* note 6, at Section IV.A for more detail regarding the proposed estimates.

options)			compliance attorney and intermediate accountant)		
Amendments (per investment option x 3 investment options)	2 hours × 3 = 6 hours	×	$269 (blended rate for compliance attorney and intermediate accountant)	$538 × 3 = $1,614	–
Total additional burden per filing	7.7 hours			$2,071	–
Number of initial registration statements	× 0			× 0	
Total additional burden for initial registration statements	0 hours			$0	–
FINAL ESTIMATES FOR POST-EFFECTIVE AMENDMENTS					
Amendments (not related to investment options)	10 hours	×	$269 (blended rate for compliance attorney and intermediate accountant)	$2,690	–
Amendments (per investment option x 3 investment options)	-2 hours × 3 = -6 hours	×	$269 (blended rate for compliance attorney and intermediate accountant)	-$538 × 3 = -$1,614	–
Total additional burden per filing	4 hours			$1,076	–
Number of post-effective amendments	× 6			× 6	
Total additional annual burden for post-effective amendments	24 hours			$6,456	–
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS					
Current burden estimates*	2,518 hours			$715,112	$164,144
Revised burden estimates	2,836 hours			$762,884	$123,114

* *See supra* note 1160.

Changes to Burden Estimates Resulting From Final Amendments

We did not receive public comment on our proposed PRA estimates for the amendments to Form N-3, which we are adopting largely as proposed. With one exception, we generally believe the modifications to the proposed amendments in the aggregate do not result in changes to our proposed estimates of the effect of the amendments on the current burdens. We believe, however, that registrants will experience a reduction in internal hourly burdens due to the

elimination of the requirement to provide AUV tables and are reducing the estimated hourly burden to prepare and file a post-effective amendment by 5 hours per investment option.[1163] We are also revising our estimates to reflect current figures for the number of Form N-3 registration statements filed annually and updated internal wage rates,[1164] as set forth in the table above.

Initial registration statements. As proposed, we estimate that the amendments will result in the following changes to the internal hours and external cost burdens:

- For disclosures that are not related to the contract's investment options, an additional 1.7 hours per initial registration statement.[1165]
- For disclosures related to the contract's investment options, an additional 2 hours per investment option per initial registration statement.[1166]

1163 We assume that removing the requirement to disclose AUV tables will largely impact the internal burdens associated with post-affective amendments (certain initial filings may provide AUV tables, but the form currently and as amended generally requires AUV tables in all post-effective amendments).

1164 The $269 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($365) and intermediate accountant ($172), which is derived from SIFMA's Management & Professional Earnings in the Securities Industry 2013 (modified to account for an 1,800-hour work year; multiplied by 5.35 to account for bonuses, firm size, employee benefits and overheard, and adjusted for inflation).

The Proposing Release estimates were based on a blended hourly rate for an in-house compliance attorney and a senior programmer. Because we believe an intermediate accountant is more likely to assist in the preparation of a registration statement than a senior programmer, the wage rate estimate reflects this change in professional positions.

1165 We estimate, as proposed, that the amendments to Form N-3 will increase the burden of preparing an initial registration statement by 5 hours per investment option per filing, which amortized over 3 years equals 1.7 hours annually (5 hours + 0 hours + 0 hours) / 3 years = 1.7 hours per year (we assume 0 hours in years 2 and 3 because after year 1, the registrant will prepare and file post effective amendments)). As Commission staff estimates that no initial registration statements will be filed on Form N-3 in the next 3 years, we continue to estimate a 0 hour burden for initial registration statement filings.

1166 We estimate, as proposed, that the amendments to Form N-3 will require an additional 6 hours per investment option per initial filing, which amortized over 3 years equals 2 hours annually on a

- We estimate no change to the external cost burden due to the amendments.
- Unrelated to the amendments, we estimate an external cost burden of $20,300 per initial registration statement to provide disclosures other than those related to the contract's investment options, and an additional $8,291 per investment option per initial registration statement to provide disclosures that are related to the contract's investment options. This reflects a change in our methodology regarding how to calculate burdens attributable to investment options.[1167]

Post-effective amendments. As proposed, we estimate that the amendments will result in the following changes to the internal hours and external cost burdens:

- For disclosures that are not related to the contract's investment options, a one-time burden of 20 hours per registration statement the first time the registration statement is amended and an ongoing burden of an additional 5 hours

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per investment option basis: (6 hours + 0 hours + 0 hours) / 3 years = 2 hours per year. We assume 0 hours in years 2 and 3 because after year 1, the registrant will prepare and file post effective amendments.

1167 We currently estimate the external cost to prepare and file an initial registration statement on Form N-3 is $24,873 per investment option. *See supra* note 1160.

As discussed in the Proposing Release, in our most recently approved PRA submission, we estimated that a registrant with multiple investment options would experience a burden of complying with the requirements of Form N-3 that is proportional to the number of investment options that the registrant offers. *See supra* note 6 at n.777. Since many of the disclosure requirements of Form N-3 do not depend on the number of investment options offered by the registrant, we are revising our approach to estimate an incremental burden per investment option (as opposed to a burden that is proportional to the number of investment options that the registrant offers). Pursuant to this change in methodology, we estimate the cost to prepare and file an initial registration statement on Form N-3 will be $24,873 for disclosures not related to the contract's investment options, and an additional $8,291 per investment option (or 1/3 of the cost to provide non-investment option-related disclosures) to provide disclosures related to each investment option: $24,873 / 3 = $8,291. As we estimate no initial registration statements will be filed on Form N-3, we continue to estimate $0 in external costs for initial registration statement filings.

per registration statement per year thereafter. Amortizing these burdens over a three-year period results in an estimated average annual burden of 10 hours per initial registration statement.[1168]

- For disclosures related to the contract's investment options other than the AUV table requirement, a one-time burden of 6 hours per investment option the first time the registration statement is amended by post-effective amendment. Subsequently, we estimate an ongoing burden of 1.5 hours per investment option per post-effective amendment. Amortizing these burdens over a three-year period results in an estimated average annual burden of 3 hours per investment option to prepare and file a post-effective amendment.[1169]
- For elimination of the AUV table requirement, we estimate a reduction in the annual hour burden of 5 hours per investment option per year. Adding this reduction to the burden increases discussed in the prior bullet point results in a net reduction of 2 hours per investment option per year for disclosures related to the contract's investment options.
- We estimate no change to the external cost burden due to the amendments.
- Unrelated to the amendments, we estimate an external cost burden of $10,259 per post-effective amendment to update disclosures not related to investment options, and an additional $3,420 per investment option per post-effective amendment to update disclosures that are related to the contract's investment options. This

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[1168] (20 hours in year 1 + 5 hours in year 2 + 5 hours in year 3) / 3 years = 10 hours per year.

[1169] (6 hours in year 1 + 1.5 hours in year 2 + 1.5 hours in year 3) / 3 years = 3 hours per year.

reflects a change in our methodology regarding how to calculate burdens attributable to investment options.[1170]

In the aggregate, we estimate the total annual hour burden to comply with amended Form N-3 to be 2,836 hours,[1171] at an average time cost of $762,884.[1172] We also estimate the total external cost burden to comply with amended Form N-3 to be $123,114.[1173] These estimates reflect the change in our methodology for estimating burdens attributable to investment options, the increase in estimated burdens associated with the amendments, the increase in the estimated average number of investment options per Form N-3 registration statement from two to three investment options, and current estimates for the number of post-effective amendments filed annually.

B. Form N-4

Form N-4 is the form used by separate accounts offering variable annuity contracts that are organized as unit investment trusts to register under the Investment Company Act and/or to register and offer their securities under the Securities Act. Form N-4 contains collection of

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1170 *See supra* note 1167 (regarding change in methodology). We currently estimate $10,259 per investment option for each post-effective amendment. *See supra* note 1160.

1171 0 initial registration statements + ((156.2 hours (current burden per post-effective amendment) + (10 hours for amendments not related to investment options ÷ 3 investment options) + (3 hours per investment option for amendments related to investment options other than elimination of AUV table requirement) – (5 hours per investment option for elimination of the AUV table requirement)) x 3 investment options per post-effective amendment x 6 post-effective amendments = 2,836 hours.

1172 2,836 hours x $269/hour = $762,884.

1173 0 initial registration statements + ($10,259 per post-effective amendment to update disclosures not related to investment options + ($3,420 per investment option to update disclosures related to investment options x 3 investment options)) x 6 post-effective amendments = $123,114.

information requirements. Compliance with the disclosure requirements of Form N-4 is mandatory. Responses to the disclosure requirements are not confidential.

Form N-4 generally imposes two types of reporting burdens on investment companies: (1) the burden of preparing and filing the initial registration statement; and (2) the burden of preparing and filing post effective amendments to a previously effective registration statement. The hour and cost burden estimates for preparing and filing initial registration statements and post-effective amendments on Form N-4 are based on the Commission's experience with the contents of the form. The number of burden hours and cost may vary depending on, among other things, the complexity of the filing and whether preparation of the form is performed by internal staff or outside counsel. We currently estimate for Form N-4 a total of 271,914 internal burden hours, with a total annual external cost burden of $32,111,916.[1174]

We are adopting amendments to Form N-4 to update and enhance the disclosures to investors in variable annuity contracts, and to implement the new summary prospectus regime. We are amending certain disclosure requirements that Form N-4 currently requires. In addition, amended Form N-4 requires certain new disclosures regarding, among other things: the Key Information Table, an overview of the contract, principal risks, optional benefits, loans, and the

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[1174] These estimates are included in Form N-4's current information collection, which was approved in July 2019 and reflects the adoption of certain form amendments associated with rule 30e-3 under the Investment Company Act.

We currently estimate that on a per filing basis, registrants spend 278.5 internal burden hours to prepare and file an initial registration statement on Form N-4, and 197.25 internal burden hours for each post-effective amendment. We also estimate that registrants incur $23,013 in external costs for initial filings and $21,813 for post-effective amendments. As discussed below, we are adjusting some of these estimates.

Appendix of available portfolio companies. We are also reducing or eliminating certain disclosures currently required by the form, such as the AUV tables.

The table below summarizes the estimated adjustments to the Form N-4 collection of information from the proposed amendments,[1175] the estimated adjustments to the Form N-4 collection of information from the final amendments, and the final PRA estimates for internal and external burdens associated with amended Form N-4:

FORM N–4 PRA ESTIMATES

	Internal Hour Burden		Wage Rate	Internal Time Costs	Annual External Cost Burden
PROPOSED ESTIMATES FOR INITIAL REGISTRATION STATEMENTS					
Proposed form amendments per filing	1.7 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$571	–
Number of initial registration statements	× 35			× 35	
Total additional burden for all initial registration statements	60 hours			$19,985	–
PROPOSED ESTIMATES FOR POST-EFFECTIVE AMENDMENTS					
Proposed form amendments per filing	10 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$3,360	–
Number of post-effective amendments	× 1,326			× 1,326	
Total additional burden for all post-effective amendments	13,260 hours			$4,455,360	–
Total additional annual burden for all initial registration statements and post-effective amendments	13,320 hours			$4,475,345	–
FINAL ESTIMATES FOR INITIAL REGISTRATION STATEMENTS					
Final form amendments per filing	1.7 hours	×	$269 (blended rate for compliance attorney and intermediate accountant)	$457	–
Number of initial registration statements	× 30			× 30	

[1175] As part of these estimates, Commission staff estimated that there would be 35 initial filings and 1,326 post-effective amendments on Form N-4 per year. *See* Proposing Release, *supra* note 6, at Section IV.B for more detail regarding the proposed estimates.

Total additional burden for all initial registration statements	51 hours			$13,710	
FINAL ESTIMATES FOR POST-EFFECTIVE AMENDMENTS					
Final form amendments per filing	10 hours	×	$269 (blended rate for compliance attorney and intermediate accountant)	$2,690	–
Number of post-effective amendments	× 1,336			× 1,336	
Total additional burden for all post-effective amendments	13,360 hours			$3,593,840	–
Total additional annual burden for all initial registration statements and post-effective amendments	13,411 hours			$3,607,559	–
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS					
Current burden estimates*	271,914 hours			$77,223,576	$32,111,916
Revised burden estimates	300,937 hours			$80,952,053	$30,342,168

* *See supra* note 1174.

Changes to Baseline Burden Estimates

We received one comment regarding our proposed estimates for internal burdens and external costs associated with the current burdens associated with preparing and filing a post-effective amendment.[1176] The estimates that were submitted were in some respects higher, and in others lower, than our proposed estimates.[1177] In light of the commenter's estimates, and

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1176 *See* CAI Presentation Materials *supra* note 1158. These estimates were supplied to illustrate the disparity between the burdens associated with filing a post-effective amendment compared to the reduced burdens for registrants that rely on the Great-West no-action letters. Because only Form N-4 and N-6 filers have received Great-West no-action relief, we assume the commenter's estimates only concern amendments filed on those forms.

1177 *See supra* notes 6 and 1176. The commenter estimated that "based on information provided by certain members, internal business and legal teams spend approximately 310 hours in connection with the update of a single active registration statement" with associated "soft costs" (internal costs) of $25,000 and "hard costs" described as "outside counsel, auditor, typesetting and mailing," estimated to be an average of $170,000."

Our current estimates for Form N-4 are based on previously approved estimates that assume a registrant's in-house staff spends 197.25 internal burden hours to prepare and file a post-effective amendment (for an internal cost of $56,019 per filing based on the $284 wage rate used in the

because variable annuity contracts registered on Form N-4 today tend to offer greater numbers of portfolio companies and optional benefits than variable annuity contracts offered in the past, we believe that certain of our current estimates may be too low. Therefore, we are adjusting the baseline current estimates (before the effect of the amendments we are adopting) for certain burdens and costs associated with Form N-4,[1178] as follows:

- We are increasing our estimate to prepare and file an initial registration statement from 278.5 hours to 800 hours per filing;[1179]
- We are increasing our estimate to prepare and file a post-effective amendment from 197.25 hours to 227.25 per filing; and
- We are increasing our estimate of the external cost to prepare and file an initial registration statement from $23,013 to $40,000 per filing.

Changes to Burden Estimates Resulting From Final Amendments

With one exception, we generally believe the modifications to the proposed amendments in the aggregate do not result in changes to our proposed estimates of the effect of the amendments on the current burdens. We believe, however, that registrants will experience a

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most-recently approved PRA (July 2019)), with external costs (*e.g.*, outside counsel, independent auditors, consultants) of $21,813 for each filing. *See supra* note 1174.

We note that the commenter's estimates for external costs include typesetting and printing and mailing, while our estimates for our registration forms do not because the forms do not impose a delivery requirement. The obligation to deliver a prospectus is imposed by Section 5(b)(2) of the Securities Act. *See United States v. Wunder*, 919 F.2d 34, 38 (6th Cir. 1990) ("The Paperwork Reduction Act therefore, does not apply to the statutory requirement, but only to the forms themselves.").

1178 *See supra* note 1174.

1179 We are also increasing this estimate for consistency with the currently approved estimates for initial registration statements on Form N-3 (922.7 hours per investment option per filing) and Form N-6 (770.25 hours per filing).

reduction in internal hourly burdens due to the elimination of the requirement to provide AUV tables and are reducing the estimated hourly burden to prepare and file a post-effective amendment by 30 hours (reducing the adjusted estimated hourly burden from 227.25 hours to 197.25 hours per filing).[1180] Our revised estimates also reflect updated data for the number of Form N-4 initial registration statements and post-effective amendments filed annually, and revised internal wage rates,[1181] as set forth in the table above.

Initial registration statements. As proposed, we estimate that the amendments will result in the following changes to the internal hours and external cost burdens:

- We estimate that, on a net basis, the amendments to Form N-4 will increase the burden of preparing and filing an initial registration statement by 5 hours per filing. Amortizing this burden over a three-year period results in an estimated average annual burden of 1.7 hours per initial registration statement.
- We estimate no change to the external cost burden for these amendments.

Post-effective amendments. As proposed, we estimate that the amendments will result in the following changes to the internal hours and external cost burdens:

- We estimate a one-time burden of an additional 20 hours per registration statement the first time the registration statement is amended by post-effective amendment following adoption of the amendments. Subsequently, we estimate an

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[1180] As with Form N-3, we assume that removing the requirement to disclose AUV tables will largely impact the internal burdens associated with post-affective amendments (certain initial filings may provide AUV tables, but the form currently and as amended generally requires AUV tables in all post-effective amendments). *See supra* note 1163.

[1181] *See supra* note 1164 (providing revised internal wage rate estimates for purposes of preparing and filing reports on Form N-3, and that apply equally to Form N-4).

ongoing burden of an additional 5 hours per registration statement to prepare and file a post-effective amendment. Amortizing these burdens over a three-year period results in an estimated average annual burden of an additional 10 hours per registration statement to prepare and file a post-effective amendment.

- We estimate no change to the external cost burden for these amendments.

In the aggregate, we estimate the total annual hour burden to comply with amended Form N-4 to be 300,937 hours,[1182] at an average time cost of $80,952,053.[1183] We also estimate the total external cost burden to comply with amended Form N-4 to be $30,342,168.[1184] These estimates reflect the increase in estimated burdens associated with the amendments, adjustments to certain per filing estimates, and current estimates for the number of filings on Form N-4.

C. Form N-6

Form N-6 is the form used by separate accounts organized as unit investment trusts that offer variable life insurance contracts to register under the Investment Company Act and/or to register and offer their securities under the Securities Act. Form N-6 contains collection of information requirements. Compliance with the disclosure requirements of Form N-6 is mandatory. Responses to the disclosure requirements are not confidential.

1182 For initial registration statements: 30 initial filings × (as adjusted 800 hours per filing + 1.7 hours under amendments) = 24,051 hours. For post-effective amendments: 1,336 post-effective amendments × (197.25 hours current per filing burden + 10 hours under amendments) = 276,886 hours. 24,051 hours + 276,886 hours = 300,937 hours.

1183 300,937 hours x $269/hour = $80,952,053.

1184 For initial registration statements: 30 initial filings x $40,000 per filing (as adjusted external cost per filing) = $1,200,000. For post-effective amendments: 1,336 post-effective amendments x $21,813 (current external cost per filing) = $29,142,168. $1,200,000 + $29,142,168 = $30,342,168.

Form N-6 generally imposes two types of reporting burdens on investment companies: (1) the burden of preparing and filing the initial registration statement; and (2) the burden of preparing and filing post-effective amendments to a previously effective registration statement. The hour and cost burden estimates for preparing and filing initial registration statements and post-effective amendments on Form N-6 are based on the Commission's experience with the contents of the form. The number of burden hours and cost may vary depending on, among other things, the complexity of the filing and whether preparation of the form is performed by internal staff or outside counsel. We currently estimate for Form N-6 a total of 31,987 internal burden hours, with a total annual external cost burden of $3,816,692.[1185]

We are adopting amendments to Form N-6 to update and enhance the disclosures to investors in variable life insurance contracts, and to implement the new summary prospectus regime. We are amending certain disclosures that Form N-6 currently requires. In addition, amended Form N-6 requires certain new disclosures regarding, among other things: the Key Information Table, an overview of the contract, principal risks, optional benefits, loans, lapse, and the Appendix of available portfolio companies. We are also reducing certain disclosures currently required by the form.

[1185] Form N-6's current information collection, which was approved in July 2019, reflects the adoption of certain form amendments associated with rule 30e-3 under the Investment Company Act.

We currently estimate that on a per filing basis, registrants spend 770.25 internal burden hours to prepare and file an initial registration statement on Form N-6, and 67.5 internal burden hours for each post-effective amendment. We also estimate that Form N-6 registrants spend $26,169 in external costs per initial filing, and $9,493 per post-effective amendment. As discussed below, we are adjusting some of these estimates.

The table below summarizes the estimated adjustments to the Form N-6 collection of information from the proposed amendments,[1186] the estimated adjustments to the Form N-6 collection of information from the final amendments, and the final PRA estimates for internal and external burdens associated with amended Form N-6:

FORM N–6 PRA ESTIMATES

	Internal Hour Burden		Wage Rate	Internal Time Costs	Annual External Cost Burden
PROPOSED ESTIMATES FOR INITIAL REGISTRATION STATEMENTS					
Proposed form amendments per filing	1 hour	×	$336 (blended rate for compliance attorney and senior programmer)	$336	–
Number of initial registration statements	× 8			× 8	
Total additional burden for all initial registration statements	8 hours			$2,688	–
PROPOSED ESTIMATES FOR POST-EFFECTIVE AMENDMENTS					
Proposed form amendments per filing	8 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$2,688	–
Number of post-effective amendments	× 380			× 380	
Total additional burden for all post-effective amendments	3,040 hours			$1,021,440	–
Total additional annual burden for all initial registration statements and post-effective amendments	3,048 hours			$1,024,128	–
FINAL ESTIMATES FOR INITIAL REGISTRATION STATEMENTS					
Final form amendments per filing	1 hour	×	$269 (blended rate for compliance attorney and intermediate accountant)	$269	–
Number of initial registration statements	× 7			× 7	
Total additional burden for all initial registration statements	7 hours			$1,883	–
FINAL ESTIMATES FOR POST-EFFECTIVE AMENDMENTS					
Final form amendments per filing	8 hours	×	$269	$2,152	–

1186 As part of these estimates, Commission staff estimated that there would be eight initial filings and 380 post-effective amendments on Form N-6 per year. *See* Proposing Release, *supra* note 6, at Section IV.C for more detail regarding the proposed estimates.

		(blended rate for compliance attorney and intermediate accountant)		
Number of post-effective amendments	× 378		× 378	
Total additional burden for all post-effective amendments	3,024 hours		$813,456	–
Total additional annual burden for all initial registration statements and post-effective amendments	3,031 hours		$815,339	–
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS				
Current burden estimates*	31,987 hours		$9,084,308	$3,816,692
Revised burden estimates	65,123 hours		$17,518,087	$7,840,000

* *See supra* note 1180.

Changes to Baseline Burden Estimates

We did not receive public comment on our PRA estimates for the amendments to Form N-6, which we are adopting largely as proposed. However, in light of the comment we received regarding estimated burdens associated with preparing and filing a post-effective amendment on Form N-4,[1187] and because variable life insurance contracts registered on Form N-6 today tend to offer greater numbers of portfolio companies and optional benefits than variable life insurance contracts offered in the past, we believe that certain of our estimates may be too low. Therefore, we are adjusting the baseline current estimates (before the effect of the amendments we are adopting) for certain burdens and costs associated with Form N-6,[1188] as follows:

- We are increasing our estimate to prepare and file a post-effective amendment from 67.5 hours to 150 hours per filing;[1189]

1187 *See supra* notes 1176-1177 and accompanying text.

1188 *See supra* note 1185.

1189 Due to differences in the products and the respective form requirements associated with each, we estimate the burden hours associated with preparing a post-effective amendment for a registrant on Form N-6 to be approximately 2/3 of the burden hours associated with preparing a post-

- We are increasing our estimate of the external cost to prepare and file an initial registration statement from $26,169 to $40,000 per filing;[1190] and
- We are increasing our estimate of the external cost to prepare and file a post-effective amendment from $9,493 to $20,000 per filing.[1191]

Changes to Burden Estimates Resulting From Final Amendments.

We believe that the modifications to the proposed amendments in the aggregate do not result in changes to our proposed estimates of the effect of the amendments on the current burdens. Our revised estimates, however, reflect updated data for the number of Form N-6 initial registration statements and post-effective amendments filed annually, and revised internal wage rates,[1192] as set forth in the table above.

Initial registration statements. As proposed, we estimate that the amendments will result in the following changes to the internal hours and external cost burdens:

- We estimate that, on a net basis, the amendments to Form N–6 will increase the burden of preparing and filing an initial registration statement by 4 hours per

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effective amendment for a registrant on Form N-4. As discussed above, we have revised our baseline estimate of the burdens associated with preparing a post-effective amendment for a registrant on Form N-4 to 227.5 hours. *See* Section V.B *supra*.

1190 We estimate the external costs to prepare and file an initial registration statement on Form N-6 to be roughly equivalent to those associated with preparing and filing an initial registration statement on Form N-4. As discussed above, we have increased our baseline estimate of the external costs associated with preparing and filing an initial registration statement on Form N-4 to $40,000 per filing. *See* Section V.B *supra*.

1191 We are increasing this estimate to be roughly equivalent to the same burden associated with preparing and filing a post-effective amendment on Form N-4. *See* Section V.B *supra*.

1192 *See supra* note 1164 (providing revised internal wage rate estimates for purposes of preparing and filing reports on Form N-3, and that apply equally to Form N-6).

filing. Amortizing this burden over a three-year period results in an estimated average annual burden of 1 hour per initial registration statement.

- We estimate no change to the external cost burden for these amendments.

Post-effective amendments. As proposed, we estimate that the amendments will result in the following changes to the internal hours and external cost burdens:

- We estimate a one-time burden of an additional 15 hours per registration statement the first time the registration statement is amended by post-effective amendment following adoption of the amendments. Subsequently, we estimate an ongoing burden of an additional 4 hours per registration statement to prepare and file a post-effective amendment. Amortizing these burdens over a three-year period results in an estimated average annual burden of an additional 8 hours per registration statement to prepare and file a post-effective amendment.
- We estimate no change to the external cost burden for these amendments.

In the aggregate, we estimate the total annual hour burden to comply with amended Form N-6 to be 65,123 hours,[1193] at an annual time cost of $17,518,087.[1194] We also estimate the total external cost burden to comply with amended Form N-6 to be $7,840,000.[1195] These estimates

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[1193] For initial registration statements: 7 initial filings × (770.25 hours current burden + 1 hour under amendments) = 5,399 hours. For post-effective amendments: 378 post-effective amendments × (150 hours (as adjusted per filing) + 8 hours under amendments) = 59,724 hours. 5,399 + 59,724 = 65,123 hours.

[1194] 65,123 hours x $269/hour = $17,518,087.

[1195] For initial registration statements: 7 initial filings x $40,000 (as adjusted external cost per filing) = $280,000. For post-effective amendments: 378 post-effective amendments x $20,000 (as adjusted external cost per filing) = $7,560,000. $280,000 + $7,560,000 = $7,840,000.

reflect the increase in estimated burdens associated with the amendments, adjustments to certain per filing estimates, and current estimates for the annual number of filings on Form N-6.

D. Investment Company Interactive Data

Generally as proposed,[1196] we are amending the General Instructions of Forms N-3, N-4, and N-6, rules 485 and 497 under the Securities Act, and rules under Regulation S-T,[1197] to require the use of Inline XBRL format for the submission of certain required disclosures in variable contract statutory prospectuses. Specifically, registrants will submit the following information in Inline XBRL format in registration statements or post-effective amendments regarding contracts being sold to new investors, as well as in forms of prospectuses filed pursuant to rule 497(c) or 497(e) under the Securities Act for such contracts that include information that varies from the registration statement:

- Form N-3 registrants: information provided in response to Items 2, 4, 5, 11, 18, and 19 of Form N-3;
- Form N-4 registrants: information provided in response to Items 2, 4, 5, 10 and 17 of Form N-4; and
- Form N-6 registrants: information provided in response to Items 2, 4, 5, 10, 11 and 18 of Form N-6.

The title of the collection of information affected by these amendments is "Mutual Fund Interactive Data," which we are re-titling as "Investment Company Interactive Data." Compliance with these disclosure requirements is mandatory, and responses are not confidential.

1196 *See supra* Section II.D for a discussion on how the adopted amendments differ from the proposal.

1197 *See supra* note 1159.

The amendments generally impose two types of reporting burdens on variable contracts being sold to new investors: (1) the burden of submitting certain information in Inline XBRL to the Commission in registration statements or post-effective amendments filed on Form N-3, Form N-4, and Form N-6; and (2) the burden of submitting certain information in Inline XBRL to the Commission in forms of prospectuses filed pursuant to rule 497(c) or 497(e) under the Securities Act that include information that varies from the registration statement. We currently estimate a total annual hour burden of 178,803 hours for this collection of information, and a total annual external cost burden of $10,000,647.[1198]

The tables below summarize the proposed estimates included in the Proposing Release[1199] and the final PRA estimates for internal and external burdens associated with the structured data requirements for Forms N-3, N-4, and N-6.

FORM N-3 - STRUCTURED DATA REPORTING REQUIREMENTS

	Internal Hour Burden		Wage Rate	Internal Time Costs	Annual External Cost Burden
PROPOSED ESTIMATES					
Tag and submit disclosures in Inline XBRL	20 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$6,720	$1,800
Number of responses per registrant	× 3			× 3	
Total burden per registrant	60 hours			$20,160	$1,800
Number of registrants	× 5			× 5	× 5
Total annual burden	300 hours			$100,800	$9,000

1198 These estimates are referenced in the most-recent information collection submission, reflecting the Commission's 2018 adoption of amendments to require the use of Inline XBRL format for the submission of mutual fund risk/return summary information. *See* Inline XBRL Adopting Release, *supra* note 892.

1199 *See* Proposing Release, *supra* note 6, at Section IV.D for more detail regarding the proposed estimates.

FINAL ESTIMATES					
Tag and submit disclosures in Inline XBRL	20 hours	×	$348 (blended rate for compliance attorney and senior programmer)	$6,960	$1,800
Number of responses per registrant	× 3			× 3	
Total burden per registrant	60 hours			$20,880	$1,800
Number of registrants	× 6			× 6	× 6
Total annual burden	360 hours			$125,280	$10,800

FORM N-4 - STRUCTURED DATA REPORTING REQUIREMENTS

	Internal Time Burden		Wage Rate	Internal Time Cost	Annual External Cost Burden
PROPOSED ESTIMATES					
Tag and submit disclosures in Inline XBRL	14 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$4,704	$900
Number of responses per registrant	× 3			× 3	
Total burden per registrant	42 hours			$14,112	$900
Number of registrants	× 435			× 435	× 435
Total annual burden	18,270 hours			$6,138,720	$391,500
FINAL ESTIMATES					
Tag and submit disclosures in Inline XBRL	14 hours	×	$348 (blended rate for compliance attorney and senior programmer)	$4,872	$900
Number of responses per registrant	× 3			× 3	
Total burden per registrant	42 hours			$14,616	$900
Number of registrants	× 426			× 426	× 426
Total annual burden	17,892 hours			$6,226,416	$383,400

FORM N-6 - STRUCTURED DATA REPORTING REQUIREMENTS

	Internal Hour Burden		Wage Rate[2]	Internal Time Cost	Annual External Cost Burden
PROPOSED ESTIMATES					
Tag and submit disclosures in Inline XBRL	14 hours	×	$336 (blended rate for compliance attorney and senior programmer)	$4,704	$900
Number of responses per registrant	× 3			× 3	
Total burden per registrant	42 hours			$14,112	$900
Number of registrants	× 238			× 238	× 238

Total annual burden	9,996 hours			$3,358,656	$214,200
FINAL ESTIMATES					
Tag and submit disclosures in Inline XBRL	14 hours	×	$348 (blended rate for compliance attorney and senior programmer)	$4,872	$900
Number of responses per registrant	× 3			× 3	
Total burden per registrant	42 hours			$14,616	$900
Number of registrants	× 244			× 244	× 244
Total annual burden	10,248 hours			$ 3,566,304	$219,600

TOTAL ESTIMATED BURDENS FOR STRUCTURED DATA FOR FORMS N-3, N-4, AND N-6			
Current burden estimates	0 hours	$0	$0
Revised burden estimates	28,500 hours	$9,918,000	$613,800

We did not receive public comment on our proposed PRA estimates for the burdens and costs associated with requiring variable contract registrants to use Inline XBRL to tag certain information in the specified variable contract filings. We continue to estimate the same burdens and costs associated with structured data requirements as proposed.[1200] As reflected in the table above, we are revising our estimates to reflect current figures for the number of registration statements and rule 497 filings annually filed on Forms N-3, N-4, and N-6, and updated internal wage rates.[1201]

1200 Although in a change from the proposal contracts not being sold to new investors are excluded from the Inline XBRL requirement, for purposes of these estimates we are assuming on a conservative basis that all contracts are subject to the requirement.

1201 The $348 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($365) and senior programmer ($331), which is derived from SIFMA's Management & Professional Earnings in the Securities Industry 2013 (modified to account for an 1,800 hour work year; multiplied by 5.35 to account for bonuses, firm size, employee benefits and overheard; and adjusted for inflation).

Internal Hour Burden

We estimate, as proposed, that registrants that file on Forms N-3, N-4, and N-6 will require approximately 18 burden hours of in-house personnel time to tag and submit the required disclosure information in Inline XBRL format for each post-effective amendment[1202] in the first year, and the same task in subsequent years will require approximately 12 hours for each post-effective amendment.[1203] With respect to Form N-3 registrants, we estimate an additional burden of 2 hours per investment option to tag and submit the required disclosure information for each post-effective amendment. Therefore, we estimate the average annual burden over a three-year period for each post-effective amendment filed on Form N-3 will be 20 hours,[1204] and for those filed on Forms N-4 and N-6, 14 hours.[1205] We further estimate that the burden for each rule 497 filing will be 25% of that, or 3.5 hours per response.[1206]

We also estimate, as proposed, a weighted burden average of approximately 3 responses per year per registrant to file initial and post-effective registration statements and rule 497 filings, based on weighting the burden for each rule 497 filing as 25% of the burden of a

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1202 We are not including estimates for Form N-3 initial registration statements, as none have been filed in the past three years.

1203 Our estimates are based on our prior experience with Inline XBRL. *See, e.g.*, Inline XBRL Adopting Release, *supra* note 892. We are largely following the same approach to estimating hourly burdens for variable contracts as in the context of mutual funds in the Inline XBRL Adopting Release.

1204 (18 hours for the first submission + 12 hours for the second submission + 12 hours for the third submission) / 3 years) + (2 hours per investment option x 3 investment options) = 20 hours.

1205 (18 hours for the first submission + 12 hours for the second submission + 12 hours for the third submission) / 3 years = 14 hours.

1206 Because rule 497 filings are typically 1-3 pages in length, we estimate the burden will be only 25% of the burden associated with tagging the relevant disclosures in a full registration statement filing.

post-effective amendment filing, averaging the burden for each form equally, and estimating (based on a survey by Commission staff of filings made pursuant to rule 497) that 75% of rule 497 filings by registrants on each form will contain data that would be required to be submitting in Inline XBRL format.[1207]

As reflected in the table above, we estimate that in the aggregate, adoption of the Inline XBRL requirements will result in 360 burden hours annually for Form N-3 registrants, with a collective internal cost burden of $125,280, to tag and submit the required Form N-3 disclosure information in Inline XBRL.[1208] We estimate 17,892 burden hours annually for Form N-4 registrants (with an internal cost burden of $6,226,416),[1209] and 10,248 burden hours annually for

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[1207] For Form N-3, we estimate a burden of 1.6 responses per year. This estimate is based on the following calculation: ((0 initial registration statements + 6 post-effective amendments) + (18 rule 497 filings x 75% of which will contain data that will need to be tagged x 25% weighted burden)) / 6 Form N-3 registrants = approximately 1.6 responses per year per registrant.

For Form N-4, we estimate a burden of 4.9 responses per year. This estimate is based on the following calculation: ((30 initial registration statements + 1,336 post-effective amendments) + (3,896 rule 497 filings x 75% of which will contain data that will need to be tagged x 25% weighted burden)) / 426 Form N-4 registrants = approximately 4.9 responses per year per registrant.

For Form N-6, we estimate a burden of 2.3 responses per year. This estimate is based on the following calculation: ((7 initial registration statements + 378 post-effective amendments) + (1,130 rule 497 filings x 75% of which will contain data that will need to be tagged x 25% weighted burden)) / 244 Form N-6 registrants = approximately 2.4 responses per year per registrant.

Overall, we estimate approximately 3 responses per year. This estimate is based upon the following calculation: (1.6 responses per N-3 registrant + 4.9 responses per N-4 registrant + 2.4 responses per N-6 registrant) / 3 = 3 responses per year.

[1208] 6 Form N-3 registrants x 3 responses per year per registrant x (14 hours per registrant + (2 hours per investment option x 3 investment options per registrant)) = 360 burden hours/year. The internal time cost equivalent is calculated by multiplying the total hour burden (360 hours) by the estimated hourly wage of $348 (updated to reflect inflation) = $125,280.

[1209] 426 Form N-4 registrants x 3 responses per year per registrant x 14 hours per registrant = 17,892 burden hours/year. The internal time cost equivalent of is calculated by multiplying the total hour burden (17,892 hours) by the estimated hourly wage of $348 = $6,226,416.

Form N-6 registrants (with an internal cost burden of $3,566,304) to tag and submit the required disclosures in Inline XBRL.[1210]

External Cost Burden

Compliance with the Inline XBRL requirements is expected to entail certain external costs, such as for software and/or the services of consultants and filing agents. For Form N-4 and Form N-6 registrants, we estimate, as proposed, an external cost burden of $900 per registrant for the cost of goods and services purchased to comply with the proposed Inline XBRL requirements.[1211] For Form N-3 registrants, we estimate, as proposed, an additional cost of $300 per investment option for the cost of goods and services purchased to comply with the Inline XBRL requirements for an estimated external cost burden of $1,800 per registrant.[1212]

Aggregate Burdens for Form N-3, N-4, and N-6 Registrants

We estimate that the new Inline XBRL requirements for Form N-3, N-4, and N-6 registrants will result in 28,500 internal burden hours annually,[1213] with a collective internal time cost of approximately $9,918,000.[1214] We therefore estimate the aggregate total hour burden for

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1210 244 Form N-6 registrants x 3 responses per year per registrant x 14 hours per registrant = 10,248 burden hours/year. The internal time cost equivalent is calculated by multiplying the total hour burden (10,248 hours) by the estimated hourly wage of $348 = $3,566,304.

1211 This estimate is based on the estimated average external cost burden associated with the Inline XBRL preparation expenses for mutual funds and ETFs. *See* Inline XBRL Adopting Release, *supra* note 892.

1212 $900 per registrant + (3 investment options per registrant x $300 per investment option) = $1,800 per Form N-3 registrant.

1213 360 burden hours for Form N-3 registrants + 17,892 burden hours for Form N-4 registrants + 10,248 burden hours for Form N-6 registrants = 28,500 hours.

1214 28,500 hours x $348/hour = $9,918,000.

the collection of information to be 207,303 hours as a result of the amendments.[1215] We estimate the aggregate external cost burden under the new Inline XBRL requirements for Form N-3, N-4, and N-6 registrants to be approximately $613,800.[1216] We therefore estimate the aggregate total external cost burden for the collection of information will be $10,614,447 as a result of the final amendments.[1217] These estimates include the additional internal burdens and external costs associated with the final amendments that will require variable contracts to use Inline XBRL to tag certain specified disclosures in their registration statements and rule 497 filings.

E. Rule 498A

New rule 498A contains collection of information requirements. The likely respondents to this information collection are variable annuity and variable life insurance separate accounts registered or registering with the Commission.[1218] Under rule 498A, use of the summary prospectus is voluntary, but the rule's requirements are mandatory for variable annuity and

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[1215] 178,803 hours (current internal burden estimate for Mutual Fund Interactive Data (retitled as Investment Company Interactive Data)) + 28,500 burden hours due to new Inline XBRL requirements for variable contracts = 207,303 total burden hours.

[1216] (6 Form N-3 registrants x ($900 per registrant + ($300 per investment option x 3 investment options))) + (426 Form N-4 registrants x $900 per registrant) + (244 Form N-6 registrants x $900 per registrant) = $613,800.

[1217] $10,000,647 (current external cost estimate for Mutual Fund Interactive Data (retitled as Investment Company Interactive Data)) + $613,800 external costs due to new Inline XBRL requirements for variable contracts = $10,614,447.

[1218] Rule 498A can be broadly relied upon by any person to satisfy prospectus delivery obligations under Section 5(b)(2) under the Securities Act for a variable contract or portfolio company. However, we expect the hour and cost burdens of the rule (*i.e.*, to create and file initial and updating summary prospectuses and to make certain documents available online and to distribute them upon request) will generally be borne by registrants. We base this expectation in part on the fact that our amendments require prospectuses and summary prospectuses to include the website address where the documents required to be posted online are located, and contact information to call or email to obtain paper copies of those documents, and we expect registrants to list their own website and their own contact information to satisfy these requirements, as opposed to directing investors to various financial intermediaries who may be involved in distributing those contracts.

variable life insurance separate accounts that elect to send or give a summary prospectus in reliance upon rule 498A. The information provided under rule 498A will not be kept confidential.

The summary prospectus is voluntary, so the percentage of variable annuity and variable life insurance separate accounts that will choose to utilize it is uncertain. Given this uncertainty, we have assumed that 90% of registrants will choose to use a summary prospectus under rule 498A.[1219]

The table below summarizes the proposed estimates included in the Proposing Release[1220] and the final PRA estimates for internal and external burdens associated with rule 498A for Forms N-3, N-4, and N-6:

RULE 498A PRA ESTIMATES

	Internal Hour Burden	Wage Rate	Internal Time Costs	Annual External Cost Burden
PROPOSED ESTIMATES FOR FORM N-3				
Preparation and filing of ISP/USP	38 hours	$336 (blended rate for compliance attorney and senior programmer)	$12,768	$9,500
Online Posting of Contract Documents	2 hours	$239 (webmaster)	$478	$500
Online Posting of Portfolio Company Documents	–	–	–	–
Total Burden per Registrant	40 hours		$13,246	$10,000

[1219] Given expressed industry support for layered disclosure with summary prospectuses, our estimate that approximately 93% of mutual funds currently use summary prospectuses (*see supra* note 21), and our anticipation that the rule will provide costs savings to insurers, we believe it is appropriate to assume that 90% of insurers will choose to use summary prospectuses. This differs from the estimate of 95% in the Proposing Release which was based on available data at the time. *See* Proposing Release, *supra* note 6, at Section IV.E.

[1220] *See* Proposing Release, *supra* note 6, at Section IV.E for more detail regarding the proposed estimates.

Number of registrants	× 5		× 5	× 5
Total annual burden	200 hours		$66,230	$50,000
PROPOSED ESTIMATES FOR FORM N-4				
Preparation of ISP and USP	20 hours	$336 (blended rate for compliance attorney and senior programmer)	$6,720	$5,000
Online Posting of Contract Documents	2 hours	$239 (webmaster)	$478	$500
Online Posting of Portfolio Company Documents	2 hours	$239 (webmaster)	$478	$500
Total Burden per Registrant	24 hours		$7,676	$6,000
Number of registrants	x 500		× 500	× 500
Total annual burden	12,000 hours		$3,838,000	$3,000,000
PROPOSED ESTIMATES FOR FORM N-6				
Preparation of ISP/USP	20 hours	$336	$6,720	$5,000
Online Posting of Contract Documents	2 hours	$239 (webmaster)	$478	$500
Online Posting of Portfolio Company Documents	2 hours	$239 (webmaster)	$478	$500
Total Burden per Registrant	24 hours		$7,676	$6,000
Number of registrants	× 221		× 221	× 221
Total annual burden	5,304 hours		$1,696,396	$1,326,000
TOTAL PROPOSED ESTIMATED BURDENS				
Total Annual burden	17,504 hours		$5,600,626	$4,376,000
Use of summary prospectus	x 95%		x 95%	x 95%
Total Annual Burden for Collection of Information	16,629 hours[1221]		$5,320,595[1222]	$4,157,200
FINAL ESTIMATES FOR FORM N-3				

[1221] The Proposing Release included an aggregate estimate of 17,359 hours, which reflected a mathematical error. The table includes the corrected calculation based on the estimates in the Proposing Release.

[1222] The Proposing Release included an aggregate estimated time cost equivalent of $5,565,971, which reflected a mathematical error relating to the estimated total annual burden hours. The table includes the corrected calculation based on the estimates in the Proposing Release.

Preparation of ISP/USP	38 hours	$269 (blended rate for compliance attorney and intermediate accountant)	$10,222	$9,500
Online Posting of Contract Documents	2 hours	$248 (webmaster)	$496	$500
Online Posting of Portfolio Company Documents	–	–	–	–
Total Burden per Registrant	40 hours		$10,718	$10,000
Number of registrants	× 6		× 6	× 6
Total annual burden	240 hours		$64,308	$60,000

FINAL ESTIMATES FOR FORM N-4				
Preparation of ISP and USP	20 hours	$269 (blended rate for compliance attorney and intermediate accountant	$5,380	$5,000
Online Posting of Contract Documents	2 hours	$248 (webmaster)	$496	$500
Online Posting of Portfolio Company Documents	2 hours	$248 (webmaster)	$496	$500
Total Burden per Registrant	24 hours		$ 6,372	$6,000
Number of registrants	× 426		× 426	× 426
Total annual burden	10,224 hours		$ 2,714,472	$2,556,000

FINAL ESTIMATES FOR FORM N-6				
Preparation of ISP and USP	20 hours	$269 (blended rate for compliance attorney and intermediate accountant	$5,380	$5,000
Online Posting of Contract Documents	2 hours	$248 (webmaster)	$496	$500
Online Posting of Portfolio Company Documents	2 hours	$248 (webmaster)	$496	$500
Total Burden per Registrant	24 hours		$ 6,372	$6,000
Number of registrants	× 244		× 244	× 244
Total annual burden	5,856 hours		$ 1,554,768	$1,464,000

ESTIMATES FOR PRINTING AND MAILING				
Initial Summary Prospectus	–	–	–	$1,183,200
Updating Summary Prospectus	–	–	–	$8,855,000
Total annual burden	–	–	–	$10,038,200

TOTAL ESTIMATED BURDENS (INCLUDING PRINTING AND MAILING)				
Total Annual burden	16,320 hours		$4,333,548	$14,118,200

Use of summary prospectus	x 90%		x 90%	x 90%
Total Annual Burden for New Collection of Information	14,688 hours		$3,900,193	$12,706,380

The only public comment we received regarding our PRA estimates for proposed rule 498A discussed estimated external costs associated with printing and mailing initial and summary prospectuses pursuant to the proposed rule.[1223] As discussed below, in response to this comment, we are adjusting our estimates for external costs. In all other respects, we generally believe the modifications to the proposed rule in the aggregate do not result in changes to our proposed estimates of the burdens associated with the rule unrelated to printing and mailing the summary prospectuses. Therefore, we are not otherwise adjusting our proposed estimates, except to reflect estimates for printing and mailing costs, and revised estimates for the number of variable contract registrants and internal wage rates.

Preparation of Initial Summary Prospectus and Updating Summary Prospectus

Internal Hour Burden

We did not receive any comments on our proposed estimates associated with the internal burdens to prepare and file initial and updating summary prospectuses. We continue to estimate that for registrants that choose to rely upon rule 498A, a one-time collective burden of 40 hours per registration statement to prepare and file both a new initial summary prospectus and a new updating summary prospectus for offerings on Forms N-4 or N-6.[1224] In addition, we estimate an

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1223 *See* Broadridge Comment Letter.

1224 We are aware that more than one prospectus may be filed as part of a registration statement, but we do not have data regarding how many registration statements currently include more than one prospectus. For purposes of this analysis we assume one prospectus is filed per registration statement.

ongoing collective burden of 10 hours per registration statement during each subsequent year for the registrant to prepare and file updates of the initial summary prospectus and updating summary prospectus for offerings on Forms N-4 or N-6. For offerings on Form N-3, we estimate a one-time collective burden of 40 hours per registration statement to prepare and file both a new initial summary prospectus and a new updating summary prospectus, plus a further burden of 12 hours per contract investment option. Subsequently, we estimate an ongoing collective burden of 10 hours per registration statement that would be incurred each following year to prepare and file updates of summary prospectuses, plus a further burden of 3 hours per investment option. As previously discussed, we estimate that each registration statement filed on Form N-3 will include three investment options.

Because the PRA estimates represent the average burden over a three year period, we estimate, as proposed, the average annual hour burden per registration statement to prepare and file initial and updating summary prospectuses to be 20 hours for filings on Form N-4 or N-6,[1225] and 38 hours for filings on Form N-3.[1226]

External Cost Burden

Registrants may also bear external costs to prepare and update the initial and updating summary prospectuses, such as the services of independent auditors and outside counsel. However, any external costs, such as for outside counsel and auditors, that may be associated

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[1225] ((40 hours in year 1) + (10 hours in year 2) + (10 hours in year 3)) / 3 years = 20 hours per year.

[1226] (((40 hours + (12 hours per investment option x 3 investment options) in year 1) + (10 hours + (3 hours per investment option x 3 investment options in year 2) + (10 hours + (3 hours per investment option x 3 investment options) in year 3)) / 3 years = 38 hours per year.

with preparing and updating the initial summary prospectus as an exhibit to a registration statement will be reflected in the external costs associated with those registration statements.

For registrants that choose to rely upon rule 498A, we continue to estimate a one-time collective external cost burden of $10,000 per registration statement to prepare both a new initial summary prospectus and a new updating summary prospectus for offerings on Forms N-4 or N-6. In addition, we estimate an ongoing collective burden of $2,500 per registration statement during each subsequent year for the registrant to prepare updates of the initial summary prospectus and updating summary prospectus for offerings on Forms N-4 or N-6. For offerings on Form N-3, we estimate a one-time collective burden of $10,000 per registration statement to prepare and file both a new initial summary prospectus and a new updating summary prospectus, plus a further burden of $3,000 per contract investment option. Subsequently, we estimate an ongoing collective burden of $2,500 per registration statement during each following year to prepare and file updates of summary prospectuses, plus a further burden of $750 per investment option. As discussed above, we estimate that each registration statement filed on Form N-3 will include three investment options.

Because the PRA estimates represent the average burden over a three-year period, we estimate that the average annual cost burden to prepare and file initial and updating summary prospectuses will be $5,000 per filing on Forms N-4 and N-6.[1227] For Form N-3, we estimate the

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[1227] (($10,000 in year 1) + ($2,500 in year 2) + ($2,500 in year 3)) / 3 years = $5,000 per year.

average annual cost burden per registration statement to prepare and update initial and updating summary prospectuses will be $9,500.[1228]

Aggregate Burdens for Preparing and Filing Summary Prospectuses

As discussed above, in light of our consideration of a comment received on our printing and mailing estimates, we have revised our estimate of related external costs which was $3,469,875 in the proposal. We now estimate the aggregate annual hour burden to prepare and file initial and updating summary prospectuses for offerings on Forms N-3, N-4, and N-6 will be 12,265 hours,[1229] at an internal cost equivalent of $3,299,285.[1230] We also estimate the aggregate annual external costs associated with preparing and filing summary prospectuses to be $3,066,300.[1231]

Online Availability of Contract Statutory Prospectus and Certain Other Documents Relating to the Contract

Registrants that choose to rely on rule 498A are required to make certain documents relating to the contract available online, including a variable contract's initial summary prospectus, updating summary prospectus, statutory prospectus, and SAI for contracts registered on Forms N-3, N-4, or N-6, and the contract's most recent annual and semi-annual reports to

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[1228] (((($10,000 to prepare new initial and updating summary prospectuses + ($3,000 per investment option x 3 investment options) in year 1) + ($2,500 + ($750 per investment option x 3 investment options)) in year 2) + ($2,500 + ($750 per investment option x 3 investment options) in year 3) / 3 = $9,500 per year.

[1229] This estimate, which assumes 90% reliance on the rule, is based on the following: ((38 hours x 6 registrants on Form N-3 = 228) + (20 hours x 426 registrants on Form N-4 = 8,520) + (20 hours x 244 registrants on Form N-6 = 4,880)) x 90% = 12,265 hours.

[1230] 12,265 hours x $269 per hour = $3,299,285.

[1231] (($9,500 x 6 registrants on Form N-3 = $57,000) + ($5,000 x 426 registrants on Form N-4 = $2,130,000) + ($5,000 x 244 registrants on Form N-6 = $1,220,000)) x 90% = $3,066,300.

shareholders under rule 30e-1 in the case of a variable annuity contract registered under Form N-3. We received no comments on this aspect of the proposal, and continue to estimate, as proposed, the average burden to comply with the website posting requirements to be 2 hours per set of documents associated with a single registration statement, both in the first year and annually thereafter.[1232] Registrants must also provide these documents upon request. We estimate, as proposed, that the average annual costs associated with printing and mailing these documents upon request to be collectively $500 for all specified contract documents associated with a single registrant.[1233]

In total, we estimate the annual burden to comply with the website posting requirements of the rule for documents relating to variable contracts will be 1,217 hours, [1234] at an internal cost equivalent of $301,816.[1235] We also estimate the aggregate annual external costs associated with printing and mailing these documents upon request to be $304,200.[1236]

[1232] Separate account registrants are generally larger entities, and therefore, based on our experience with these registrants, we assume that all separate account registrants already have their own website and will not experience any burdens associated with developing a website.

[1233] Because we do not have specific data regarding cost of printing and mailing the documents that must be provided on request, for purposes of our analysis we continue to estimate, as proposed, $500 per year to collectively print and mail upon request all of the specified contract documents associated with a single registrant. Investors could also request to receive these documents electronically. We estimate that there will be negligible external costs associated with emailing electronic copies of these documents.

[1234] This estimate, which assumes 90% reliance on the rule, is based on the following: 2 hours per registrant x (6 registrants on Form N-3 + 426 registrants on Form N-4 + 244 registrants on Form N-6) x 90% = 1,217 hours.

[1235] 1,217 hours x $248 per hour = $301,816.

[1236] $500 per registrant x (6 registrants on Form N-3 + 426 registrants on Form N-4 + 244 registrants on Form N-6) x 90% = $304,200.

Online Availability of Portfolio Company Statutory Prospectuses and Certain Other Documents Relating to Portfolio Companies

Registrants on Forms N-4 and N-6 that choose to rely on the new delivery option for portfolio company prospectuses are also required to post online the portfolio company's summary prospectus, statutory prospectus, SAI, and most recent annual and semi-annual shareholder reports.[1237] We received no comments on this aspect of the proposal. Accordingly, we estimate, as proposed, the average burden to comply with the website posting requirements to be 2 hours per set of documents associated with a single registration statement, both in the first year and annually thereafter. Because registrants may incur external costs in connection with the requirement to provide these documents upon investor request, we estimate, as proposed, the average annual costs associated with printing and mailing these documents upon request to be collectively $500 for all specified portfolio company documents associated with a single registrant.[1238]

1237 The obligation to post these documents online will fall upon the party that has the prospectus delivery obligation for the portfolio company prospectus. For purposes of this PRA analysis, we assume that delivery of portfolio company prospectuses will be done by registrants, rather than portfolio companies or financial intermediaries such as broker-dealers. In some situations, portfolio company documents may already be posted online, such as in the case of portfolio companies that already use summary prospectuses and therefore are subject to the document posting requirements of rule 498. However, for purposes of this PRA, we still assume that the registrant will bear the burden of posting those documents since we expect the registrant will repost those documents to make them available on a single website. *See supra* note 1218.

1238 As previously noted, investors could also request to receive these documents electronically. We estimate that there will be negligible external costs associated with emailing electronic copies of these documents.

In total, we estimate the annual burden to comply with the website posting requirements of the rule for documents relating to portfolio companies will be 1,206 hours,[1239] at an internal cost equivalent of $299,088.[1240] We estimate that the aggregate annual external costs associated with printing and mailing these documents upon request will be $301,500.[1241]

Printing and Mailing Summary Prospectuses

In the Proposing Release, the Commission did not estimate any costs associated with printing and mailing the initial and updating summary prospectuses. In response to the Commission's general request for comments on our PRA estimates, one commenter provided an estimate of $8 million for total costs to print and mail initial and updating summary prospectuses annually.[1242] We received no other comments in this regard. Based on the commenter's methodology (updated to reflect new estimates for new and existing contracts, which the commenter used as the basis for estimating the number of summary prospectuses delivered each

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1239 This estimate, which assumes 90% reliance on the rule, is based on the following: 2 hours per registrant x (426 registrants on Form N-4 + 244 registrants on Form N-6) x 90% = 1,206 hours.

1240 1,206 hours x $248/hour = $299,088.

1241 This estimate, which assumes 90% reliance on the rule, is based on the following: $500 per registrant x (426 registrants on Form N-4 + 244 registrants on Form N-6) x 90% = $301,500. For purposes of this PRA analysis and based upon our experience, we assume the burden of emailing these documents will be outsourced to third-party service providers and therefore included within these external cost estimates.

1242 *See* Broadridge Comment Letter. Because this commenter's estimates assumed the inclusion of portfolio company prospectuses, it appears to only contemplate the costs associated summary prospectuses for Forms N-4 and N-6 (Form N-3 does not offer underlying portfolio companies).

The commenter's figures, which rely on estimates in the Economic Analysis section of the Proposing Release for the number of new and existing contracts likely to use the summary prospectus option, *see supra* note 6, n.698 and accompanying text, assume that 700,000 initial summary prospectuses and 13 million updating summary prospectuses will be printed and mailed annually, with an estimated unit cost of $1.20 (first-class) for each initial summary prospectus, and $0.55 (bulk rate) for each updating summary prospectus.

year), we estimate the external cost for registrants to print and mail the summary prospectuses to be $10,038,200 annually.[1243]

Aggregate Total Burdens Associated with Rule 498A

We estimate the aggregate total annual hour burden for registrants under rule 498A to be 14,688 hours,[1244] at an internal time cost equivalent of $3,900,189[1245] which reflects a decrease from the proposed estimates due to revised estimates for the number of variable contract registrants and revised estimates of the percentage of insurers that will choose to use summary prospectuses. We also estimate the total external cost to be $12,706,380, which reflects an increase over the proposed estimate due to the inclusion of costs associated with the printing and mailing of summary prospectuses.[1246]

VI. REGULATORY FLEXIBILITY ACT CERTIFICATION

[1243] The commenter's estimates assume that each new and existing contract is a proxy for a single new and existing investor, which conflicts with our understanding that each contract may have many investors (new and existing). However, lacking other specific data upon which to estimate printing and mailing costs associated with summary prospectuses, we apply the commenter's methodology for purposes of this PRA analysis (updated to reflect revised estimates for the number of initial and existing contracts likely to use a summary prospectus). *See supra* note 1077 and accompanying text. Calculated as follows: initial summary prospectuses ($1.20 unit cost x 986,000 new contracts (initial mailings)) = $1,183,200) + updating summary prospectuses ($0.55 unit cost x 16.1 million existing contracts (annual updates)) = $8,855,000) = $10,038,200 combined.

[1244] This estimate, which assumes 90% reliance on the rule, is based on the following: 12,265 hours to prepare and update summary prospectuses + 1,217 hours for online posting of contract documents + 1,206 hours for online posting of portfolio company documents = 14,688 hours.

[1245] This estimate, which assumes 90% reliance on the rule, is based on the following: $3,299,285 to prepare and update summary prospectuses + $301,816 for online posting of contract documents + $315,704 for online posting of portfolio company documents = $3,900,189. Due to rounding, this estimate differs slightly from the corresponding number posted in the table above ($3,900,193).

[1246] This estimate, which assumes 90% reliance on the rule, is based on the following: ($3,407,000 to prepare and update summary prospectuses + $338,000 for online posting of contract documents + $335,000 for online posting of portfolio company documents + $10,038,200 to annually print and mail all summary prospectuses) x 90% = $12,706,380 (total external costs for rule 498A).

Pursuant to 5 U.S.C. 605(b), we hereby certify that rule 498A under the Securities Act and amendments to Forms N-3, N-4, N-6, and N-14 under the Securities Act and the Investment Company Act, as adopted, will not have a significant economic impact on a substantial number of small entities.[1247]

We are adopting rule 498A under the Securities Act pursuant to authority set forth in Sections 5, 6, 7, 10, 19, and 28 of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, 77s, and 77z-3] and Sections 8, 24(a), 24(g), 30, and 38 of the Investment Company Act [15 U.S.C. 80a-8, 80a-24(a), 80a-24(g), 80a-29, and 80a-37]. Rule 498A provides a new option that permits a person to satisfy its variable annuity and variable life insurance contract prospectus delivery obligations under the Securities Act by providing a summary prospectus to investors.

A person will have the option of satisfying its prospectus delivery obligations for variable contracts under Section 5(b)(2) of the Securities Act by: (1) sending or giving to new investors key information contained in a variable contract statutory prospectus in the form of an initial summary prospectus; (2) sending or giving to existing investors each year a brief description of certain changes to the contract, and a subset of the information in the initial summary prospectus, in the form of an updating summary prospectus; and (3) providing the statutory prospectus and other materials online. Rule 498A requires a registrant (or the financial intermediary distributing the variable contact) to send the variable contract statutory prospectus and other materials to the investor in paper or by email upon request. Additionally, the rule permits satisfaction of any

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[1247] We also certified that the proposed rule and proposed form amendments would not have a significant economic impact on a substantial number of small entities. *See* Proposing Release, *supra* note 6, at Section V. We received no comments on that certification. As discussed below, we are also adopting minor amendments to Form N-14 in response to a comment letter.

portfolio company prospectus delivery obligations by posting the portfolio company summary and statutory prospectuses online at the website address specified on the variable contract summary prospectus.[1248]

Investors will also be able to request and receive those documents in paper or electronically at no cost. No variable contract separate accounts will be required to send or give a summary prospectus.

We are also adopting amendments to Forms N-3, N-4, N-6, and N-14 pursuant to authority set forth in Sections 5, 6, 7, 10, and 19(a) of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a)] and Sections 8, 24(a), 24(g), 30, and 38 of the Investment Company Act [15 U.S.C. 80a-8, 80a-24(a), 80a-24(g), 80a-29, and 80a-37]. The amendments to Forms N-3, N-4, and N-6 are intended to update and enhance the disclosures to investors in variable annuity and variable life insurance contracts, and to implement the proposed summary prospectus framework.

Specifically, the amendments to Forms N-3, N-4, and N-6 add new disclosures requiring, among other things, an overview of the contract, key information, consolidated risk disclosures, a list of the available portfolio companies with expense and performance information, and information about standard and optional benefits that a contract may offer. The amendments

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[1248] This option does not apply to Form N-3 registrants, which do not have underlying portfolio companies due to a single-tier investment company structure.

The obligation to post these documents online will fall upon the party that has the prospectus delivery obligation for the portfolio company prospectus. For purposes of this Regulatory Flexibility Act analysis, we assume that delivery of portfolio company prospectuses will be done by registrants, rather than portfolio companies or financial intermediaries such as broker-dealers. *See supra* note 1237 (making the same assumption for purposes of the Paperwork Reduction Act analysis).

also standardize presentation requirements across registration statement forms to make the information more accessible to retail investors. We are also requiring variable contracts to use the Inline XBRL format for the submission of certain required disclosures in the variable contract statutory prospectus.[1249] All insurance company separate accounts offering variable annuity and variable life insurance contracts will be subject to the new disclosure and reporting requirements, regardless of size. In addition, the amendments to Form N-14 provide that a portfolio company prospectus whose delivery obligations were satisfied via new rule 498A(j) may be incorporated by reference into a filing on Form N-14 without being sent to investors, so long as that portfolio company was listed in the variable contract summary prospectus Appendix at the time the disclosures required by Form N-14 were delivered to investors.[1250]

Generally, an investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of $50 million or less as of the end of its most recent fiscal year.[1251] The analysis is slightly different for insurance company separate accounts. Because state law generally treats separate account assets as the property of the sponsoring insurance company, rule 0-10 aggregates each separate account's assets with the assets of the sponsoring insurance company, together with assets held in other sponsored separate accounts.[1252] As a result, the Commission expects few, if any, separate accounts to be treated as small entities.

1249 *See supra* Section II.D.

1250 *See supra* Section II.B.2.d.

1251 17 CFR 270.0-10(a) (rule 0-10(a)).

1252 Rule 0-10(b).

For this reason, we believe rule 498A and the amendments to Forms N-3, N-4, N-6, and N-14, as adopted, will not have a significant economic impact on a substantial number of small entities.

VII. STATUTORY AUTHORITY

We are adopting the rule and form amendments contained in this document under the authority set forth in the Securities Act, particularly, Sections 10, 19, and 28 thereof [15 U.S.C. *77a et seq.*], the Exchange Act, particularly, Section 23 thereof [15 U.S.C. 78a *et seq.*], the Investment Company Act, particularly, Sections 8, 30, and 38 thereof [15 U.S.C. 80a *et seq.*], and 44 U.S.C. 3506, 3507.

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Organization and functions (Government agencies).

17 CFR Parts 230, 270, and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

17 CFR Parts 239 and 240

Reporting and recordkeeping requirements, Securities.

TEXT OF RULE AND FORM AMENDMENTS

For reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 200 - ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND

REQUESTS

Subpart N - Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers

1. The authority citation for subpart N of part 200 continues to read as follows:

Authority: 44 U.S.C. 3506; 44 U.S.C. 3507.

2. Amend §200.800 in the table in paragraph (b) by adding an entry in numerical order by part and section number for "Rule 498A" to read as follows:

§200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

Information collection requirement	**17 CFR part or section where identified and described**	**Current OMB control no.**
* * * * * * *		
Rule 498A	230.498A	3235-0765
* * * * * * *		

PART 230 – GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

3. The authority citation for part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78*l*, 78m, 78n, 78*o*, 78*o*-7 note, 78t, 78w, 78*ll*(d), 78mm, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, and Pub. L. 112-106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, and 85, as amended (15 U.S.C. 77f, 77h, 77j, 77s).

* * * * *

4. Amend §230.159A by revising paragraph (a)(2) to read as follows:

§230.159A Certain definitions for purposes of Section 12(a)(2) of the Act.

(a) * * *

(2) Any free writing prospectus as defined in §230.405 (Rule 405) relating to the offering prepared by or on behalf of the issuer or used or referred to by the issuer and, in the case of an issuer that is an open-end management company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq*.) or a separate account (as defined in Section 2(a)(14) of the Securities Act) (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940 on §§239.17a and 274.11b of this chapter (Form N-3), §§239.17b and 274.11c of this chapter (Form N-4), or §§239.17c and 274.11d of this chapter (Form N-6), any summary prospectus relating to the offering provided pursuant to §230.498 (Rule 498) or §230.498A (Rule 498A), respectively;

* * * * *

5. Amend §230.431 by revising the introductory text to paragraph (a) to read as follows:

§230.431 Summary prospectuses.

(a) A summary prospectus prepared and filed (except a summary prospectus filed by an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq*.) or a separate account (as defined in section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940 on §§239.17a and 274.11b of this chapter (Form N-3), §§239.17b and 274.11c of this chapter (Form

N-4), or §§239.17c and 274.11d of this chapter (Form N-6) as part of a registration statement in accordance with this section shall be deemed to be a prospectus permitted under section 10(b) of the Act (15 U.S.C. 77j(b)) for the purposes of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)) if the form used for registration of the securities to be offered provides for the use of a summary prospectus and the following conditions are met:

* * * * *

6. Amend §230.482 by revising paragraph (a) to read as follows:

§230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) *Scope of rule*. This section applies to an advertisement or other sales material (*advertisement*) with respect to securities of an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq*.) (*1940 Act*), or a business development company, that is selling or proposing to sell its securities pursuant to a registration statement that has been filed under the Act. This section does not apply to an advertisement that is excepted from the definition of prospectus by section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)), §230.498(d), or §230.498A(g) or (j)(2), or to a summary prospectus under §230.498 or §230.498A. An advertisement that complies with this section, which may include information the substance of which is not included in the prospectus specified in section 10(a) of the Act (15 U.S.C 77j(a)), will be deemed to be a prospectus under section 10(b) of the Act (15 U.S.C. 77j(b)) for the purposes of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)).

Note 1 to paragraph (a): The fact that an advertisement complies with this section does not relieve the investment company, underwriter, or dealer of any obligations with respect to the advertisement under the antifraud provisions of the Federal securities laws. For guidance about factors to be weighed in determining whether statements, representations, illustrations, and descriptions contained in investment company advertisements are misleading, see §230.156. In

addition, an advertisement that complies with this section is subject to the legibility requirements of §230.420.

* * * * *

7. Amend §230.485 by revising paragraph (c)(3) to read as follows:

§230.485 Effective date of post-effective amendments filed by certain registered investment companies.

* * * * *

(c) * * *

(3) A registrant's ability to file a post-effective amendment, other than an amendment filed solely for purposes of submitting an Interactive Data File, under paragraph (b) of this section is automatically suspended if a registrant fails to submit any Interactive Data File as required by General Instruction C.3.(g) of §§239.15A and 274.11A of this chapter (Form N-1A), General Instruction C.3.(h) of §§239.17a and 274.11b of this chapter (Form N-3), General Instruction C.3.(h) of §§239.17b and 274.11c of this chapter (Form N-4), or General Instruction C.3.(h) of §§239.17c and 274.11d of this chapter (Form N-6). A suspension under this paragraph (c)(3) shall become effective at such time as the registrant fails to submit an Interactive Data File as required by General Instruction C.3.(g) of Form N-1A, or General Instruction C.3.(h) of Form N-3, General Instruction C.3.(h) of Form N-4, or General Instruction C.3.(h) of Form N-6. Any such suspension, so long as it is in effect, shall apply to any post-effective amendment that is filed after the suspension becomes effective, but shall not apply to any post-effective amendment that was filed before the suspension became effective. Any suspension shall apply only to the ability to file a post-effective amendment pursuant to paragraph (b) of this section and shall not otherwise

affect any post-effective amendment. Any suspension under this paragraph (c)(3) shall terminate as soon as a registrant has submitted the Interactive Data File as required by General Instruction C.3.(g) of Form N-1A, General Instruction C.3.(h) of Form N-3, General Instruction C.3.(h) of Form N-4, or General Instruction C.3.(h) of Form N-6.

* * * * *

8. Revise §230.496 to read as follows:

§230.496 Contents of prospectus and statement of additional information used after nine months.

In the case of a registration statement filed on Form N-1A (§§239.15A and 274.11A of this chapter), Form N-2 (§§239.14 and 274.11a-1 of this chapter), Form N-3 (§§239.17a and 274.11b of this chapter), Form N-4 (§§239.17b and 274.11c of this chapter), or Form N-6 (§§239.17c and 274.11d of this chapter), there may be omitted from any prospectus or Statement of Additional Information used more than nine months after the effective date of the registration statement any information previously required to be contained in the prospectus or the Statement of Additional Information insofar as later information covering the same subjects, including the latest available certified financial statements, as of a date not more than 16 months prior to the use of the prospectus or the Statement of Additional Information is contained therein.

Note 1 to §230.496: For a discussion of the effectiveness of a registration statement relating to certain discontinued contracts subject to a Commission position as of July 1, 2020, see Investment Company Release No. 33814 (March 11, 2020).

9. Amend §230.497 by revising paragraphs (c), (e), and (k) and removing the parenthetical authority at the end of the section to read as follows:

§230.497 Filing of investment company prospectuses – number of copies.

* * * * *

(c) For investment companies filing on §§239.15A and 274.11A of this chapter (Form N-1A), §§239.14 and 274.11a-1 of this chapter (Form N-2), §§239.17a and 274.11b of this chapter (Form N-3), §§239.17b and 274.11c of this chapter (Form N-4), or §§239.17c and 274.11d of this chapter (Form N-6), within five days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, 10 copies of each form of prospectus and form of Statement of Additional Information used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used. Investment companies filing on Forms N-1A, N-3, N-4, or N-6 must, if applicable pursuant to General Instruction C.3.(g) of Form N-1A, General Instruction C.3.(h) of Form N-3, General Instruction C.3.(h) of Form N-4, or General Instruction C.3.(h) of Form N-6, submit an Interactive Data File (as defined in §232.11 of this chapter).

* * * * *

(e) For investment companies filing on §§239.15A and 274.11A of this chapter (Form N-1A), §§239.14 and 274.11a-1 of this chapter (Form N-2), §§239.17a and 274.11b of this chapter (Form N-3), §§239.17b and 274.11c of this chapter (Form N-4), or §§239.17c and 274.11d of this chapter (Form N-6), after the effective date of a registration statement, no prospectus that purports to comply with Section 10 of the Act (15 U.S.C. 77j) or Statement of Additional Information that varies from any form of prospectus or form of Statement of

Additional Information filed pursuant to paragraph (c) of this section shall be used until five copies thereof have been filed with, or mailed for filing to the Commission. Investment companies filing on Forms N-1A, N-3, N-4, or N-6 must, if applicable pursuant to General Instruction C.3.(g) of Form N-1A, General Instruction C.3.(h) of Form N-3, General Instruction C.3.(h) of Form N-4, or General Instruction C.3.(h) of Form N-6, submit an Interactive Data File (as defined in §232.11 of this chapter).

* * * * *

(k) This paragraph (k), and not the other provisions of this section, shall govern the filing of summary prospectuses under §§230.498 and 230.498A. Each definitive form of a summary prospectus under §§230.498 and 230.498A shall be filed with the Commission no later than the date that it is first used.

10. Amend §230.498 by revising paragraph (c)(2) to read as follows:

§230.498 Summary Prospectuses for open-end management investment companies.

* * * * *

(c) * * *

(2) The Summary Prospectus is not bound together with any materials, except that a Summary Prospectus for a Fund that is available as an investment option in a variable annuity or variable life insurance contract may be bound together with the Statutory Prospectus for the contract (or a summary prospectus for the contract provided under §230.498A) and Summary Prospectuses and Statutory Prospectuses for other investment options available in the contract, provided that:

(i) All of the Funds to which the Summary Prospectuses and Statutory Prospectuses that are bound together relate are available to the person to whom such documents are sent or given; and

(ii) A table of contents identifying each Summary Prospectus, Statutory Prospectus, and summary prospectus under §230.498A that is bound together, and the page number on which it is found, is included at the beginning or immediately following a cover page of the bound materials;

* * * * *

11. Add §230.498A to read as follows:

§230.498A Summary Prospectuses for separate accounts offering variable annuity and variable life insurance contracts.

(a) *Definitions*. For purposes of this section:

Class means a class of a Contract that varies principally with respect to distribution-related fees and expenses.

Contract means a Variable Annuity Contract or a Variable Life Insurance Contract as defined in this section, respectively.

Depositor means the person primarily responsible for the organization of the Registrant and the person, other than the trustee or custodian, who has continuing functions or responsibilities with respect to the administration of the affairs of the Registrant. "Depositor" includes the sponsoring insurance company that establishes and maintains the Registrant.

Initial Summary Prospectus means the initial summary prospectus described in paragraph (b) of this section.

Investment Option means any portfolio of investments in which a Registrant on Form N-3 invests and which may be selected as an option by the investor.

Portfolio Company means any company in which a Registrant on Form N-4 or Form N-6 invests and which may be selected as an option by the investor.

Portfolio Company Prospectus means the Statutory Prospectus of a Portfolio Company and a summary prospectus of a Portfolio Company permitted by §230.498.

Registrant means a separate account (as defined in section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) that has an effective registration statement on §§239.17a and 274.11b of this chapter (Form N-3), §§239.17b and 274.11c of this chapter (Form N-4), or §§239.17c and 274.11d of this chapter (Form N-6) and that has a current prospectus that satisfies the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)).

Statement of Additional Information means the statement of additional information required by Part B of Form N-1A, Form N-3, Form N-4, or Form N-6.

Statutory Prospectus means a prospectus that satisfies the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)).

Summary Prospectus refers to both the Initial Summary Prospectus and the Updating Summary Prospectus.

Updating Summary Prospectus means the updating summary prospectus described in paragraph (c) of this section.

Variable Annuity Contract means any accumulation contract or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either during an accumulation period or after annuitization, or both, may vary with the investment performance of any separate account.

Variable Life Insurance Contract means a life insurance contract that provides for death benefits and cash values that may vary with the investment performance of any separate account.

(b) *General requirements for Initial Summary Prospectus*. An Initial Summary Prospectus that complies with this paragraph (b) will be deemed to be a prospectus that is

authorized under section 10(b) of the Act (15 U.S.C. 77j(b)) and section 24(g) of the Investment Company Act (15 U.S.C. 80a-24(g)) for the purposes of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)).

(1) *Scope of Initial Summary Prospectus*. An Initial Summary Prospectus may only describe a single Contract (but may describe more than one Class of the Contract) currently offered by the Registrant under the Statutory Prospectus to which the Initial Summary Prospectus relates.

(2) *Cover page or beginning of Initial Summary Prospectus*. Include on the front cover page or the beginning of the Initial Summary Prospectus:

(i) The Depositor's name;

(ii) The name of the Contract, and the Class or Classes if any, to which the Initial Summary Prospectus relates;

(iii) A statement identifying the document as a "Summary Prospectus for New Investors";

(iv) The approximate date of the first use of the Initial Summary Prospectus;

(v) The following legend:

This Summary Prospectus summarizes key features of the [Contract].

Before you invest, you should also review the prospectus for the [Contract], which contains more information about the [Contract's] features, benefits, and risks. You can find this document and other information about the [Contract] online at [___]. You can also obtain this information at no cost by calling [____] or by sending an email request to [___].

You may cancel your [Contract] within 10 days of receiving it without paying fees or penalties. In some states, this cancellation period may be longer. Upon cancellation, you will

receive either a full refund of the amount you paid with your application or your total contract value. You should review the prospectus, or consult with your investment professional, for additional information about the specific cancellation terms that apply.

Additional information about certain investment products, including [variable annuities/variable life insurance contracts], has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

(A) A Registrant may modify the legend so long as the modified legend contains comparable information.

(B) The legend must provide a website address, other than the address of the Commission's electronic filing system; toll-free telephone number; and email address that investors can use to obtain the Statutory Prospectus and other materials, request other information about the Contract, and make investor inquiries. The website address must be specific enough to lead investors directly to the Statutory Prospectus and other materials that are required to be accessible under paragraph (h)(1) of this section, rather than to the home page or other section of the website on which the materials are posted. The website could be a central site with prominent links to each document. The legend may indicate, if applicable, that the Statutory Prospectus and other information are available from a financial intermediary (such as a broker-dealer) through which the Contract may be purchased or sold. If a Fund relies on §270.30e-3 of this chapter to transmit a report, the legend must also include the website address required by §270.30e-3(c)(1)(iii) of this chapter if different from the website address required by this paragraph (b)(2)(v)(B).

(C) The paragraph of the legend regarding cancellation of the Contract may be omitted if not applicable. If this paragraph is included in the legend, the paragraph must be presented in a manner reasonably calculated to draw investor attention to that paragraph.

(D) The legend may include instructions describing how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.

(E) The legend for a Contract registered on Form N-3 shall include a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of [the Registrant's] shareholder reports will no longer be sent by mail, unless you specifically request paper copies of the reports from [the Registrant] [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from [the Registrant] [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform [the Registrant] [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all [funds] held with [the fund complex/your financial intermediary].

(F) The legend for a Contract registered on Form N-4 or N-6 shall include a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the shareholder reports for [Portfolio Companies available under your Contract] will no longer be sent by mail, unless you specifically request paper copies of the reports from [the Registrant] [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from [the Portfolio Companies] [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform [the Registrant] [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all portfolio companies [available under your Contract].

(3) *Back cover page or last page of Initial Summary Prospectus*. (i) If a Registrant incorporates any information by reference into the Summary Prospectus, include a legend identifying the type of document (*e.g.*, Statutory Prospectus) from which the information is incorporated and the date of the document. If a Registrant incorporates by reference a part of a document, the legend must clearly identify the part by page, paragraph, caption, or otherwise. If information is incorporated from a source other than the Statutory Prospectus, the legend must explain that the incorporated information may be obtained, free of charge, in the same manner as the Statutory Prospectus.

(ii) Include on the bottom of the back cover page or the last page of the Initial Summary Prospectus the EDGAR contract identifier for the contract in type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).

(4) *Table of contents*. An Initial Summary Prospectus may include a table of contents meeting the requirements of §230.481(c).

(5) *Contents of Initial Summary Prospectus*. An Initial Summary Prospectus must contain the information required by this paragraph (b)(5) with respect to the applicable registration form, and only the information required by this paragraph (b)(5), in the order provided in paragraphs (b)(5)(i) through (ix) of this section.

(i) Under the heading "Important Information You Should Consider About the [Contract]," the information required by Item 2 of Form N-3, Item 2 of Form N-4, or Item 2 of Form N-6.

(ii) Under the heading "Overview of the [Contract]," the information required by Item 3 of Form N-3, Item 3 of Form N-4, or Item 3 of Form N-6.

(iii) Under the heading "Standard Death Benefits," the information required by Item 10(a) of Form N-6.

(iv) Under the heading "Benefits Available Under the [Contract]," the information required by Item 11(a) of Form N-3 or Item 10(a) of Form N-4. Under the heading "Other Benefits Available Under the [Contract]," the information required by Item 11(a) of Form N-6.

(v) Under the heading "Buying the [Contract]," the information required by Item 12(a) of Form N-3, Item 11(a) of Form N-4, or Item 9(a) through (c) of Form N-6.

(vi) Under the heading "How Your [Contract] Can Lapse," the information required by Item 14(a) through (c) of Form N-6.

(vii) Under the heading "Making Withdrawals: Accessing the Money in Your [Contract]," the information required by Item 13(a) of Form N-3, Item 12(a) of Form N-4, or Item 12(a) of Form N-6.

(viii) Under the heading "Additional Information About Fees," the information required by Item 4 of Form N-3, Item 4 of Form N-4, or Item 4 of Form N-6.

(ix) Under the heading "Appendix: [Portfolio Companies] Available Under the Contract," include as an appendix the information required by Item 18 of Form N-3, Item 17 of Form N-4, or Item 18 of Form N-6. Alternatively, an Initial Summary Prospectus for a Contract registered on Form N-3 may include the information required by Item 19 of Form N-3 under the heading "Additional Information About Investment Options Available Under the Contract."

(c) *General requirements for Updating Summary Prospectus*. An Updating Summary Prospectus that complies with this paragraph (c) will be deemed to be a prospectus that is authorized under section 10(b) of the Act (15 U.S.C. 77j(b)) and section 24(g) of the Investment Company Act (15 U.S.C. 80a-24(g)) for the purposes of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)).

(1) *Use of Updating Summary Prospectus*. A Registrant may only use an Updating Summary Prospectus if the Registrant uses an Initial Summary Prospectus for each currently offered Contract described under the Statutory Prospectus to which the Updating Summary Prospectus relates.

(2) *Scope of Updating Summary Prospectus*. An Updating Summary Prospectus may describe one or more Contracts (and more than one Class) described under the Statutory Prospectus to which the Updating Summary Prospectus relates.

(3) *Cover page or beginning of Updating Summary Prospectus*. Include on the front cover page or at the beginning of the Updating Summary Prospectus:

(i) The Depositor's name;

(ii) The name of the Contract(s) and the Class or Classes, if any, to which the Updating Summary Prospectus relates;

(iii) A statement identifying the document as an "Updating Summary Prospectus";

(iv) The approximate date of the first use of the Updating Summary Prospectus; and

(v)(A) The following legend, which must meet the requirements of paragraphs (b)(2)(v)(A), (B), and (D) of this section, as applicable:

The prospectus for the [Contract] contains more information about the [Contract], including its features, benefits, and risks. You can find the current prospectus and other information about the [Contract] online at [___]. You can also obtain this information at no cost by calling [____] or by sending an email request to [___].

Additional information about certain investment products, including [variable annuities/variable life insurance contracts], has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

(B) The legend required by paragraphs (b)(2)(v)(E) and (F) of this section, as applicable.

(4) *Back cover page or last page of Updating Summary Prospectus*. Include on the bottom of the back cover page or the last page of the Updating Summary Prospectus:

(i) The legend required by paragraph (b)(3)(i) of this section; and

(ii) The EDGAR contract identifier(s) for each contract in type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).

(5) *Table of contents*. An Updating Summary Prospectus may include a table of contents meeting the requirements of §230.481(c).

(6) *Contents of Updating Summary Prospectus*. An Updating Summary Prospectus must contain the information required by this paragraph (c)(6) with respect to the applicable registration form, in the order provided in paragraphs (c)(6)(i) through (iv) of this section.

(i) If any changes have been made with respect to the Contract after the date of the most recent Updating Summary Prospectus or Statutory Prospectus that was sent or given to investors with respect to the availability of Investment Options (for Registrants on Form N-3) or Portfolio Companies (for Registrants on Forms N-4 and N-6) under the Contract, or the disclosure that the Registrant included in response to Item 2 (Key Information), Item 3 (Overview of the Contract), Item 4 (Fee Table), Item 11 (Benefits Available Under the Contract), Item 12 (Purchases and Contract Value), or Item 13 (Surrenders and Withdrawals) of Form N-3; Item 2 (Key Information), Item 3 (Overview of the Contract), Item 4 (Fee Table), Item 10 (Benefits Available Under the Contract), Item 11 (Purchases and Contract Value), or Item 12 (Surrenders and Withdrawals) of Form N-4; and Item 2 (Key Information), Item 3 (Overview of the Contract), Item 4 (Fee Table), Item 9 (Premiums), Item 10 (Standard Death Benefits), Item 11 (Other Benefits Available Under the Contract), Item 12 (Surrenders and Withdrawals), or Item 14 (Lapse and Reinstatement) of Form N-6, include the following as applicable, under the heading "Updated Information About Your [Contract]":

(A) The following legend: "The information in this Updating Summary Prospectus is a summary of certain [Contract] features that have changed since the Updating Summary Prospectus dated [date]. This may not reflect all of the changes that have occurred since you entered into your [Contract]."

(B) As applicable, provide a concise description of each change specified in paragraph (c)(6)(i) of this section. Provide enough detail to allow investors to understand the change and how it will affect investors, including indicating whether the change only applies to certain Contracts described in the Updating Summary Prospectus.

(ii) In addition to the changes specified in paragraph (c)(6)(i) of this section, a Registrant may provide a concise description of any other information relevant to the Contract within the time period that paragraph (c)(6)(i) of this section specifies, under the heading "Updated Information About Your [Contract]." Any additional information included pursuant to this paragraph (c)(6)(ii) should not, by its nature, quantity, or manner of presentation, obscure or impede understanding of the information that paragraph (c)(6)(i) of this section requires.

(iii) Under the heading "Important Information You Should Consider About the [Contract]," provide the information required by Item 2 of Form N-3, Item 2 of Form N-4, or Item 2 of Form N-6.

(iv) Under the heading "Appendix: [Portfolio Companies/Investment Options] Available Under the [Contract]," include as an appendix the information required by Item 18 of Form N-3, Item 17 of Form N-4, or Item 18 of Form N-6. Alternatively, an Updating Summary Prospectus for a Contract registered on Form N-3 may include, under the heading "Additional Information About [Investment Options] Available Under the [Contract]," the information required by Item 19 of Form N-3.

(d) *Incorporation by reference into a Summary Prospectus*. (1) Except as provided by paragraph (d)(2) of this section, information may not be incorporated by reference into a Summary Prospectus. Information that is incorporated by reference into a Summary Prospectus

in accordance with paragraph (d)(2) of this section need not be sent or given with the Summary Prospectus.

(2) A Registrant may incorporate by reference into a Summary Prospectus any or all of the information contained in the Registrant's Statutory Prospectus and Statement of Additional Information, and any information from the Registrant's reports under §270.30e-1 of this chapter that the Registrant has incorporated by reference into the Registrant's Statutory Prospectus, provided that:

(i) The conditions of paragraphs (b)(2)(v)(B), (c)(3)(v), and (h) of this section are met;

(ii) A Registrant may not incorporate by reference into a Summary Prospectus information that paragraphs (b) and (c) of this section require to be included in an Initial Summary Prospectus or Updating Summary Prospectus, respectively; and

(iii) Information that is permitted to be incorporated by reference into the Summary Prospectus may be incorporated by reference into the Summary Prospectus only by reference to the specific document that contains the information, not by reference to another document that incorporates such information by reference.

(3) For purposes of §230.159 of this chapter, information is conveyed to a person not later than the time that a Summary Prospectus is received by the person if the information is incorporated by reference into the Summary Prospectus in accordance with paragraph (d)(2) of this section.

(e) *Terms used in the Summary Prospectus*. Define special terms used in the Initial Summary Prospectus and Updating Summary Prospectus using any presentation style that clearly conveys their meaning to investors, such as the use of a glossary or list of definitions.

(f) *Transfer of the Contract security*. Any obligation under section 5(b)(2) of the Act (15 U.S.C.77e(b)(2)) to have a Statutory Prospectus precede or accompany the carrying or delivery of a Contract security in an offering registered on Form N-3, Form N-4, or Form N-6 is satisfied if:

(1) A Summary Prospectus is sent or given no later than the time of the carrying or delivery of the Contract security (an Initial Summary Prospectus in the case of a purchase of a new Contract, or an Updating Summary Prospectus in the case of additional purchase payments in an existing Contract);

(2) The Summary Prospectus is not bound together with any materials except Portfolio Company Prospectuses for Portfolio Companies available as investment options under the Contract, provided that:

(i) All of the Portfolio Companies are available as investment options to the person to whom such documents are sent or given; and

(ii) A table of contents identifying each Portfolio Company Prospectus that is bound together, and the page number on which each document is found, is included at the beginning or immediately following a cover page of the bound materials.

(3) The Summary Prospectus that is sent or given satisfies the requirements of paragraph (b) or (c) of this section, as applicable, at the time of the carrying or delivery of the Contract security; and

(4) The conditions set forth in paragraph (h) of this section are satisfied.

(g) *Sending communications*. A communication relating to an offering registered on Form N-3, Form N-4, or Form N-6 sent or given after the effective date of a Contract's

registration statement (other than a prospectus permitted or required under section 10 of the Act) shall not be deemed a prospectus under section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)) if:

(1) It is proved that prior to or at the same time with such communication a Summary Prospectus was sent or given to the person to whom the communication was made;

(2) The Summary Prospectus is not bound together with any materials, except as permitted by paragraph (f)(2) of this section;

(3) The Summary Prospectus that was sent or given satisfies the requirements of paragraph (b) or (c) of this section, as applicable, at the time of such communication; and

(4) The conditions set forth in paragraph (h) of this section are satisfied.

(h) *Availability of the Statutory Prospectus and certain other documents*. (1) The current Initial Summary Prospectus, Updating Summary Prospectus, Statutory Prospectus, Statement of Additional Information, and in the case of a Registrant on Form N-3, the Registrant's most recent annual and semi-annual reports to shareholders under §270.30e-1, are publicly accessible, free of charge, at the website address specified on the cover page or beginning of the Summary Prospectuses, on or before the time that the Summary Prospectuses are sent or given and current versions of those documents remain on the website through the date that is at least 90 days after:

(i) In the case of reliance on paragraph (f) of this section, the date that the Contract security is carried or delivered; or

(ii) In the case of reliance on paragraph (g) of this section, the date that the communication is sent or given.

(2) The materials that are accessible in accordance with paragraph (h)(1) of this section must be presented on the website in a format, or formats, that:

(i) Are human-readable and capable of being printed on paper in human-readable format;

(ii) Permit persons accessing the Statutory Prospectus or Statement of Additional Information for the Contract to move directly back and forth between each section heading in a table of contents of such document and the section of the document referenced in that section heading; provided that, in the case of the Statutory Prospectus, the table of contents is either required by §230.481(c) or contains the same section headings as the table of contents required by §230.481(c); and

(iii) Permit persons accessing a Summary Prospectus to move directly back and forth between:

(A) Each section of the Summary Prospectus and any section of the Statutory Prospectus and Contract Statement of Additional Information that provides additional detail concerning that section of the Summary Prospectus; or

(B) Links located at both the beginning and end of the Summary Prospectus, or that remain continuously visible to persons accessing the Summary Prospectus, and tables of contents of both the Statutory Prospectus and the Contract Statement of Additional Information that meet the requirements of paragraph (h)(2)(ii) of this section.

(iv) Permit persons accessing the Summary Prospectus to view the definition of each special term used in the Summary Prospectus (as required by paragraph (e) of this section) upon command (*e.g.*, by moving or "hovering" the computer's pointer or mouse over the term, or selecting the term on a mobile device); or permits persons accessing the Contract Summary Prospectus to move directly back and forth between each special term and the corresponding

entry in any glossary or list of definitions in the Contract Summary Prospectus (as described in paragraph (e) of this section).

(3) Persons accessing the materials specified in paragraph (h)(1) of this section must be able to permanently retain, free of charge, an electronic version of such materials in a format, or formats, that meet each of the requirements of paragraphs (h)(2)(i) and (ii) of this section.

(4) The conditions set forth in paragraphs (h)(1) through (3) of this section shall be deemed to be met, notwithstanding the fact that the materials specified in paragraph (h)(1) of this section are not available for a time in the manner required by paragraphs (h)(1) through (3) of this section, provided that:

(i) The Registrant has reasonable procedures in place to ensure that the specified materials are available in the manner required by paragraphs (h)(1) through (3) of this section; and

(ii) The Registrant takes prompt action to ensure that the specified documents become available in the manner required by paragraphs (h) through (3) of this section, as soon as practicable following the earlier of the time at which it knows or reasonably should have known that the documents are not available in the manner required by paragraphs (h)(1) through (3) of this section.

(i) *Other requirements*--(1) *Delivery upon request*. If paragraph (f) or (g) of this section is relied on with respect to a Contract, the Registrant (or a financial intermediary through which the Contract may be purchased) must send, at no cost to the requestor and by U.S. first class mail or other reasonably prompt means, a paper copy of the Contract Statutory Prospectus, Contract Statement of Additional Information, and in the case of a Registrant on Form N-3, the Registrant's most recent annual and semi-annual reports to shareholders under §270.30e-1 of this

chapter, to any person requesting such a copy within three business days after receiving a request for a paper copy. If paragraph (f) or (g) of this section is relied on with respect to a Contract, the Registrant (or a financial intermediary through which Contract may be purchased) must send, at no cost to the requestor, and by email, an electronic copy of any of the documents listed in this paragraph (i)(1) to any person requesting a copy of such document within three business days after receiving a request for an electronic copy. The requirement to send an electronic copy of a document may be satisfied by sending a direct link to the online document; provided that a current version of the document is directly accessible through the link from the time that the email is sent through the date that is six months after the date that the email is sent and the email explains both how long the link will remain useable and that, if the recipient desires to retain a copy of the document, he or she should access and save the document.

(2) *Greater prominence*. If paragraph (f) or (g) of this section is relied on with respect to a Contract, the Summary Prospectus shall be given greater prominence than any materials that accompany the Summary Prospectus.

(3) *Convenient for reading and printing*. If paragraph (f) or (g) of this section is relied on with respect to a Contract:

(i) The materials that are accessible in accordance with paragraph (h)(1) of this section must be presented on the website in a format, or formats, that are convenient for both reading online and printing on paper; and

(ii) Persons accessing the materials that are accessible in accordance with paragraph (h)(1) of this section must be able to permanently retain, free of charge, an electronic version of such materials in a format, or formats, that are convenient for both reading online and printing on paper.

(4) *Website addresses*. If paragraph (f) or (g) of this section is relied on with respect to a Contract, any website address that is included in an electronic version of the Summary Prospectus must include an active hyperlink or provide another means of facilitating access through equivalent methods or technologies that lead directly to the relevant website address. This paragraph (i)(4) does not apply to electronic versions of a Summary Prospectus that are filed on the EDGAR system.

(5) *Compliance with this paragraph (i) not a condition to reliance on paragraph (f) or (g) of this section*. Compliance with this paragraph (i) is not a condition to the ability to rely on paragraph (f) or (g) of this section with respect to a Contract, and failure to comply with this paragraph (i) does not negate the ability to rely on paragraph (f) or (g) of this section.

(j) *Portfolio Company Prospectuses*--(1) *Transfer of the Portfolio Company security*. Any obligation under section 5(b)(2) of the Act to have a Statutory Prospectus precede or accompany the carrying or delivery of a Portfolio Company security is satisfied if, and information contained in the documents referenced in paragraph (j)(1)(ii) of this section is conveyed for purposes of §230.159 when:

(i) An Initial Summary Prospectus is used for each currently offered Contract described under the related registration statement;

(ii) A summary prospectus is used for the Portfolio Company (if the Portfolio Company is registered on Form N-1A); and

(iii) The current summary prospectus, Statutory Prospectus, Statement of Additional Information, and most recent annual and semi-annual reports to shareholders under §270.30e-1 of this chapter for the Portfolio Company are publicly accessible, free of charge, at the same website address referenced in paragraph (h)(1) of this section, and are accessible under the

conditions set forth in paragraphs (h)(1), (h)(2)(i) and (ii), and (h)(3) and (4) of this section, with respect to the availability of documents relating to the Contract.

(2) *Communications*. Any communication relating to a Portfolio Company (other than a prospectus permitted or required under section 10 of the Act) shall not be deemed a prospectus under section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)) if the conditions set forth in paragraph (j)(1) of this section are satisfied.

(3) *Other requirements*. The materials referenced in paragraph (j)(1)(iii) of this section must be delivered upon request, presented, and able to be retained under the conditions set forth in paragraphs (i)(1) and (3) of this section. Compliance with this paragraph (j)(3) is not a condition to the ability to rely on paragraph (j)(1) or (2) of this section, and failure to comply with this paragraph (j)(3) does not negate the ability to rely on paragraph (j)(1) or (2) of this section.

§230.498A [Amended]

12. Effective January 1, 2022, §230.498A is further amended by:

a. Removing paragraphs (b)(2)(v)(E) and (F); and

b. Removing and reserving paragraph (c)(3)(v)(B).

PART 232 – REGULATION S-T – GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

13. The authority citation for part 232 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78*l*, 78m, 78n, 78*o*(d), 78w(a), 78*ll*, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, 7201 *et seq*., and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

14. Amend §232.11 by revising the definition of "Related Official Filing" to read as follows:

§232.11 Definition of terms used in part 232.

* * * * *

Related Official Filing. The term *Related Official Filing* means the ASCII or HTML format part of the official filing with which all or part of an Interactive Data File appears as an exhibit or, in the case of a filing on §§239.15A and 274.11A of this chapter (Form N-1A), General Instruction C.3.(h) of §§239.17a and 274.11b of this chapter (Form N-3), General Instruction C.3.(h) of §§239.17b and 274.11c of this chapter (Form N-4), and General Instruction C.3.(h) of §§239.17c and 274.11d of this chapter (Form N-6), the ASCII or HTML format part of an official filing that contains the information to which an Interactive Data File corresponds.

* * * * *

15. Amend §232.405 by:

a. Revising the introductory text and paragraphs (a)(2), (a)(3)(i) introductory text, (a)(3)(ii), and (a)(4);

b. Adding a heading for paragraph (b);

c. Revising paragraphs (b)(1) introductory text and (b)(2); and

d. Redesignating the Note to §232.405 as Note 2 to §232.405 and revising the newly redesignated note.

The revisions and addition read as follows:

§232.405 Interactive Data File submissions.

This section applies to electronic filers that submit Interactive Data Files. Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K), paragraph (101)

of Part II—Information Not Required to be Delivered to Offerees or Purchasers of §239.40 of this chapter (Form F-10), paragraph 101 of the Instructions as to Exhibits of §249.220f of this chapter (Form F-20), paragraph B.(15) of the General Instructions to §249.240f of this chapter (Form 40-F), paragraph C.(6) of the General Instructions to §249.306 of this chapter (Form 6-K), General Instruction C.3.(g) of §§239.15A and 274.11A of this chapter (Form N-1A), General Instruction C.3.(h) of §§239.17a and 274.11b of this chapter (Form N-3), General Instruction C.3.(h) of §§239.17b and 274.11c of this chapter (Form N-4), and General Instruction C.3.(h) of §§239.17c and 274.11d of this chapter (Form N-6) specify when electronic filers are required or permitted to submit an Interactive Data File (as defined in §232.11), as further described in the note to this section. This section imposes content, format, and submission requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (as defined in §232.11).

(a) * * *

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by §229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of §239.40 of this chapter (Form F-10), paragraph 101 of the Instructions as to Exhibits of §249.220f of this chapter (Form 20-F), paragraph B.(15) of the General Instructions to §249.240f of this chapter (Form 40-F), paragraph C.(6) of the General Instructions to §249.306 of this chapter (Form 6-K), General Instruction C.3.(g) of §§239.15A and 274.11A of this chapter (Form N-1A), General

Instruction C.3.(h) of §§239.17a and 274.11b of this chapter (Form N-3), General Instruction C.3.(h) of §§239.17b and 274.11c of this chapter (Form N-4), or General Instruction C.3.(h) of §§239.17c and 274.11d of this chapter (Form N-6), as applicable;

(3) * * *

(i) If the electronic filer is neither an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) nor a separate account (as defined in section 2(a)(14) of the Securities Act) (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq*.), and is not within one of the categories specified in paragraph (f)(1)(i) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to:

* * * * *

(ii) If the electronic filer is either an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) or a separate account (as defined in section 2(a)(14) of the Securities Act) registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq*.), and is not within one of the categories specified in paragraph (f)(1)(ii) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to a filing that contains the disclosure this section requires to be tagged; and

(4) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, either §229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of §239.40 of this chapter (Form F-10), paragraph 101 of the Instructions as to Exhibits of §249.220f of this chapter (Form 20-F), paragraph B.(15) of the General Instructions to

§249.240f of this chapter (Form 40-F), paragraph C.(6) of the General Instructions to §249.306 of this chapter (Form 6-K), General Instruction C.3.(g) of §§239.15A and 274.11A of this chapter (Form N-1A), General Instruction C.3.(h) of §§239.17a and 274.11b of this chapter (Form N-3), General Instruction C.3.(h) of §§239.17b and 274.11c of this chapter (Form N-4), or General Instruction C.3.(h) of §§239.17c and 274.11d of this chapter (Form N-6).

(b) *Content—categories of information presented.* (1) If the electronic filer is neither an open-end management investment company registered under the Investment Company Act of 1940 nor a separate account (as defined in section 2(a)(14) of the Securities Act) registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq*.), an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from all of the following categories:

* * * * *

(2) If the electronic filer is either an open-end management investment company registered under the Investment Company Act of 1940 or a separate account (as defined in section 2(a)(14) of the Securities Act) registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq*.), an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from the information set forth in:

(i) Items 2, 3, and 4 of §§239.15A and 274.11A of this chapter (Form N-1A);

(ii) Items 2, 4, 5, 11, 18 and 19 of §§239.17a and 274.11b of this chapter (Form N-3);

(iii) Items 2, 4, 5, 10, and 17 of §§239.17b and 274.11c of this chapter (Form N-4); or

(iv) Items 2, 4, 5, 10, 11 and 18 §§239.17c and 274.11d of this chapter (Form N-6) as applicable.

* * * * *

Note 2 to §232.405: Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to §239.11 of this chapter (Form S-1), §239.13 of this chapter (Form S-3), §239.25 of this chapter (Form S-4), §239.18 of this chapter (Form S-11), §239.31 of this chapter (Form F-1), §239.33 of this chapter (Form F-3), §239.34 of this chapter (Form F-4), §249.310 of this chapter (Form 10-K), §249.308a of this chapter (Form 10-Q), and §249.308 of this chapter (Form 8-K). Paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of §239.40 of this chapter (Form F-10) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form F-10. Paragraph 101 of the Instructions as to Exhibits of §249.220f of this chapter (Form 20-F) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form 20-F. Paragraph B.(15) of the General Instructions to §249.240f of this chapter (Form 40-F) and Paragraph C.(6) of the General Instructions to §249.306 of this chapter (Form 6-K) specify the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to §249.240f of

this chapter (Form 40-F) and §249.306 of this chapter (Form 6-K). Section 229.601(b)(101) (Item 601(b)(101) of Regulation S-K), paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of Form F-10, paragraph 101 of the Instructions as to Exhibits of Form 20-F, paragraph B.(15) of the General Instructions to Form 40-F, and paragraph C.(6) of the General Instructions to Form 6-K all prohibit submission of an Interactive Data File by an issuer that prepares its financial statements in accordance with 17 CFR 210.6-01 through 210.6-10 (Article 6 of Regulation S-X). For an issuer that is an open-end management investment company or separate account registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), General Instruction C.3.(g) §§239.15A and 274.11A of this chapter (Form N-1A), General Instruction C.3.(h) of §§239.17a and 274.11b of this chapter (Form N-3), General Instruction C.3.(h) of §§239.17b and 274.11c of this chapter (Form N-4), or General Instruction C.3.(h) of §§239.17c and 274.11d of this chapter (Form N-6), as applicable, specifies the circumstances under which an Interactive Data File must be submitted.

PART 239 – FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

16. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78*l*, 78m,78n, 78*o*(d), 78*o*-7 note, 78u-5, 78w(a), 78*ll*, 78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37; and sec. 107, Pub. L. 112-106, 126 Stat. 312, unless otherwise noted.

* * * * *

§239.15 [Removed and Reserved]

17. Remove and reserve §239.15.

18. Amend Form N-14 (referenced in §239.23) by:

a. In General Instruction G, revising the second sentence;

b. In Item 3, replacing the phrase "Items 2, 4(a) through (c), and 5 through 14 of Form N-3" with "Items 2 through 3, 5 through 16, and 18 of Form N-3";

c. In Item 12(a), replacing the phrase "Items 15 through 23 of Form N-3" with "Items 20 through 26 of Form N-3"; and

d. In Item 13(a), replacing the phrase "Items 15 through 23 of Form N-3" with "Items 20 through 26 of Form N-3".

The revisions to General Instruction G read as follows:

Note: The text of Form N-14 does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM N-14

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

*** * * * ***

G. Incorporation by Reference and Delivery of Prospectuses or Reports Filed with the Commission

*** * * * ***

* * * If the registrant elects to incorporate information by reference into the prospectus, a copy of each document from which information is incorporated by reference must accompany the registration statement filed with the Commission and the prospectus, except that a prospectus from which information has been incorporated by reference need not be sent to an investor if the obligation to deliver a prospectus under section 5(b)(2) of the Securities Act [15 U.S.C. 77e] has already been satisfied with respect to that investor pursuant to rule 498A(j) for the offering described in the prospectus being incorporated by reference.

* * * * *

PART 240 – GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

19. The general authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c-3, 78c-5, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78*l*, 78m, 78n, 78n-1, 78*o*, 78*o*-4, 78*o*-10, 78p, 78q, 78q-1, 78s, 78u-5, 78w, 78x, 78*ll*, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 *et seq.*; and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111-203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112-106, secs. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

*** * * * ***

20. Amend §240.14a-16 by revising paragraph (f)(2)(iii) to read as follows:

§240.14a-16 Internet availability of proxy materials.

* * * * *

(f) * * *

(2) * * *

(iii) In the case of an investment company registered under the Investment Company Act of 1940, the company's prospectus, a summary prospectus that satisfies the requirements of §230.498(b) or §230.498A(b) or (c) of this chapter, a Notice under §270.30e-3 of this chapter, or a report that is required to be transmitted to stockholders by section 30(e) of the Investment Company Act (15 U.S.C. 80a-29(e)) and its implementing regulations (e.g., §§ 270.30e-1 and 270.30e-2 of this chapter); and

* * * * *

§240.14a-101 [Amended]

21. Amend §240.14a-101 by removing the phrase "Item 3 of Form N-3" and adding in its place "Item 4 of Form N-3" in paragraph (a)(3)(iv) of Item 22.

PART 270 — RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

22. The authority citation for part 270 is amended by removing the sectional authority for §270.6e-3(T) and adding a sectional authority for §270.6e-3 in numerical order to read, in part, as follows:

Authority: 15 U.S.C. 80a-1 *et seq.*, 80a-34(d), 80a-37, 80a-39, and Pub. L. 111-203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

Section 270.6e-3 is also issued under 15 U.S.C. 80a-5(e).

* * * * *

23. Amend §270.0-1 by revising paragraph (e) introductory text and paragraph (e)(2) to read as follows:

§270.0-1 Definition of terms used in this part.

* * * * *

(e) Definition of separate account and conditions for availability of exemption under §§270.6c-6, 270.6c-7, 270.6c-8, 270.11a-2, 270.14a-2, 270.15a-3, 270.16a-1, 270.22c-1, 270.22d-2, 270.22e-1, 270.26a-1, 270.27i-1, and 270.32a-2 (Rules 6c-6, 6c-7, 6c-8, 11a-2, 14a-2, 15a-3, 16a-1, 22c-1, 22d-2, 22e-1, 26a-1, 27i-1, and 32a-2).

* * * * *

(2) As conditions to the availability of exemptive Rules 6c-6, 6c-7, 6c-8, 11a-2, 14a-2, 15a-3, 16a-1, 22c-1, 22d-2, 22e-1, 26a-1, 27i-1, and 32a-2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

24. Amend §270.6c-7 by revising the introductory text and removing the parenthetical authority at the end of the section to read as follows:

§270.6c-7 Exemptions from certain provisions of sections 22(e) and 27 for registered separate accounts offering variable annuity contracts to participants in the Texas Optional Retirement Program.

A registered separate account, and any depositor of or underwriter for such account, shall be exempt from the provisions of sections 22(e), 27(i)(2)(A), and 27(d) of the Act (15 U.S.C. 80a-22(e), 80a-27(i)(2)(A), and 80a-27(d), respectively) with respect to any variable annuity contract participating in such account to the extent necessary to permit compliance with the Texas Optional Retirement Program ("Program"), *Provided,* That the separate, account, depositor, or underwriter for such account:

* * * * *

25. Amend §270.6c-8 by revising paragraphs (b) and (c) and removing the parenthetical authority at the end of the section to read as follows:

§270.6c-8 Exemptions for registered separate accounts to impose a deferred sales load and to deduct certain administrative charges.

* * * * *

(b) A registered separate account, and any depositor of or principal underwriter for such account, shall be exempt from the provisions of sections 22(c) and 27(i)(2)(A) of the Act (15 U.S.C. 80a-22(c) and 80a-27(i)(2)(A), respectively) and §270.22c-1 (Rule 22c-1) to the extent necessary to permit them to impose a deferred sales load on any variable annuity contract participating in such account; provided that the terms of any offer to exchange another contract for the contract are in compliance with the requirements of paragraph (d) or (e) of §270.11a-2 (Rule 11a-2).

(c) A registered separate account, and any depositor of or principal underwriter for such account, shall be exempt from sections 22(c) and 27(i)(2)(A) of the Act (15 U.S.C. 80a-22(c) and 80a-27(i)(2)(A), respectively) and §270.22c-1 (Rule 22c-1) to the extent necessary to permit them to deduct from the value of any variable annuity contract participating in such account, upon total redemption of the contract prior to the last day of the year, the full annual fee for administrative services that otherwise would have been deducted on that date.

26. Revise §270.6e-2 to read as follows:

§270.6e-2 Exemptions for certain variable life insurance separate accounts.

(a) A separate account, and the investment adviser, principal underwriter and depositor of such separate account, shall, except for the exemptions provided in paragraph (b) of this section,

be subject to all provisions of the Act and this part as though such separate account were a registered investment company issuing periodic payment plan certificates if:

(1) Such separate account is established and maintained by a life insurance company pursuant to the insurance laws or code of:

(i) Any state or territory of the United States or the District of Columbia; or

(ii) Canada or any province thereof, if it complies to the extent necessary with §270.7d-1 (Rule 7d-1) under the Act;

(2) The assets of the separate account are derived solely from the sale of variable life insurance contracts as defined in paragraph (c) of this section, and advances made by the life insurance company which established and maintains the separate account ("life insurer") in connection with the operation of such separate account;

(3) The separate account is not used for variable annuity contracts or for funds corresponding to dividend accumulations or other contract liabilities not involving life contingencies;

(4) The income, gains and losses, whether or not realized, from assets allocated to such separate account, are, in accordance with the applicable variable life insurance contract, credited to or charged against such account without regard to other income, gains or losses of the life insurer;

(5) The separate account is legally segregated, and that portion of its assets having a value equal to, or approximately equal to, the reserves and other contract liabilities with respect to such separate account are not chargeable with liabilities arising out of any other business that the life insurer may conduct;

(6) The assets of the separate account have, at each time during the year that adjustments in the reserves are made, a value at least equal to the reserves and other contract liabilities with respect to such separate account, and at all other times, except pursuant to an order of the Commission, have a value approximately equal to or in excess of such reserves and liabilities; and

(7) The investment adviser of the separate account is registered under the Investment Advisers Act of 1940.

(b) If a separate account meets the requirements of paragraph (a) of this section, then such separate account and the other persons described in paragraph (a) of this section shall be exempt from the provisions of the Act as follows:

(1) Section 7 (15 U.S.C. 80a-7).

(2) Section 8 (15 U.S.C. 80a-8) to the extent that:

(i) For purposes of paragraph (a) of section 8, the separate account shall file with the Commission a notification on §274.301 of this chapter (Form N-6EI-1) which identifies such separate account; and

(ii) For purposes of paragraph (b) of section 8, the separate account shall file with the Commission a form to be designated by the Commission within 90 days after filing the notification on Form N-6EI-1; provided, however, that if the fiscal year of the separate account ends within this 90 day period the form may be filed within ninety days after the end of such fiscal year.

(3) Section 9 (15 U.S.C. 80a-9) to the extent that:

(i) The eligibility restrictions of section 9(a) shall not be applicable to those persons who are officers, directors and employees of the life insurer or its affiliates who do not participate

directly in the management or administration of the separate account or in the sale of variable life insurance contracts funded by such separate account; and

(ii) A life insurer shall be ineligible pursuant to paragraph (3) of section 9(a) to serve as investment adviser, depositor of or principal underwriter for a variable life insurance separate account only if an affiliated person of such life insurer, ineligible by reason of paragraph (1) or (2) of section 9(a), participates directly in the management or administration of the separate account or in the sale of variable life insurance contracts funded by such separate account.

(4) Section 13(a) (15 U.S.C. 80a-13(a)) to the extent that:

(i) An insurance regulatory authority may require pursuant to insurance law or regulation that the separate account make (or refrain from making) certain investments which would result in changes in the subclassification or investment policies of the separate account;

(ii) Changes in the investment policy of the separate account initiated by contractholders or the board of directors of the separate account may be disapproved by the life insurer, provided that such disapproval is reasonable and is based upon a determination by the life insurer in good faith that:

(A) Such change would be contrary to state law; or

(B) Such change would be inconsistent with the investment objectives of the separate account or would result in the purchase of securities for the separate account which vary from the general quality and nature of investments and investment techniques utilized by other separate accounts of the life insurer or of an affiliated life insurance company, which separate accounts have investment objectives similar to the separate account; and

(iii) Any action taken in accordance with paragraph (b)(4)(i) or (ii) of this section and the reasons therefor shall be disclosed in the proxy statement for the next meeting of variable life insurance contractholders of the separate account.

(5) Section 14(a) (15 U.S.C. 80a-14(a)).

(6)(i) Section 15(a) (15 U.S.C. 80a-15(a)) to the extent this section requires that the initial written contract pursuant to which the investment adviser serves or acts shall have been approved by the vote of a majority of the outstanding voting securities of the registered company; provided that:

(A) Such investment adviser is selected and a written contract is entered into before the effective date of the registration statement under the Securities Act of 1933, as amended, for variable life insurance contracts which are funded by the separate account, and that the terms of the contract are fully disclosed in such registration statement; and

(B) A written contract is submitted to a vote of variable life insurance contractholders at their first meeting after the effective date of the registration statement under the Securities Act of 1933, as amended, on condition that such meeting shall take place within one year after such effective date, unless the time for the holding of such meeting shall be extended by the Commission upon written request for good cause shown; and

(ii) Sections 15 (a), (b) and (c) (15 U.S.C. 80a-15(a), (b), and (c)) to the extent that:

(A) An insurance regulatory authority may disapprove pursuant to insurance law or regulation any contract between the separate account and an investment adviser or principal underwriter;

(B) Changes in the principal underwriter for the separate account initiated by contractholders or the board of directors of the separate account may be disapproved by the life insurer; provided that such disapproval is reasonable;

(C) Changes in the investment adviser of the separate account initiated by contractholders or the board of directors of the separate account may be disapproved by the life insurer; provided that such disapproval is reasonable and is based upon a determination by the life insurer in good faith that:

(*1*) The rate of the proposed investment advisory fee will exceed the maximum rate that is permitted to be charged against the assets of the separate account for such services as specified by any variable life insurance contract funded by such separate account; or

(*2*) The proposed investment adviser may be expected to employ investment techniques which vary from the general techniques utilized by the current investment adviser to the separate account, or advise the purchase or sale of securities which would be inconsistent with the investment objectives of the separate account, or which would vary from the quality and nature of investments made by other separate accounts of the life insurer or of an affiliated life insurance company, which separate accounts have investment objectives similar to the separate account; and

(D) Any action taken in accordance with paragraph (b)(6)(ii)(A), (B), or (C) of this section and the reasons therefor shall be disclosed in the proxy statement for the next meeting of variable life insurance contractholders of the separate account.

(7) Section 16(a) (15 U.S.C. 80a-16(a)) to the extent that:

(i) Persons serving as directors of the separate account prior to the first meeting of such account's variable life insurance contractholders are exempt from the requirement of section

16(a) that such persons be elected by the holders of outstanding voting securities of such account at an annual or special meeting called for that purpose; provided that:

(A) Such persons have been appointed directors of such account by the life insurer before the effective date of the registration statement under the Securities Act of 1933, as amended, for variable life insurance contracts which are funded by the separate account and are identified in such registration statement (or are replacements appointed by the life insurer for any such persons who have become unable to serve as directors); and

(B) An election of directors for such account shall be held at the first meeting of variable life insurance contractholders after the effective date of the registration statement under the Securities Act of 1933, as amended, relating to contracts funded by such account, which meeting shall take place within one year after such effective date, unless the time for holding such meeting shall be extended by the Commission upon written request for good cause shown; and

(ii) A member of the board of directors of such separate account may be disapproved or removed by the appropriate insurance regulatory authority if such person is ineligible to serve as a director of the separate account pursuant to insurance law or regulation of the jurisdiction in which the life insurer is domiciled.

(8) Section 17(f) (15 U.S.C. 80a-17(f)) to the extent that the securities and similar investments of the separate account may be maintained in the custody of the life insurer or an insurance company which is an affiliated person of such life insurer; provided that:

(i) The securities and similar investments allocated to such separate account are clearly identified as to ownership by such account, and such securities and similar investments are maintained in the vault of an insurance company which meets the qualifications set forth in paragraph (b)(8)(ii) of this section, and whose procedures and activities with respect to such

safekeeping function are supervised by the insurance regulatory authorities of the jurisdiction in which the securities and similar investments will be held;

(ii) The insurance company maintaining such investments must file with an insurance regulatory authority of a State or territory of the United States or the District of Columbia an annual statement of its financial condition in the form prescribed by the National Association of Insurance Commissioners, must be subject to supervision and inspection by such authority and must be examined periodically as to its financial condition and other affairs by such authority, must hold the securities and similar investments of the separate account in its vault, which vault must be equivalent to that of a bank which is a member of the Federal Reserve System, and must have a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of not less than $1,000,000 as set forth in its most recent annual statement filed with such authority;

(iii) Access to such securities and similar investments shall be limited to employees of or agents authorized by the Commission, representatives of insurance regulatory authorities, independent public accountants for the separate account, accountants for the life insurer and to no more than 20 persons authorized pursuant to a resolution of the board of directors of the separate account, which persons shall be directors of the separate account, officers and responsible employees of the life insurer or officers and responsible employees of the affiliated insurance company in whose vault such investments are maintained (if applicable), and access to such securities and similar investments shall be had only by two or more such persons jointly, at least one of whom shall be a director of the separate account or officer of the life insurer;

(iv) The requirement in paragraph (b)(8)(i) of this section that the securities and similar investments of the separate account be maintained in the vault of a qualified insurance company

shall not apply to securities deposited with insurance regulatory authorities or deposited in a system for the central handling of securities established by a national securities exchange or national securities association registered with the Commission under the Securities Exchange Act of 1934, as amended, or such person as may be permitted by the Commission, or to securities on loan which are collateralized to the extent of their full market value, or to securities hypothecated, pledged, or placed in escrow for the account of such separate account in connection with a loan or other transaction authorized by specific resolution of the board of directors of the separate account, or to securities in transit in connection with the sale, exchange, redemption, maturity or conversion, the exercise of warrants or rights, assents to changes in terms of the securities, or to other transactions necessary or appropriate in the ordinary course of business relating to the management of securities;

(v) Each person when depositing such securities or similar investments in or withdrawing them from the depository or when ordering their withdrawal and delivery from the custody of the life insurer or affiliated insurance company, shall sign a notation in respect of such deposit, withdrawal or order which shall show:

(A) The date and time of the deposit, withdrawal, or order;

(B) The title and amount of the securities or other investments deposited, withdrawn or ordered to be withdrawn, and an identification thereof by certificate numbers or otherwise;

(C) The manner of acquisition of the securities or similar investments deposited or the purpose for which they have been withdrawn, or ordered to be withdrawn; and

(D) If withdrawn and delivered to another person the name of such person. Such notation shall be transmitted promptly to an officer or director of the separate account or the life insurer designated by the board of directors of the separate account who shall not be a person designated

for the purpose of paragraph (b)(8)(iii) of this section. Such notation shall be on serially numbered forms and shall be preserved for at least one year;

(vi) Such securities and similar investments shall be verified by complete examination by an independent public accountant retained by the separate account at least three times during each fiscal year, at least two of which shall be chosen by such accountant without prior notice to such separate account. A certificate of such accountant stating that he has made an examination of such securities and investments and describing the nature and extent of the examination shall be transmitted to the Commission by the accountant promptly after each examination; and

(vii) Securities and similar investments of a separate account maintained with a bank or other company whose functions and physical facilities are supervised by Federal or state authorities pursuant to any arrangement whereby the directors, officers, employees or agents of the separate account or the life insurer are authorized or permitted to withdraw such investments upon their mere receipt are deemed to be in the custody of the life insurer and shall be exempt from the requirements of section 17(f) so long as the arrangement complies with all provisions of paragraph (b)(8) of this section, except that such securities will be maintained in the vault of a bank or other company rather than the vault of an insurance company.

(9) Section 18(i) (15 U.S.C. 80a-18(i)) to the extent that:

(i) For the purposes of any section of the Act which provides for the vote of securityholders on matters relating to the investment company:

(A) Variable life insurance contractholders shall have one vote for each $100 of cash value funded by the separate account, with fractional votes allocated for amounts less than $100;

(B) The life insurer shall have one vote for each $100 of assets of the separate account not otherwise attributable to contractholders pursuant to paragraph (b)(9)(i)(A) of this section,

with fractional votes allocated for amounts less than $100; provided that after the commencement of sales of variable life insurance contracts funded by the separate account, the life insurer shall cast its votes for and against each matter which may be voted upon by contractholders in the same proportion as the votes cast by contractholders; and

(C) The number of votes to be allocated shall be determined as of a record date not more than 90 days prior to any meeting at which such vote is held; provided that if a quorum is not present at the meeting, the meeting may be adjourned for up to 60 days without fixing a new record date; and

(ii) The requirement of this section that every share of stock issued by a registered management investment company (except a common-law trust of the character described in section 16(c)) shall be a voting stock and have equal voting rights with every other outstanding voting stock shall not be deemed to be violated by actions specifically permitted by any provision of this section.

(10) Section 19 (15 U.S.C. 80a-19) to the extent that the provisions of this section shall not be applicable to any dividend or similar distribution paid or payable pursuant to provisions of participating variable life insurance contracts.

(11) Sections 22(d), 22(e), and 27(i)(2)(A) (15 U.S.C. 80a-22(d), 80a-22(e), and 80a-27(i)(2)(A), respectively) and §270.22c-1 (Rule 22c-1) promulgated under section 22(c) to the extent:

(i) That the amount payable on death and the cash surrender value of each variable life insurance contract shall be determined on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of the close of trading on such exchange; provided that the amount payable on death need not be determined more than

once each contract month if such determination does not reduce the participation of the contract in the investment experience of the separate account; provided further, however, that if the net valuation premium for such contract is transferred at least annually, then the amount payable on death need be determined only when such net premium is transferred; and

(ii) Necessary for compliance with this section or with insurance laws and regulations and established administrative procedures of the life insurer with respect to issuance, transfer and redemption procedures for variable life insurance contracts funded by the separate account including, but not limited to, premium rate structure and premium processing, insurance underwriting standards, and the particular benefit afforded by the contract; provided, however, that any procedure or action shall be reasonable, fair and not discriminatory to the interests of the affected contractholder and to all other holders of contracts of the same class or series funded by the separate account; and, further provided that any such action shall be disclosed in the form required to be filed by the separate account with the Commission pursuant to paragraph (b)(2)(ii) of this section.

(12) Section 27(i)(2)(A) (15 U.S.C. 80a-27(i)(A)), to the extent that such sections require that the variable life insurance contract be redeemable or provide for a refund in cash; provided that such contract provides for election by the contractholder of a cash surrender value or certain non-forfeiture and settlement options which are required or permitted by the insurance law or regulation of the jurisdiction in which the contract is offered; and further provided that unless required by the insurance law or regulation of the jurisdiction in which the contract is offered or unless elected by the contractholder, such contract shall not provide for the automatic imposition of any option, including, but not limited to, an automatic premium loan, which would involve the accrual or payment of an interest or similar charge;

(13) Section 32(a)(2) (15 U.S.C. 80a-31(a)(2)); provided that:

(i) The independent public accountant is selected before the effective date of the registration statement under the Securities Act of 1933, as amended, for variable life insurance contracts which are funded by the separate account, and the identity of such accountant is disclosed in such registration statement; and

(ii) The selection of such accountant is submitted for ratification or rejection to variable life insurance contractholders at their first meeting after the effective date of the registration statement under the Securities Act of 1933, as amended, on condition that such meeting shall take place within one year after such effective date, unless the time for the holding of such meeting shall be extended by the Commission upon written request for good cause shown.

(14) If the separate account is organized as a unit investment trust, all the assets of which consist of the shares of one or more registered management investment companies which offer their shares exclusively to variable life insurance separate accounts of the life insurer or of any affiliated life insurance company:

(i) The eligibility restrictions of section 9(a) (15 U.S.C. 80a-9(a)) shall not be applicable to those persons who are officers, directors, and employees of the life insurer or its affiliates who do not participate directly in the management or administration of any registered management investment company described in paragraph (b)(14) introductory text;

(ii) The life insurer shall be ineligible pursuant to paragraph (3) of section 9(a) to serve as investment adviser of or principal underwriter for any registered management investment company described in paragraph (b)(14) of this section only if an affiliated person of such life insurer, ineligible by reason of paragraph (1) or (2) of section 9(a), participates in the management or administration of such company;

(iii) The life insurer may vote shares of the registered management investment companies held by the separate account without regard to instructions from contractholders of the separate account if such instructions would require such shares to be voted:

(A) To cause such companies to make (or refrain from making) certain investments which would result in changes in the sub-classification or investment objectives of such companies or to approve or disapprove any contract between such companies and an investment adviser when required to do so by an insurance regulatory authority subject to the provisions of paragraphs (b)(4)(i) and (b)(6)(ii)(A) of this section; or

(B) In favor of changes in investment objectives, investment adviser of or principal underwriter for such companies subject to the provisions of paragraphs (b)(4)(ii) and (b)(6)(ii)(B) and (C) of this section;

(iv) Any action taken in accordance with paragraph (b)(14)(iii)(A) or (B) of this section and the reasons therefor shall be disclosed in the next report to contractholders made pursuant to section 30(e) (15 U.S.C. 80a-29(e)) and §270.30e-2 (Rule 30e-2);

(v) Any registered management investment company established by the insurer and described in paragraph (b)(14) of this section shall be exempt from section 14(a); and

(vi) Any registered management investment company established by the insurer and described in paragraph (b)(14) of this section shall be exempt from sections 15(a), 16(a), and 32(a)(2) (15 U.S.C. 80a-15(a), 80-16(a), and 80-31(a)(2), respectively), to the extent prescribed by paragraphs (b)(6)(i), (b)(7)(i), and (b)(13) of this section, provided that such company complies with the conditions set forth in those paragraphs as if it were a separate account.

(c) When used in this section, *variable life insurance contract* means a contract of life insurance, subject to regulation under the insurance laws or code of every jurisdiction in which it

is offered, funded by a separate account of a life insurer, which contract, so long as premium payments are duly paid in accordance with its terms, provides for:

(1) A death benefit and cash surrender value which vary to reflect the investment experience of the separate account;

(2) An initial stated dollar amount of death benefit, and payment of a death benefit guaranteed by the life insurer to be at least equal to such stated amount; and

(3) Assumption of the mortality and expense risks thereunder by the life insurer for which a charge against the assets of the separate account may be assessed. Such charge shall be disclosed in the prospectus and shall not be less than fifty per centum of the maximum charge for risk assumption as disclosed in the prospectus and as provided for in the contract.

§270.6e-3(T) [Redesignated as §270.6e-3 and Amended]

27. Redesignate §270.6e-3(T) as §270.6e-3 and revise newly redesignated §270.6e-3 to read as follows:

§270.6e-3 Exemptions for flexible premium variable life insurance separate accounts.

(a) A separate account, and its investment adviser, principal underwriter and depositor, shall, except as provided in paragraph (b) of this section, comply with all provisions of the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) and this part that apply to a registered investment company issuing periodic payment plan certificates if:

(1) It is a separate account within the meaning of section 2(a)(37) of the Act (15 U.S.C. 80a-2(a)(37)) and is established and maintained by a life insurance company pursuant to the insurance laws or code of:

(i) Any state or territory of the United States or the District of Columbia; or

(ii) Canada or any province thereof, if it complies with §270.7d-1 (Rule 7d-1) under the Act (the "life insurer");

(2) The assets of the separate account are derived solely from:

(i) The sale of flexible premium variable life insurance contracts ("flexible contracts") as defined in paragraph (c)(1) of this section;

(ii) The sale of scheduled premium variable life insurance contracts ("scheduled contracts") as defined in paragraph (c) of §270.6e-2 (Rule 6e-2) under the Act;

(iii) Funds corresponding to dividend accumulations with respect to such contracts; and

(iv) Advances made by the life insurer in connection with the operation of such separate account;

(3) The separate account is not used for variable annuity contracts or other contract liabilities not involving life contingencies;

(4) The separate account is legally segregated, and that part of its assets with a value approximately equal to the reserves and other contract liabilities for such separate account are not chargeable with liabilities arising from any other business of the life insurer;

(5) The value of the assets of the separate account, each time adjustments in the reserves are made, is at least equal to the reserves and other contract liabilities of the separate account, and at all other times approximately equals or exceeds the reserves and liabilities; and

(6) The investment adviser of the separate account is registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 *et seq.*).

(b) A separate account that meets the requirements of paragraph (a) of this section, and its investment adviser, principal underwriter and depositor shall be exempt with respect to flexible contracts funded by the separate account from the following provisions of the Act:

(1) Subject to section 26(f) of the Act, in connection with any sales charge deducted under the flexible contract, the separate account and other persons shall be exempt from sections 12(b) , 22(c), and 27(i)(2)(A) (15 U.S.C. 80a-12(b), 80-22(c), and 80a-27(i)(2)(A), respectively) of the Act, and §§270.12b-1 (Rule 12b-1) and 270.22c-1 (Rule 22c-1) under the Act.

(2) Section 7 (15 U.S.C. 80a-7).

(3) Section 8 (15 U.S.C. 80a-8), to the extent that:

(i) For purposes of paragraph (a) of section 8, the separate account filed with the Commission a notification on §274.301 of this chapter (Form N-6EI-1) which identifies the separate account; and

(ii) For purposes of paragraph (b) of section 8, the separate account shall file with the Commission the form designated by the Commission within ninety days after filing the notification on Form N-6EI-1; provided, however, that if the fiscal year of the separate account end within this ninety day period, the form may be filed within ninety days after the end of such fiscal year.

(4) Section 9 (15 U.S.C. 80a-9), to the extent that:

(i) The eligibility restrictions of section 9(a) shall not apply to persons who are officers, directors or employees of the life insurer or its affiliates and who do not participate directly in the management or administration of the separate account or in the sale of flexible contracts; and

(ii) A life insurer shall be ineligible under paragraph (3) of section 9(a) to serve as investment adviser, depositor of or principal underwriter for the separate account only if an affiliated person of such life insurer, ineligible by reason of paragraphs (1) or (2) of section 9(a), participates directly in the management or administration of the separate account or in the sale of flexible contracts.

(5) Section 13(a) (15 U.S.C. 80a-13(a)), to the extent that:

(i) An insurance regulatory authority may require pursuant to insurance law or regulation that the separate account make (or refrain from making) certain investments which would result in changes in the subclassification or investment policies of the separate account;

(ii) Changes in the investment policy of the separate account initiated by its contractholders or board of directors may be disapproved by the life insurer, if the disapproval is reasonable and is based on a good faith determination by the life insurer that:

(A) The change would violate state law; or

(B) The change would not be consistent with the investment objectives of the separate account or would result in the purchase of securities for the separate account which vary from the general quality and nature of investments and investment techniques used by other separate accounts of the life insurer or of an affiliated life insurance company with similar investment objectives; and

(iii) Any action described in paragraph (b)(5)(i) or (ii) of this section and the reasons for it shall be disclosed in the next communication to contractholders, but in no case, later than twelve months from the date of such action.

(6) Section 14(a) (15 U.S.C. 80a-14(a)).

(7)(i) Section 15(a) (15 U.S.C. 80a-15(a)), to the extent it requires that the initial written contract with the investment adviser shall have been approved by the vote of a majority of the outstanding voting securities of the registered investment company; provided that:

(A) The investment adviser is selected and a written contract is entered into before the effective date of the 1933 Act registration statement for flexible contracts, and that the terms of the contract are fully disclosed in the registration statement; and

(B) A written contract is submitted to a vote of contractholders at their first meeting and within one year after the effective date of the 1933 Act registration statement, unless the Commission upon written request and for good cause shown extends the time for the holding of such meeting; and

(ii) Sections 15(a), (b), and (c), to the extent that:

(A) An insurance regulatory authority may disapprove pursuant to insurance law or regulation any contract between the separate account and an investment adviser or principal underwriter;

(B) Changes in the principal underwriter for the separate account initiated by contractholders or the board of directors of the separate account may be disapproved by the life insurer; provided that such disapproval is reasonable;

(C) Changes in the investment adviser of the separate account initiated by contractholders or the board of directors of the separate account may be disapproved by the life insurer; provided that such disapproval is reasonable and is based on a good faith determination by the life insurer that:

(*1*) The proposed investment advisory fee will exceed the maximum rate specified in any flexible contract that may be charged against the assets of the separate account for such services; or

(*2*) The proposed investment adviser may be expected to employ investment techniques which vary from the general techniques used by the current investment adviser to the separate account, or advise the purchase or sale of securities which would not be consistent with the investment objectives of the separate account, or which would vary from the quality and nature

of investments made by other separate accounts with similar investment objectives of the life insurer or an affiliated life insurance company; and

(D) Any action described in paragraph (b)(7)(ii)(A), (B), or (C) of this section and the reasons for it shall be disclosed in the next communication to contractholders, but in no case, later than twelve months from the date of such action.

(8) Section 16(a) (15 U.S.C. 80a-16(a)), to the extent that:

(i) Directors of the separate account serving before the first meeting of the account's contractholders are exempt from the requirement of section 16(a) that they be elected by the holders of outstanding voting securities of the account at an annual or special meeting called for that purpose; provided that:

(A) Such persons were appointed directors of the account by the life insurer before the effective date of the 1933 Act registration statement for flexible contracts and are identified in the registration statement (or are replacements appointed by the life insurer for any such persons who have become unable to serve as directors); and

(B) An election of directors for the account is held at the first meeting of contractholders and within one year after the effective date of the 1933 Act registration statement for flexible contracts, unless the time for holding the meeting is extended by the Commission upon written request and for good cause shown; and

(ii) A member of the board of directors of the separate account may be disapproved or removed by an insurance regulatory authority if the person is not eligible to be a director of the separate account under the law of the life insurer's domicile.

(9) Section 17(f) (15 U.S.C. 80a-17(f)), to the extent that the securities and similar investments of a separate account organized as a management investment company may be

maintained in the custody of the life insurer or of an affiliated life insurance company; provided that:

(i) The securities and similar investments allocated to the separate account are clearly identified as owned by the account, and the securities and similar investments are kept in the vault of an insurance company which meets the qualifications in paragraph (b)(9)(ii) of this section, and whose safekeeping function is supervised by the insurance regulatory authorities of the jurisdiction in which the securities and similar investments will be held;

(ii) The insurance company maintaining such investments must file with an insurance regulatory authority of a state or territory of the United States or the District of Columbia an annual statement of its financial condition in the form prescribed by the National Association of Insurance Commissioners, must be subject to supervision and inspection by such authority and must be examined periodically as to its financial condition and other affairs by such authority, must hold the securities and similar investments of the separate account in its vault, which vault must be equivalent to that of a bank which is a member of the Federal Reserve System, and must have a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of not less than $1,000,000 as set forth in its most recent annual statement filed with such authority;

(iii) Access to such securities and similar investments shall be limited to employees of the Commission, representatives of insurance regulatory authorities, independent public accountants retained by the separate account (or on its behalf by the life insurer), accountants for the life insurer, and to no more than 20 persons authorized by a resolution of the board of directors of the separate account, which persons shall be directors of the separate account, officers and responsible employees of the life insurer or officers and responsible employees of the affiliated

life insurance company in whose vault the investments are kept (if applicable), and access to such securities and similar investments shall be had only by two or more such persons jointly, at least one of whom shall be a director of the separate account or officer of the life insurer;

(iv) The requirement in paragraph (b)(9)(i) of this section that the securities and similar investments of the separate account be maintained in the vault of a qualified insurance company shall not apply to securities deposited with insurance regulatory authorities or deposited in accordance with any rule under section 17(f), or to securities on loan which are collateralized to the extent of their full market value, or to securities hypothecated, pledged, or placed in escrow for the account of such separate account in connection with a loan or other transaction authorized by specific resolution of the board of directors of the separate account, or to securities in transit in connection with the sale, exchange, redemption, maturity or conversion, the exercise of warrants or rights, assents to changes in terms of the securities, or to other transactions necessary or appropriate in the ordinary course of business relating to the management of securities;

(v) Each person when depositing such securities or similar investments in or withdrawing them from the depository or when ordering their withdrawal and delivery from the custody of the life insurer or affiliated life insurance company, shall sign a notation showing:

(A) The date and time of the deposit, withdrawal or order;

(B) The title and amount of the securities or other investments deposited, withdrawn or ordered to be withdrawn, and an identification thereof by certificate numbers or otherwise;

(C) The manner of acquisition of the securities or similar investments deposited or the purpose for which they have been withdrawn, or ordered to be withdrawn; and

(D) If withdrawn and delivered to another person, the name of such person. The notation shall be sent promptly to an officer or director of the separate account or the life insurer

designated by the board of directors of the separate account who is not himself permitted to have access to the securities or investments under paragraph (b)(9)(iii) of this section. The notation shall be on serially numbered forms and shall be kept for at least one year;

(vi) The securities and similar investments shall be verified by complete examination by an independent public accountant retained by the separate account (or on its behalf by the life insurer) at least three times each fiscal year, at least two of which shall be chosen by the accountant without prior notice to the separate account. A certificate of the accountant stating that he has made an examination of such securities and investments and describing the nature and extent of the examination shall be sent to the Commission by the accountant promptly after each examination; and

(vii) Securities and similar investments of a separate account maintained with a bank or other company whose functions and physical facilities are supervised by Federal or state authorities under any arrangement whereby the directors, officers, employees or agents of the separate account or the life insurer are authorized or permitted to withdraw such investments upon their mere receipt are deemed to be in the custody of the life insurer and shall be exempt from the requirements of section 17(f) so long as the arrangement complies with all provisions of paragraph (b)(9) of this section, except that such securities will be maintained in the vault of a bank or other company rather than the vault of an insurance company.

(10) Section 18(i) (15 U.S.C. 80a-18(i)), to the extent that:

(i) For the purposes of any section of the Act which provides for the vote of securityholders on matters relating to the investment company:

(A) Flexible contractholders shall have one vote for each $100 of cash value funded by the separate account, with fractional votes allocated for amounts less than $100;

(B) The life insurer shall have one vote for each $100 of assets of the separate account not otherwise attributable to contractholders under paragraph (b)(10)(i)(A) of this section, with fractional votes allocated for amounts less than $100; provided that after the commencement of sales of flexible contracts, the life insurer shall cast its votes for and against each matter which may be voted upon by contractholders in the same proportion as the votes cast by contractholders; and

(C) The number of votes to be allocated shall be determined as of a record date not more than 90 days before any meeting at which such vote is held; provided that if a quorum is not present at the meeting, the meeting may be adjourned for up to 60 days without fixing a new record date; and

(ii) The requirement of section 18(i) that every share of stock issued by a registered management investment company (except a common-law trust of the character described in section 16(c) (15 U.S.C. 80a-16(c))) shall be a voting stock and have equal voting rights with every other outstanding voting stock shall not be deemed to be violated by actions specifically permitted by any provisions of this section.

(11) Section 19 (15 U.S.C. 80a-19), to the extent that the provisions of this section shall not apply to any dividend or similar distribution paid or payable under provisions of participating flexible contracts.

(12) Sections 22(c), 22(d), 22(e) and 27(i)(2)(A) (15 U.S.C. 80a-22(c)), 80a-22(d), 80a-22(e), and 80a-27(i)(2)(A), respectively) and §270.22c-1 (Rule 22c-1) to the extent:

(i) The cash value of each flexible contract shall be computed in accordance with Rule 22c-1(b); provided, however, that where actual computation is not necessary for the operation of a particular contract, then the cash value of that contract must only be capable of computation;

and provided further that to the extent the calculation of the cash value reflects deductions for the cost of insurance and other insurance benefits or administrative expenses and fees or sales charges, such deductions need only be made at such times as specified in the contract or as necessary for compliance with insurance laws and regulations;

(ii) The death benefit, unless required by insurance laws and regulations, shall be computed on any day that the investment experience of the separate account would affect the death benefit under the terms of the contract provided that such terms are reasonable, fair, and nondiscriminatory; and

(iii) Necessary to comply with this section or with insurance laws and regulations and established administrative procedures of the life insurer for issuance, increases in or additions of insurance benefits, transfer and redemption of flexible contracts, including, but not limited to, premium rate structure and premium processing, insurance underwriting standards, and the particular benefit afforded by the contract; provided, however, that any procedure or action shall be reasonable, fair, and not discriminatory to the interests of the affected contractholders and to all other holders of contracts of the same class or series funded by the separate account; and provided further that any such action shall be disclosed in the form filed by the separate account with the Commission under paragraph (b)(3)(ii) of this section.

(13) Sections 27(i)(2)(A) and 22(c) (15 U.S.C. 80a-27(i)(2)(A) and 80a-22(c)) and §270.22c-1 (Rule 22c-1), to the extent that:

(i) Such sections require that the flexible contract be redeemable or provide for a refund in cash; provided that the contract provides for election by the contractholder of a cash surrender value or certain non-forfeiture and settlement options which are required or permitted by the insurance law or regulation of the jurisdiction in which the contract is offered; and provided

further that unless required by the insurance law or regulation of the jurisdiction in which the contract is offered or unless elected by the contractholder, the contract shall not provide for the automatic imposition of any option, including, but not limited to, an automatic premium loan, which would involve the accrual or payment of an interest or similar charge.

(ii) Notwithstanding the provisions of paragraph (b)(13)(i) of this section, if the amounts available under the contract to pay the charges due under the contract on any contract processing day are less than such charges due, the contract may provide that the cash surrender value shall be applied to purchase a non-forfeiture option specified by the life insurer in such contract; provided that the contract also provides that Contract processing days occur not less frequently than monthly.

(iii) Subject to section 26(f) (15 U.S.C. 80a-26(f)), sales charges and administrative expenses or fees may be deducted upon redemption.

(14) Section 32(a)(2) (15 U.S.C. 80a-31(a)(2)); provided that:

(i) The independent public accountant is selected before the effective date of the 1933 Act registration statement for flexible contracts, and the identity of the accountant is disclosed in the registration statement; and

(ii) The selection of the accountant is submitted for ratification or rejection to flexible contractholders at their first meeting and within one year after the effective date of the 1933 Act registration statement for flexible contracts, unless the time for holding the meeting is extended by order of the Commission.

(15) If the separate account is organized as a unit investment trust, all the assets of which consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of the life insurer, or of any affiliated life insurance

company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company, or which offer their shares to any such life insurance company in consideration solely for advances made by the life insurer in connection with the operation of the separate account; provided that the board of directors of each investment company, constituted with a majority of disinterested directors, will monitor such company for the existence of any material irreconcilable conflict between the interests of variable annuity contractholders and scheduled or flexible contractholders investing in such company; the life insurer agrees that it will be responsible for reporting any potential or existing conflicts to the directors; and if a conflict arises, the life insurer will, at its own cost, remedy such conflict up to and including establishing a new registered management investment company and segregating the assets underlying the variable annuity contracts and the scheduled or flexible contracts; then:

(i) The eligibility restrictions of section 9(a) shall not apply to those persons who are officers, directors or employees of the life insurer or its affiliates who do not participate directly in the management or administration of any registered management investment company described in paragraph (b)(15) of this section;

(ii) The life insurer shall be ineligible under paragraph (3) of section 9(a) to serve as investment adviser of or principal underwriter for any registered management investment company described in paragraph (b)(15) of this section only if an affiliated person of such life insurer, ineligible by reason of paragraphs (1) or (2) of section 9(a), participates in the management or administration of such company;

(iii) For purposes of any section of the Act which provides for the vote of securityholders on matters relating to the separate account or the underlying registered investment company, the voting provisions of paragraphs (b)(10)(i) and (ii) of this section apply; provided that:

(A) The life insurer may vote shares of the registered management investment companies held by the separate account without regard to instructions from contractholders of the separate account if such instructions would require such shares to be voted:

(*1*) To cause such companies to make (or refrain from making) certain investments which would result in changes in the sub-classification or investment objectives of such companies or to approve or disapprove any contract between such companies and an investment adviser when required to do so by an insurance regulatory authority subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of this section; or

(*2*) In favor of changes in investment objectives, investment adviser of or principal underwriter for such companies subject to the provisions of paragraphs (b)(5)(ii) and (b)(7)(ii)(B) and (C) of this section;

(B) Any action taken in accordance with paragraph (b)(15)(iii)(A)(*1*) or (*2*) of this section and the reasons therefor shall be disclosed in the next report contractholders made under section 30(e) (15 U.S.C. 80a-29(e)) and §270.30e-2 (Rule 30e-2);

(iv) Any registered management investment company established by the life insurer and described in paragraph (b)(15) of this section shall be exempt from section 14(a); and

(v) Any registered management investment company established by the life insurer and described in paragraph (b)(14) of this section shall be exempt from sections 15(a), 16(a), and 32(a)(2) (15 U.S.C. 80a-15(a), 80-16(a), and 80-31(a)(2), respectively), to the extent prescribed by paragraphs (b)(7)(i), (b)(8)(i), and (b)(14) of this section; provided that the company complies

with the conditions set forth in paragraphs (b)(7)(i), (b)(8)(i), and (b)(14) of this section as if it were a separate account.

(c) When used in this section:

(1) *Flexible premium variable life insurance contract* means a contract of life insurance, subject to regulation under the insurance laws or code of every jurisdiction in which it is offered, funded by a separate account of a life insurer, which contract provides for:

(i) Premium payments which are not fixed by the life insurer as to both timing and amount; provided, however, that the life insurer may fix the timing and minimum amount of premium payments for the first two contract periods following issuance of the contract or of an increase in or addition of insurance benefits, and may prescribe a reasonable minimum amount for any additional premium payment;

(ii) A death benefit the amount or duration of which may vary to reflect the investment experience of the separate account;

(iii) A cash value which varies to reflect the investment experience of the separate account; and

(iv) There is a reasonable expectation that subsequent premium payments will be made.

(2) *Contract period* means the period from a contract issue or anniversary date to the earlier of the next following anniversary date (or, if later, the last day of any grace period commencing before such next following anniversary date) or the termination date of the contract.

(3) *Cash value* means the amount that would be available in cash upon voluntary termination of a contract by its owner before it becomes payable by death or maturity, without regard to any charges that may be assessed upon such termination and before deduction of any outstanding contract loan.

(4) *Cash surrender value* means the amount available in cash upon voluntary termination of a contract by its owner before it becomes payable by death or maturity, after any charges assessed in connection with the termination have been deducted and before deduction of any outstanding contract loan.

(5) *Contract processing day* means any day on which charges under the contract are deducted from the separate account.

§270.8b-1 [Amended]

28. Amend §270.8b-1 by removing "270.8b-32" everywhere it appears and adding "270.8b-31" in its place.

29. Amend §270.11a-2 by revising paragraphs (c) and (d) and removing the parenthetical authority at the end of the section to read as follows:

§270.11a-2 Offers of exchange by certain registered separate accounts or others the terms of which do not require prior Commission approval.

* * * * *

(c) If the offering account imposes a front-end sales load on the acquired security, then such sales load shall be a percentage that is no greater than the excess of the rate of the front-end sales load otherwise applicable to that security over the rate of any front-end sales load previously paid on the exchanged security.

(d) If the offering account imposes a deferred sales load on the acquired security and the exchanged security was also subject to a deferred sales load, then any deferred sales load imposed on the acquired security shall be calculated as if:

(1) The holder of the acquired security had been the holder of that security from the date on which he became the holder of the exchanged security; and

(2) Purchase payments made for the exchanged security had been made for the acquired security on the date on which they were made for the exchanged security.

* * * * *

30. Revise §270.14a-2 to read as follows:

§270.14a-2 Exemption from section 14(a) of the Act for certain registered separate accounts and their principal underwriters.

(a) A registered separate account, and any principal underwriter for such account, shall be exempt from section 14(a) of the Act (15 U.S.C. 80a-14(a)) with respect to a public offering of variable annuity contracts participating in such account.

(b) Any registered management investment company which has as a promoter an insurance company and which offers its securities to separate accounts of such insurance company that offer variable annuity contracts and are registered under the Act as unit investment trusts ("trust accounts"), and any principal underwriter for such investment company, shall be exempt from section 14(a) with respect to such offering and to the offering of such securities to trust accounts of other insurance companies.

(c) Any registered management investment company exempt from section 14(a) of the Act pursuant to paragraph (b) of this section shall be exempt from sections 15(a), 16(a), and 32(a)(2) of the Act (15 U.S.C. 80a-15(a), 80a-16(a), and 80a-31(a)(2)), to the extent prescribed in §§ 270.15a-3, 270.16a-1, and 270.32a-2 (Rules 15a-3, 16a-1, and 32a-2 under the Act), provided that such investment company complies with the conditions set forth in Rules 15a-3, 16a-1, and 32a-2 as if it were a separate account.

31. Revise §270.26a-1 to read as follows:

§270.26a-1 Payment of administrative fees to the depositor or principal underwriter of a unit investment trust; exemptive relief for separate accounts.

For purposes of section 26(a)(2)(C) of the Act, payment of a fee to the depositor of or a principal underwriter for a registered unit investment trust, or to any affiliated person or agent of such depositor or underwriter (collectively, "depositor"), for bookkeeping or other administrative services provided to the trust shall be allowed the custodian or trustee ("trustee") as an expense, provided that such fee is an amount not greater than the expenses, without profit:

(a) Actually paid by such depositor directly attributable to the services provided; and

(b) Increased by the services provided directly by such depositor, as determined in accordance with generally accepted accounting principles consistently applied.

§270.26a-2 [Removed]

32. Remove §270.26a-2.

§270.27a-1 [Removed]

33. Remove §270.27a-1.

§270.27a-2 [Removed]

34. Remove §270.27a-2.

§270.27a-3 [Removed]

35. Remove §270.27a-3.

§270.27c-1 [Removed and Reserved]

36. Remove and reserve §270.27c-1.

§270.27d-2 [Removed and Reserved]

37. Remove and reserve §270.27d-2.

§270.27e-1 [Removed and Reserved]

38. Remove and reserve §270.27e-1.

§270.27f-1 [Removed and Reserved]

39. Remove and reserve §270.27f-1.

§270.27g-1 [Removed and Reserved]

40. Remove and reserve §270.27g-1.

§270.27h-1 [Removed and Reserved]

41. Remove and reserve §270.27h-1.

42. Add §270.27i-1 to read as follows:

§270.27i-1 Exemption from Section 27(i)(2)(A) of the Act during annuity payment period of variable annuity contracts participating in certain registered separate accounts.

A registered separate account, and any depositor of or underwriter for such account, shall, during the annuity payment period of variable annuity contracts participating in such account, be exempt from the requirement of paragraph (1) of section 27(i)(2)(A) of the Act that a periodic payment plan certificate be a redeemable security.

PART 274 — FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

43. The general authority citation for part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a-8, 80a-24, 80a-26, 80a-29, and Pub. L. 111-203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

§274.11 [Removed and Reserved]

44. Remove and reserve §274.11.

45. Revise Form N-3 (referenced in §§239.17a and 274.11b) to read as follows:

Note: The text of Form N-3 will not appear in the Code of Federal Regulations.

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

FORM N-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Pre-Effective Amendment No. _____ [ ]

Post-Effective Amendment No. _____ [ ]

and/or

REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

Amendment No. _____ [ ]

(Check appropriate box or boxes.)

_____

(Exact Name of Registrant)

_____

(Name of Insurance Company)

_____

(Address of Insurance Company's Principal Executive Offices) (Zip Code)

_____

(Insurance Company's Telephone Number, including Area Code)

_____

(Name and Address of Agent for Service)

Approximate Date of Proposed Public Offering: _____

It is proposed that this filing will become effective (check appropriate box):

[ ] immediately upon filing pursuant to paragraph (b)
[ ] on (date) pursuant to paragraph (b)
[ ] 60 days after filing pursuant to paragraph (a)

[ ] on (date) pursuant to paragraph (a)
[ ] 75 days after filing pursuant to paragraph (a)(2) on (date)
[ ] on (date) pursuant to paragraph (a)(2) of rule 485 under the Securities Act.

If appropriate, check the following box:

[ ] this post-effective amendment designates a new effective date for a previously-filed post-effective amendment.

Omit from the facing sheet reference to the other Act if the registration statement or amendment is filed under only one of the Acts. Include the "Approximate Date of Proposed Public Offering" only where securities are being registered under the Securities Act of 1933.

Form N-3 is to be used by separate accounts that are management investment companies that offer variable annuity contracts to register under the Investment Company Act of 1940 and to offer their securities under the Securities Act of 1933. The Commission has designed Form N-3 to provide investors with information that will assist them in making a decision about investing in a variable annuity contract. The Commission also may use the information provided on Form N-3 in its regulatory, disclosure review, inspection, and policy making roles.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

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GENERAL INSTRUCTIONS

A. Definitions

References to sections and rules in this Form N-3 are to the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq*.] (the "Investment Company Act"), unless otherwise indicated. Terms used in this Form N-3 have the same meaning as in the Investment Company Act or the related rules, unless otherwise indicated. As used in this Form N-3, the terms set out below have the following meanings:

"Class" means a class of a Variable Annuity Contract that varies principally with respect to distribution-related fees and expenses.

"Insurance Company" means the person primarily responsible for the organization of the Registrant and the person, other than the custodian, who has continuing functions or responsibilities with respect to the administration of the affairs of the Registrant. If there is more than one Insurance Company, the information called for in this Form about the Insurance Company shall be provided for each Insurance Company.

"Investment Option" means any portfolio of investments in which the Registrant invests and which may be selected as an option by the investor.

"Investor Account" means any account of an investor, participant, annuitant, or beneficiary to which (net) purchase payments under a variable annuity contract are added and from which contract or transaction expenses may be subtracted.

"Money Market Account" means an Investment Option that hold itself out to investors as a Money Market Fund or the equivalent of a Money Market Fund.

"Money Market Fund" means a registered open-end management investment company, or series thereof, that is regulated as a money market fund pursuant to rule 2a-7 [17 CFR 270.2a-7].

"Multiple Class Fund" means an Investment Option that has more than one Class.

"Registrant" means the separate account (as defined in section 2(a)(37) of the Investment Company Act [15 U.S.C. 80a-2(a)(37)] that offers the Variable Annuity Contracts.

"SAI" means the Statement of Additional Information required by Part B of this Form.

"Securities Act" means the Securities Act of 1933 [15 U.S.C. 77a *et seq.*].

"Securities Exchange Act" means the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*].

"Statutory Prospectus" means a prospectus that satisfies the requirements of section 10(a) of the Securities Act [15 U.S.C. 77j(a)].

"Summary Prospectus" has the meaning provided by paragraph (a)(11) of rule 498A under the Securities Act [17 CFR 230.498A(a)(11)].

"Variable Annuity Contract" or "Contract" means any accumulation contract or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either during an accumulation period or after annuitization, or both, varies according to the investment experience of the separate account in which the contract participates. Unless the context otherwise requires, "Variable Annuity Contract" or "Contract" refers to the Variable Annuity Contracts being offered pursuant to the registration statement prepared on this Form.

B. Filing and Use of Form N-3

1. What is Form N-3 used for?

Form N-3 is used by all separate accounts organized as management investment companies and offering Variable Annuity Contracts to file:

(a) An initial registration statement under the Investment Company Act and any amendments to the registration statement;

(b) An initial registration statement required under the Securities Act and any amendments to the registration statement, including amendments required by section 10(a)(3) of the Securities Act [15 U.S.C. 77j(a)(3)]; or

(c) Any combination of the filings in paragraph (a) or (b).

2. What is included in the registration statement?

(a) For registration statements or amendments filed under both the Investment Company Act and the Securities Act or only under the Securities Act, include the facing sheet of the Form, Parts A, B, and C, and the required signatures.

(b) For registration statements or amendments filed only under the Investment Company Act, include the facing sheet of the Form, responses to all Items of Parts A (except Items 1, 4, 5, 10, and 17), B, and C (except Items 32(e), (m), (n), and (o)), and the required signatures.

3. What are the fees for Form N-3?

No registration fees are required for a filing on Form N-3 to register as an investment company under the Investment Company Act or to register securities under the Securities Act. If a filing on Form N-3 is made to register securities under the Securities Act and securities are sold to the public, registration fees must be paid on an ongoing basis after the end of the Registrant's fiscal year. *See* section 24(f) [15 U.S.C. 80a-24(f)] and related rule 24f-2 [17 CFR 270.24f-2].

4. What rules apply to the filing of a registration statement on Form N-3?

(a) For registration statements and amendments filed under both the Investment Company Act and the Securities Act or under only the Securities Act, the general rules under the Securities Act, particularly the rules regarding the filing of registration statements in Regulation C [17 CFR 230.400 – 230.498A] apply to the filing of registration statements on Form N-3. Specific requirements concerning investment companies appear in rules 480 - 488 and 495 - 498A of Regulation C.

(b) For registration statements and amendments filed only under the Investment Company Act, the general rules under the Investment Company Act, particularly

the provisions in rules 8b-1 – 8b-31 [17 CFR 270.8b-1 to 8b-31] apply to the filing of registration statements on Form N-3.

(c) The plain English requirements of rule 421(d) under the Securities Act [17 CFR 230.421(d)] apply to prospectus disclosure in Part A of Form N-3.

(d) Regulation S-T [17 CFR 232.10 – 232.501] applies to all filings on the Commission's Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR").

C. Preparation of the Registration Statement

1. Administration of the Form N-3 Requirements

(a) The requirements of Form N-3 are intended to promote effective communication between the Registrant and prospective investors. A Registrant's prospectus should clearly disclose the fundamental features and risks of the Variable Annuity Contracts, using concise, straightforward, and easy to understand language. A Registrant should use document design techniques that promote effective communication.

(b) The prospectus disclosure requirements in Form N-3 are intended to elicit information for an average or typical investor who may not be sophisticated in legal or financial matters. The prospectus should help investors to evaluate the risks of an investment and to decide whether to invest in a Variable Annuity Contract by providing a balanced disclosure of positive and negative factors. Disclosure in the prospectus should be designed to assist an investor in comparing and contrasting a Variable Annuity Contract with other Contracts.

(c) Responses to the Items in Form N-3 should be as simple and direct as reasonably possible and should include only as much information as is necessary to enable an average or typical investor to understand the particular characteristics of the Variable Annuity Contracts. The prospectus should avoid including lengthy legal and technical discussions and simply restating legal or regulatory requirements to which Contracts generally are subject. Brevity is especially important in describing the practices or aspects of the Registrant's operations that do not differ materially from those of other separate accounts. Avoid excessive detail, technical or legal terminology, and complex language, including the use of formulas as the primary means of communicating certain terms or features of the Contract. Also avoid lengthy sentences and paragraphs that may make the prospectus difficult for investors to understand and detract from its usefulness.

(d) The requirements for prospectuses included in registration statements on Form N-3 will be administered by the Commission in a way that will allow variances in disclosure or presentation if appropriate for the circumstances involved while remaining consistent with the objectives of Form N-3.

2. Form N-3 is divided into three parts:

(a) *Part A.* Part A includes the information required in a Registrant's prospectus under section 10(a) of the Securities Act. The purpose of the prospectus is to provide essential information about the Registrant and the Contracts in a way that will help investors to make informed decisions about whether to purchase the securities described in the prospectus. In responding to the Items in Part A, avoid cross-references to the SAI. Cross-references within the prospectus are most useful when their use assists investors in understanding the information presented and does not add complexity to the prospectus.

(b) *Part B.* Part B includes the information required in a Registrant's SAI. The purpose of the SAI is to provide additional information about the Registrant and the Contracts that the Commission has concluded is not necessary or appropriate in the public interest or for the protection of investors to be in the prospectus, but that some investors may find useful. Part B affords the Registrant an opportunity to expand discussions of the matters described in the prospectus by including additional information that the Registrant believes may be of interest to some investors. The Registrant should not duplicate in the SAI information that is provided in the prospectus, unless necessary to make the SAI comprehensible as a document independent of the prospectus.

(c) *Part C*. Part C includes other information required in a Registrant's registration statement.

3. Additional Matters

(a) *Organization of Information*. Organize the information in the prospectus and SAI to make it easy for investors to understand. Notwithstanding rule 421(a) under the Securities Act [17 CFR 230.421(a)] regarding the order of information required in a prospectus, disclose the information required by Item 2 (Key Information), Item 3 (Overview of the Contract), and Item 4 (Fee Table) in numerical order at the front of the prospectus. Do not precede Items 2, 3, and 4 with any other Item except the Cover Page (Item 1), a glossary, if any (General Instruction C.3.(d)), or a table of contents meeting the requirements of rule 481(c) under the Securities Act [17 CFR 230.481(c)]. If the discussion of the information required by Items 2 or 3 also responds to disclosure requirements in other items of the prospectus, a Registrant need not include additional disclosure in the prospectus that repeats the information disclosed in response to Items 2 and 3.

(b) *Other Information*. A Registrant may include, except in response to Items 2 and 3, information in the prospectus or the SAI that is not otherwise required so long as the information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of the information that is required to be included. For example, Registrants are free to include in the prospectus financial statements required to be in the SAI, and may include in the SAI financial statements that may be placed in Part C. However, information regarding non-principal risks that is not

otherwise required to be in the prospectus must be disclosed in the SAI and not the prospectus, in accordance with Items 5, 19, and 22.

(c) *Presentation of Information*. To aid investor comprehension, Registrants are encouraged to use, as appropriate, question-and-answer formats, tables, side-by-side comparisons, captions, bullet points, numeric examples, illustrations or similar presentation methods. For example, such presentation methods would be appropriate when presenting disclosure for similar Contract features, prospectuses describing multiple Variable Annuity Contracts, or the operation of optional benefits or annuitization.

(d) *Use of Terms.*

(i) *Definitions*. Define the special terms used in the prospectus (*e.g.*, accumulation unit, participant, sub-account, etc.) in any presentation that clearly conveys meaning to investors. If the Registrant elects to include a glossary or list of definitions, only special terms used throughout the prospectus must be defined or listed. If a special term is used in only one section of the prospectus, it may be defined there (and need not be included in any glossary or list of definitions that the Registrant includes).

(ii) *Alternate Terminology*. A Registrant may use alternate terminology other than that used in the form so long as the terminology used by the Registrant clearly conveys the meaning of, or provides comparable information as, the terminology included in the form.

(e) *Use of Form N-3 to Register Multiple Contracts*

(i) A single prospectus may describe multiple Contracts that are essentially identical. Whether the prospectus describes Contracts that are "essentially identical" will depend on the facts and circumstances. For example, a Contract that does not offer optional benefits would not be essentially identical to one that does for a charge. Similarly, group and individual Contracts would not be essentially identical. However, Contracts that vary only due to state regulatory requirements would be essentially identical.

(A) Paragraph (a) of General Instruction C.3 requires Registrants to disclose the information required by Items 2, 3, and 4 in numerical order at the front of the prospectus and generally not to precede the Items with other information. As a general matter, Registrants providing disclosure in a single prospectus for more than one Contract, may depart from the requirement of paragraph (a) as necessary to present the required information clearly and effectively (although the order of information required by each Item must remain the same). For example, the prospectus may present all of the Item 2 information for several Contracts (*e.g.*, by providing several Key Information Tables sequentially or by

providing a single Key Information Table containing separate disclosures for each Contract to the extent that such disclosures would vary by Contract), followed by all of the Item 3 information for the Contracts, and followed by all of the Item 4 information for the Contracts. Alternatively, the prospectus may present Items 2, 3, and 4 for each of several Contracts sequentially. Other presentations also would be acceptable if they are consistent with the Form's intent to disclose the information required by Items 2, 3, and 4 in a standard order at the beginning of the prospectus. Registrants that present Items 2, 3, and 4 for each of several Contracts sequentially or that utilize another presentation should consider whether investors might benefit from a brief explanation about how the information in the prospectus is presented, such as headings for each contract in the prospectus' table of contents and/or a brief narrative at the beginning of the prospectus explaining the presentation. Registrants are encouraged to present information in a manner that limits repetition.

(B) The Registrant should generally include appropriate titles, headings, or any other information to promote clarity and facilitate understanding regarding which disclosures apply to which Contract, if such disclosures would vary based on the Contract.

(ii) Multiple prospectuses may be combined in a single registration statement on Form N-3 when the prospectuses describe Contracts that are substantially similar. For example, a Registrant could determine it is appropriate to include multiple prospectuses in a registration statement in the following situations: (i) the prospectuses describe the same Contract that is sold through different distribution channels; (ii) the prospectuses describe Contracts that differ only with respect to Investment Options offered; or (iii) the prospectuses describe both the original and a modified version of the same Contract (where the "modified" version differs in the features or options that the Registrant offers under that Contract).

(f) *Dates*. Rule 423 under the Securities Act [17 CFR 230.423] applies to the dates of the prospectus and the SAI. The SAI should be made available at the same time that the prospectus becomes available for purposes of rules 430 and 460 under the Securities Act [17 CFR 230.430 and 230.460].

(g) *Sales Literature*. A Registrant may include sales literature in the prospectus so long as the amount of this information does not add substantial length to the prospectus and its placement does not obscure essential disclosure.

(h) *Interactive Data File*

(i) An Interactive Data File (see rule 232.11 of Regulation S-T [17 CFR 232.11]) is required to be submitted to the Commission in the manner

provided by rule 405 of Regulation S-T [17 CFR 232.405] for any registration statement or post-effective amendment thereto on Form N-3 that includes or amends information provided in response to Items 2, 4, 5, 11, 18, or 19 with regards to Contracts that are being sold to new investors.

(A) Except as required by paragraph (h)(i)(B), the Interactive Data File must be submitted as an amendment to the registration statement to which the Interactive Data File relates. The amendment must be submitted on or before the date the registration statement or post-effective amendment that contains the related information becomes effective.

(B) In the case of a post-effective amendment to a registration statement filed pursuant to paragraphs (b)(1)(i), (ii), (v), or (vii) of rule 485 under the Securities Act [17 CFR 230.485(b)], the Interactive Data File must be submitted either with the filing, or as an amendment to the registration statement to which the Interactive Data Filing relates that is submitted on or before the date the post-effective amendment that contains the related information becomes effective.

(ii) An Interactive Data File is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S-T for any form of prospectus filed pursuant to paragraphs (c) or (e) of rule 497 under the Securities Act [17 CFR 230.497(c) or (e)] that includes information provided in response to Items 2, 4, 5, 11, 18 or 19 that varies from the registration statement with regards to Contracts that are being sold to new investors. The Interactive Data File must be submitted with the filing made pursuant to rule 497.

(iii) The Interactive Data File must be submitted in accordance with the specifications in the EDGAR Filer Manual, and in such a manner that will permit the information for each Contract, and, for any information that does not relate to all of the Classes in a filing, each Class of the Contract to be separately identified.

(i) *Website Addresses.* Any website address included in an electronic version of the Statutory Prospectus must include an active hyperlink or other means of facilitating access that leads directly to the relevant website address. This requirement does not apply to an electronic Statutory Prospectus filed on the EDGAR system.

D. Incorporation by Reference

1. General Requirements

All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: rule 411 under the Securities Act [17 CFR 230.411] (general rules on incorporation by reference in a prospectus); rule 303 of Regulation S-T [17 CFR 232.303] (specific requirements for electronically filed documents); and rule 0-4 under the Investment Company Act [17 CFR 270.0-4] (additional rule on incorporation by reference for investment companies). In general, a Registrant may incorporate by reference, in the answer to any item of Form N-3 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

2. Specific Rules for Incorporation by Reference in Form N-3

(a) A Registrant may not incorporate by reference into a prospectus information that Part A of this Form requires to be included in a prospectus, except as specifically permitted by Part A, of the Form.

(b) A Registrant may incorporate by reference any or all of the SAI into the prospectus (but not to provide any information required by Part A to be included in the prospectus) without delivering the SAI with the prospectus.

(c) A Registrant may incorporate by reference into the SAI or its response to Part C information that Parts B and C require to be included in the Registrant's registration statement.

PART A - INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Front and Back Cover Pages

(a) *Front Cover Page.* Include the following information on the outside front cover page of the prospectus:

(1) The Registrant's name.

(2) The Insurance Company's name.

(3) The types of Variable Annuity Contracts offered by the prospectus (*e.g.*, group, individual, single premium immediate, flexible premium deferred).

(4) The Investment Options available under the contract.

(5) The name of the Contract and the Class or Classes, if any, to which the Contract relates.

(6) The date of the prospectus.

(7) The statement required by rule 481(b)(1) under the Securities Act [17 CFR 230.481(b)(1)].

(8) The statement that additional information about certain investment products, including variable annuities, has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

(9) In the case of a Registrant holding itself out as a Money Market Fund or an Investment Option holding itself out as a Money Market Account, a prominent statement that an investment in the Registrant or the Investment Option is neither insured nor guaranteed by the U.S. Government.

(10) If applicable, the legend: "If you are a new investor in the Contract, you may cancel your Contract within 10 days of receiving it without paying fees or penalties. In some states, this cancellation period may be longer. Upon cancellation, you will receive either a full refund of the amount you paid with your application or your total Contract value. You should review this prospectus, or consult with your investment professional, for additional information about the specific cancellation terms that apply."

(11) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

Instruction. A Registrant may include on the front cover page any additional information, subject to the requirement of General Instruction C.3.(b) and (c).

(b) *Back Cover Page*. Include the following information on the outside back cover page of the prospectus:

(1) A statement that the SAI includes additional information about the Registrant. Explain that the SAI is available, without charge, upon request, and explain how investors may make inquiries about their Contracts. Provide a toll-free (or collect) telephone number for investors to call to request the SAI, to request other information about the Contracts, and to make investor inquiries.

Instructions.

1. A Registrant may indicate, if applicable, that the SAI and other information are available on its website and/or by email request.

2. A Registrant may indicate, if applicable, that the SAI and other information are available from an insurance agent or financial intermediary (such as a broker-dealer or bank) through which the Contracts may be purchased or sold.

3. When a Registrant (or an insurance agent or financial intermediary through which Contracts may be purchased or sold) receives a request for the SAI, the Registrant (or insurance agent or financial intermediary) must send the SAI within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

(2) A statement whether and from where information is incorporated by reference into the prospectus as permitted by General Instruction D. Unless the information is delivered with the prospectus, explain that the Registrant will provide the information without charge, upon request (referring to the telephone number provided in response to paragraph (b)(1)).

Instruction. The Registrant may combine the information about incorporation by reference with the statements required under paragraph (b)(1).

(3) A statement that reports and other information about the Registrant are available on the Commission's website at http://www.sec.gov, and that copies of this information may be obtained, upon payment of a duplicating fee, by electronic request at the following email address: publicinfo@sec.gov.

(4) The EDGAR contract identifier for the Contract on the bottom of the back cover page in type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).

Item 2. Key Information

Include the following information:

Important Information You Should Consider About the [Contract]

FEES AND EXPENSES	
Charges for Early Withdrawals	
Transaction Charges	
Ongoing Fees and Expenses (annual charges)	
RISKS	
Risk of Loss	
Not a Short-Term Investment	
Risks Associated with Investments	
Insurance Company Risks	
RESTRICTIONS	
Investments	
Optional Benefits	
TAXES	
Tax Implications	
CONFLICTS OF INTEREST	
Investment Professional Compensation	

Exchanges	

Instructions

1. *General*.

   (a) Disclose the required information in the tabular presentation(s) reflected herein, in the order specified. A Registrant may exclude any disclosures that are not applicable, or modify any of the statements required to be included, so long as the modified statement contains comparable information. Notwithstanding this instruction and General Instruction C.3.(d)(ii), the title, headings, and sub-headings for this tabular presentation may not be modified or substituted with alternate terminology unless otherwise provided.

   (b) Provide cross-references to the location in the Statutory Prospectus where the subject matter is described in greater detail. Cross-references in electronic versions of the Summary Prospectus and/or Statutory Prospectus should link directly to the location in the Statutory Prospectus where the subject matter is discussed in greater detail, or should provide a means of facilitating access to that information through equivalent methods or technologies. The cross-reference should be adjacent to the relevant disclosure, either within the table row, or presented in an additional table column.

   (c) All disclosures provided in response to this Item should be short and succinct, consistent with the limitations of a tabular presentation.

2. *Fees and Expenses.*

   (a) *Charges for Early Withdrawals.* Include a statement that if the investor withdraws money from the Contract within [x] years following his or her last purchase payment, he or she will be assessed a surrender charge. Include in this statement the maximum surrender charge (as a percentage of [purchase payment or amount surrendered]), and the maximum number of years that a surrender charge may be assessed since the last purchase payment under the Contract. Provide an example of the maximum surrender charge an investor could pay (in dollars) under the Contract assuming a $100,000 investment (*e.g.*, "[i]f you make an early withdrawal, you could pay a surrender charge of up to $9,000 on a $100,000 investment.").

   (b) *Transaction Charges.* State that in addition to surrender charges (if applicable), the investor may also be charged for other transactions, and provide a brief narrative description of the types of such charges (*e.g.*, front-end loads, charges for transferring cash value between Investment Options, charges for wire transfers, etc.).

   (c) *Ongoing Fees and Expenses (annual charges).*

   Include the following information, in the order specified:

(i) *Minimum and Maximum Annual Fee Table.*

(A) The legend: "The table below describes the fees and expenses that you may pay *each year*, depending on the options you choose. Please refer to your Contract specifications page for information about the specific fees you will pay each year based on the options you have elected."

(B) Provide Minimum and Maximum Annual Fees in substantially the following tabular format, in the order specified.

Annual Fee	**Minimum**	**Maximum**
Annual Contract expenses (varies by Contract Class)	[ ]%	[ ]%
Optional benefits available for an additional charge (for a single optional benefit, if elected)	[ ]%	[ ]%

(C) Explain, in a parenthetical or footnote to the table or each caption, the basis for each percentage (*e.g.*, % of separate account value or benefit base).

(D) Annual Contract expenses should be calculated in accordance with the instructions for Total Annual Contract Expenses in Item 4, before any expense reimbursements or fee waiver arrangements that may be associated with Investment Options, and excluding Optional Benefit Expenses.

(E) The Minimum Annual Fee means the lowest current fee for each annual fee category (*i.e.*, the least expensive Contract Class, the lowest management fees, and the least expensive optional benefit available for an additional charge). The Maximum Annual Fee means the highest current fee for each annual fee category (*i.e.*, the most expensive annual Contract expenses, the highest management fees, and the most expensive optional benefit).

(ii) *Lowest and Highest Annual Cost Table.*

(A) The legend: "Because your Contract is customizable, the choices you make affect how much you will pay. To help you understand the cost of owning your Contract, the following table shows the lowest and highest cost you could pay *each year*. This estimate assumes that you do not take withdrawals from the Contract, **which could add charges for early withdrawals that substantially increase costs**."

(B) Provide Lowest and Highest Annual Costs in substantially the following tabular format, in the order specified.

Lowest Annual Cost: **$[ ]**	**Highest Annual Cost:** **$[ ]**
Assumes:	Assumes:

• Investment of $100,000 • 5% annual appreciation • Least expensive combination of Contract Classes and management fees • No optional benefits • No sales charges • No additional purchase payments, transfers or withdrawals	• Investment of $100,000 • 5% annual appreciation • Most expensive combination of Contract Classes, management fees, and optional benefits • No sales charges • No additional purchase payments, transfers or withdrawals

(C) Calculate the Lowest and Highest Annual Cost estimates in the following manner:

a. Calculate the dollar amount of fees that would be assessed based on the assumptions described in the table above for each of the first 10 Contract years.

b. Total each year's fees (discounted to the present value using a 5% annual discount rate) and divide by 10 to calculate the estimated dollar amounts that are required to be set forth in the table above.

c. Sales loads, other than ongoing sales charges, should be excluded from the Lowest and Highest Annual Cost estimates.

d. Amounts of any bonus payment should be excluded from the Lowest and Highest Annual Cost estimates.

e. Unless otherwise stated, the least and most expensive combination of Contract classes, management fees, and optional benefits should be based on the disclosures provided in the Example in Item 4. If a different combination of Contract classes, management fees, and optional benefits would result in different Minimum or Maximum fees in different years, use the least expensive or most expensive combination of Contract classes, management fees, and optional benefits each year.

3. *Risks*

(a) *Risk of Loss*. State that an investor can lose money by investing in the Contract

(b) *Not a Short-Term Investment*. State that a Contract is not a short-term investment and is not appropriate for an investor who needs ready access to cash, accompanied by a brief explanation.

(c) *Risks Associated with Investments*. State that an investment in the Contract is subject to the risk of poor investment performance and can vary depending on the performance of the Investment Options available under the Contract, that each investment (including any fixed account investment option) will have its own unique risks, and that the investor should review the investments available under the Contract before making an investment decision.

(d) *Insurance Company Risks.* State that an investment in the Contract is subject to the risks related to the Insurance Company, including that any obligations (including under any fixed account investment options), guarantees, or benefits are subject to the claims-paying ability of the Insurance Company. Further state that more information about the Insurance Company, including if applicable its financial strength ratings, is available upon request, and indicate how such requests can be made (*e.g.*, via toll-free telephone number).

Instruction. A Registrant may include the Insurance Company's financial strength rating(s) and omit the portion of the disclosures regarding the availability of the financial strength ratings specified by the last sentence of Instruction 3.(d).

4. *Restrictions*

(a) *Investments.* State whether there are any restrictions that may limit the investments that an investor may choose, as well as any limitations on the transfer of Contract value among Investment Options. If applicable, state that the insurer reserves the right to remove or substitute Investment Options.

(b) *Optional Benefits.* State whether there are any restrictions or limitations relating to optional benefits, and/or whether an optional benefit may be modified or terminated by the Registrant. If applicable, state that withdrawals that exceed limits specified by the terms of an optional benefit may affect the availability of the benefit by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate the benefit.

5. *Taxes–Tax Implications*. State that an investor should consult with a tax professional to determine the tax implications of an investment in and purchase payments received under the Contract, and that there is no additional tax benefit to the investor if the Contract is purchased through a tax-qualified plan or individual retirement account (IRA). Explain that withdrawals will be subject to ordinary income tax, and may be subject to tax penalties.

6. *Conflicts of Interest.*

(a) *Investment Professional Compensation*. State that some investment professionals may receive compensation for selling the Contract to investors, and briefly describe

the basis upon which such compensation is typically paid (*e.g.*, commissions, revenue sharing, compensation from affiliates and third parties). State that these investment professionals may have a financial incentive to offer or recommend the Contract over another investment.

(b) *Exchanges.* State that some investment professionals may have a financial incentive to offer an investor a new contract in place of the one he or she already owns, and that an investor should only exchange his or her Contract if he or she determines, after comparing the features, fees, and risks of both contracts, that it is preferable for him or her to purchase the new contract rather than continue to own the existing Contract.

Instruction. A Registrant may omit these line-items if neither the Registrant nor any of its related companies pay financial intermediaries for the sale of the Contract or related services.

Item 3. Overview of the Contract

Provide a concise description of the Contract, including the following information:

(a) *Purpose.* Briefly describe the purpose(s) of the Contract (*e.g.*, to help the investor accumulate assets through an investment portfolio, to provide or supplement the investor's retirement income, to provide death and/or other benefits). State for whom the Contract may be appropriate (*e.g.*, by discussing a representative investor's time horizon, liquidity needs, and financial goals).

(b) *Phases of Contract.* Briefly describe the accumulation (savings) phase and annuity (income) phase of the Contract.

(1) This discussion should include a brief overview of the Investment Options available under the Contract, as well as any "fixed account" (general account) investment options.

Instructions.

1. Prominently disclose that additional information about each Investment Option is provided later in the prospectus, and provide cross-references as appropriate.

2. A detailed explanation of the separate account, Investment Options, and any "fixed account" (general account) investment options is not necessary and should be avoided.

(2) State, if applicable, that if an investor annuitizes, he or she will receive a stream of income payments, however (i) he or she will be unable to make withdrawals, and (ii) death benefits and living benefits will terminate.

(c) *Contract Features.* Summarize the Contract's primary features, including death benefits, withdrawal options, loan provisions, and any available optional benefits. If applicable, state that the investor will incur an additional fee for selecting a particular benefit.

Item 4. Fee Table

Include the following information:

The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering or making withdrawals from the Contract. Please refer to your Contract specifications page for information about the specific fees you will pay each year based on the options you have elected.

The first table describes the fees and expenses that you will pay *at the time* that you buy the Contract, surrender or make withdrawals from the Contract, or transfer Contract value between Investment Options. State premium taxes may also be deducted.

Transaction Expenses

Sales Load Imposed on Purchases (as a percentage of purchase payments)	__%
Deferred Sales Load (or Surrender Charge) (as a percentage of purchase payments or amount surrendered, as applicable)	__%
Redemption Fee (as a percentage of amount redeemed, if applicable)	__%
Exchange Fee	__%

The next table describes the fees and expenses that you will pay *each year* during the time you own the Contract.

If you choose to purchase an optional benefit, you will pay additional charges, as shown below.

Annual Contract Expenses

Administrative Expenses	$__
Base Contract Expenses (as a percentage of average account value)	__%
Management Fees	__%
Other Expenses	__%
_____	__%
_____	__%
_____	__%
Optional Benefit Expenses (as a percentage of benefit base or other (*e.g.*,	__%

average account value))

Total Annual Contract Expenses __%

Example

This Example is intended to help you compare the cost of investing in the Contract with the cost of investing in other variable annuity contracts. These costs include transaction expenses, annual Contract expenses, and Investment Option operating expenses.

The Example assumes that you invest $100,000 in the Contract for the time periods indicated. The Example also assumes that your investment has a 5% return each year and assumes the most expensive combination of Investment Option operating expenses and optional benefits available for an additional charge. Although your actual costs may be higher or lower, based on these assumptions, your costs would be:

If you surrender your Contract at the end of the applicable time period:	1 year $___	3 years $___	5 years $___	10 years $___
If you annuitize at the end of the applicable time period:	1 year $___	3 years $___	5 years $___	10 years $___
If you do *not* surrender your Contract:	1 year $___	3 years $___	5 years $___	10 years $___

Portfolio Turnover

The Investment Option pays transaction costs, such as commissions, when it buys and sells securities (or "turns over" its portfolio). A higher portfolio turnover rate may indicate higher transaction costs. These costs, which are not reflected in annual Contract expenses or in the example, affect the Investment Option's performance. During the most recent fiscal year, the Investment Option's portfolio turnover rate was _____% of the average value of its portfolio.

Instructions

1. Include the narrative explanations in the order indicated. A Registrant may modify a narrative explanation if the explanation contains comparable information to that shown.

2. Assume that the Contract is owned during the accumulation period for purposes of the table (including the Example). If an annuitant would pay different fees or be subject to different expenses, disclose this in a brief narrative and provide a cross-reference to those portions of the prospectus describing these fees.

3. A Registrant may omit captions if the Registrant does not charge or reserve the right to charge the fees or expenses covered by the captions.

4. Round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.

5. In the Transaction Expenses and Annual Contract Expenses tables, the Registrant must disclose the maximum guaranteed charge, unless a specific instruction directs otherwise. If a fee is calculated based on a benchmark (*e.g.*, a fee that varies according to volatility levels or Treasury yields), the Registrant must also disclose the maximum guaranteed charge as a single number. The Registrant may disclose the current charge, in addition to the maximum charge, if the disclosure of the current charge is no more prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge. In addition, the Registrant may include in a footnote to the table a tabular, narrative, or other presentation providing further detail regarding variations in the charge. For example, if deferred sales charges decline over time, the Registrant may include in a footnote a presentation regarding the scheduled reductions in the deferred sales charges.

6. Provide a separate fee table (or separate column within the table) for each Contract form offered by the prospectus that has different fees.

7. If the Registrant offers more than one Investment Option, provide a separate response for each Investment Option. In addition, for a Contract with more than one Class, provide a separate response for each Class.

Transaction Expenses

8. "Sales Load Imposed on Purchases" includes the maximum sales load imposed upon purchase payments and may include a tabular presentation, within the larger table, of the range of such sales loads.

9. "Deferred Sales Load" includes the maximum contingent deferred sales load (or surrender charge), expressed as a percentage of the original purchase price or amount surrendered, and may include a tabular presentation, within the larger table, of the range of contingent deferred sales loads over time.

10. "Exchange Fee" includes the maximum fee charged for any exchange or transfer of Contract value from the Registrant to another investment company or from one Investment Option of the Registrant to another Investment Option or the insurance company's general account. The Registrant may include a tabular presentation of the

range of exchange fees unless such a presentation would be so lengthy as to encumber the larger table, in which case the Registrant should only provide a cross-reference to the narrative portion of the prospectus discussing the exchange fee.

11. If the Registrant (or any other party pursuant to an agreement with the Registrant) charges any other transaction fee, add another caption describing it and list the (maximum) amount or basis on which the fee is deducted.

Annual Contract Expenses

12. Administrative Expenses include any contract, account, or similar fee imposed on all Investor Accounts on a dollar basis and charged on any recurring basis (*e.g.*, $50 per year).

13. Base Contract Expenses include mortality and expense risk fees, and account fees and expenses. Account fees and expenses include all fees and expenses (except sales loads, mortality and expense risk fees, Management Fees, Other Expenses, and optional benefit expenses) that are deducted from separate account assets or charged to all Investor Accounts on a percentage basis.

14. Optional Benefits Expenses include any optional features (*e.g.*, enhanced death benefits and living benefits) offered under the Contract for an additional charge.

15. Other Annual Expenses

    (a) "Management Fees" include investment advisory fees (including any component thereof based on the performance of the Registrant), any other management fees payable to the investment adviser or its affiliates and administrative fees payable to the investment adviser or its affiliates not included as "Other Expenses."

    (b) (i) "Other Expenses" includes all expenses (except fees and expenses reported in other items in the table) that are deducted from separate account assets and are reflected as expenses in the Registrant's statement of operations (including increases resulting from complying with paragraph 2(g) of rule 6-07 of Regulation S-X [17 CFR 210.6-07]).

    (ii) "Other Expenses" do not include extraordinary expenses. "Extraordinary expenses" refers to expenses that are distinguished by their unusual nature and by the infrequency of occurrence. Unusual nature means the expense has a high degree of abnormality and is clearly unrelated to, or only incidentally related to, the ordinary and typical activities of the fund, taking into account the environment in which the fund operates. Infrequency of occurrence means the expense is not reasonably expected to recur in the foreseeable future, taking into consideration the environment in which the fund operates. The environment of a fund includes such factors as the characteristics of the industry or industries in which it operates, the geographical location of its operations, and the nature and extent of governmental regulation. If

extraordinary expenses were incurred that materially affected the Registrant's "Other Expenses," the Registrant should disclose in the narrative following the table what the "Other Expenses" would have been had extraordinary expenses been included.

(iii) The Registrant may subdivide this caption into no more than three subcategories of the Registrant's choosing, but must also include a total of all "Other Expenses."

(c) The percentages expressing annual expenses should be based on amounts incurred during the most recent fiscal year. However, if the Registrant has changed its fiscal year, and as a result the most recent fiscal year is less than three months, the Registrant should use the fiscal year prior to the most recent fiscal year as the basis for determining annual expenses.

(d) If there have been any changes in the annual expenses that would materially affect the information disclosed in the table:

(i) Restate the expense information using the current fees that would have been applicable had they been in effect during the previous fiscal year; and

(ii) In the narrative following the table, disclose that the expense information in the table has been restated to reflect current fees.

Instruction. A change in annual expenses means either an increase or a decrease in expenses that occurred during the most recent fiscal year or that is expected to occur during the current fiscal year. It includes the elimination of any expense reimbursement or fee waiver arrangement, in which case the expenses that would have been incurred had there been no reimbursement or waiver should be listed, but does not include circumstances where separate account expenses decrease in relation to the size of the separate account so as to make any waiver or reimbursement arrangement inoperative. An expected decrease in expenses as a percentage of assets due to economies of scale or breakpoints in a fee arrangement for a separate account whose assets have increased is an example of a change that should not be treated as a change requiring restatement.

(e) If there are expense reimbursements or fee waiver arrangements that will reduce any operating expenses for no less than one year from the effective date of the Registrant's registration statement: (i) revise the appropriate caption by adding "After Expense Reimbursements" or some similar phrase; (ii) state the amount of the actual expenses incurred, (*i.e.*, net of the amount reimbursed or waived); and (iii) disclose in the narrative following the table the amount the expenses would have been absent the reimbursement or waiver.

(f) (i) If an Investment Option invests in shares of one or more Acquired Funds, add a subcaption to the "Annual Expenses" portion of the table directly above the

subcaption titled "Total Annual Contract Expenses." Title the additional subcaption: "Acquired Fund Fees and Expenses." Disclose in the subcaption fees and expenses incurred indirectly by the Investment Option as a result of investment in shares of one or more Acquired Funds. For purposes of this Item, an "Acquired Fund" means any company in which the Investment Option invests that (i) is an investment company or (ii) would be an investment company under section 3(a) of the Investment Company Act [15 U.S.C. 80a3(a)] but for the exceptions to that definition provided for in sections 3(c)(1) and 3(c)(7) of the Investment Company Act [15 U.S.C. 80a3(c)(1) and 80a-3(c)(7)]. If a Registrant uses another term in response to other requirements of this Form to refer to Acquired Funds, it may include that term in parentheses following the subcaption title.

(ii) Determine the "Acquired Fund Fees and Expenses" according to the following formula:

$$AFFE = \frac{[(F_1/FY)*AI_1 * D_1]+[(F_2/FY)*AI_2 * D_2]+[(F_3/FY)*AI_3 * D_3] + \text{Transaction Fees} + \text{Incentive Allocations}}{\text{Average Net Assets of the Registrant}}$$

Where:

AFFE	= Acquired Fund fees and expenses;
$F_1, F_2, F_3, \ldots$	= Total annual operating expense ratio for each Acquired Fund;
FY	= Number of days in the relevant fiscal year;
$AI_1, AI_2, AI_3, \ldots$	= Average invested balance in each Acquired Fund;
$D_1, D_2, D_3, \ldots$	= Number of days invested in each Acquired Fund;
"Transaction Fees"	= The total amount of sales loads, redemption fees, or other transaction fees paid by the Investment Option in connection with acquiring or disposing of shares in any Acquired Funds during the most recent fiscal year.

(iii) Calculate the average net assets of the Investment Option for the most recent fiscal year based on the value of the net assets determined no less frequently than the end of each month.

(iv) The total annual operating expense ratio used for purposes of this calculation (F1) is the annualized ratio of operating expenses to average net assets for the Acquired Fund's most recent fiscal period as disclosed in the Acquired Fund's

most recent shareholder report. If the ratio of expenses to average net assets is not included in the most recent shareholder report or the Acquired Fund is a newly formed fund that has not provided a shareholder report, then the ratio of expenses to average net assets of the Acquired Fund is the ratio of total annual operating expenses to average annual net assets of the Acquired Fund for its most recent fiscal period as disclosed in the most recent communication from the Acquired Fund to the Registrant. For purposes of this instruction, Acquired Fund expenses include increases resulting from brokerage service and expense offset arrangements and reductions resulting from fee waivers or reimbursements by the Acquired Funds' investment advisers or sponsors.

(v) To determine the average invested balance (AI1), the numerator is the sum of the amount initially invested in an Acquired Fund during the most recent fiscal year (if the investment was held at the end of the previous fiscal year, use the amount invested as of the end of the previous fiscal year) and the amounts invested in the Acquired Fund no less frequently than monthly during the period the investment is held by the Investment Option (if the investment was held through the end of the fiscal year, use each month-end through and including the fiscal year-end). Divide the numerator by the number of measurement points included in the calculation of the numerator (*i.e.*, if an investment is made during the fiscal year and held for 3 succeeding months, the denominator would be 4).

Total Annual Contract Expenses

16. If optional benefit expenses are calculated on a basis other than account value, Registrants should prominently indicate that those optional benefit expenses are not included in Total Annual Contract Expenses (which are calculated as a percentage of account value).

Example

17. For purposes of the Example(s) in the table, provide the following for each Contract Class of each Investment Option:

(a) Assume that the percentage amounts listed under "Annual Contract Expenses" remain the same in each year of the 1-, 3-, 5-, and 10-year periods;

(b) The most expensive combination of Contract features must be shown first. Additional expense presentations are permitted, but not required;

(c) Assume the maximum sales load that may be deducted from purchase payments is deducted;

(d) For any breakpoint in any fee, assume that the amount of the Registrant's (and the Investment Option's) assets remains constant as of the level at the end of the most recently completed fiscal year;

(e) Assume no exchanges or other transactions;

(f) Reflect any Contract expenses by dividing the total amount of Contract expenses (including dollar-based Contract expenses) collected during the year that are attributable to the Contract by the total average net assets that are attributable to the Contract. Add the resulting percentage to Base Contract expenses and assume that it remains the same in each year of the 1-, 3-, 5-, and 10-year periods;

(g) Reflect any deferred sales load (or surrender charge) by assuming a complete surrender on the last day of the year;

(h) Provide the information required in the second section of the Example only if the Registrant charges fees upon annuitization that are different from those charged upon surrender; and

(i) Provide the information required in the third section of the Example only if a sales load or other fee is charged upon a complete surrender.

Item 5. Principal Risks of Investing in the Contract

Summarize the principal risks of purchasing a Contract, including the risks of poor investment performance, that Contracts are unsuitable as short-term savings vehicles, limitations on access to cash value through withdrawals, and the possibility of adverse tax consequences.

Item 6. General Description of Registrant, Insurance Company, and Investment Options

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

(a) *Insurance Company.* Provide the name and address of the Insurance Company.

(b) *Registrant.* Briefly describe the Registrant. Include a statement indicating that:

(1) income, gains, and losses credited to, or charged against, the Registrant reflect the Registrant's own investment experience and not the investment experience of the Insurance Company's other assets;

(2) the assets of the Registrant may not be used to pay any liabilities of the Insurance Company other than those arising from the Contracts; and

(3) the Insurance Company is obligated to pay all amounts promised to investors under the Contracts.

(c) *Investment Options.* State that information regarding each Investment Option, including (i) its name, (ii) its type (*e.g.*, Money Market Account, bond fund, balanced fund, *etc*.) or a brief statement concerning its investment objectives, (iii) its investment adviser and any sub-investment adviser, (iv) current expenses, and (v) performance is available elsewhere in the prospectus, and provide cross-references as appropriate.

(d) *Portfolio Holdings*. State that a description of the Registrant's policies and procedures with respect to the disclosure of the Registrant's portfolio securities is available (i) in the Registrant's SAI; and (ii) on the Registrant's website, if applicable.

(e) *Voting*. Concisely discuss the rights of investors to instruct the Insurance Company on the voting of shares of the Registrant, including the manner in which votes will be allocated.

Item 7. Management

(a) *Investment Adviser*. Provide the name and address of each investment adviser of the Registrant, including sub advisers. Describe the investment adviser's experience as an investment adviser and the advisory services that it provides to the Registrant.

(1) Describe the compensation of each investment adviser of the Registrant as follows:

(i) If the Registrant has operated for a full fiscal year, state the aggregate fee paid to the adviser for the most recent fiscal year as a percentage of average net assets. If the Registrant has not operated for a full fiscal year, state what the adviser's fee is as a percentage of average net assets, including any breakpoints.

(ii) If the adviser's fee is not based on a percentage of average net assets (*e.g.*, the adviser receives a performance- based fee), describe the basis of the adviser's compensation.

(2) Include a statement, adjacent to the disclosure required by paragraph (a)(1) of this Item, that a discussion regarding the basis for the board of directors approving any investment advisory contract of the Registrant is available in the Registrant's annual or semi-annual report to investors, as applicable, and providing the period covered by the relevant annual or semi-annual report.

Instructions

1. If the Registrant changed advisers during the fiscal year, describe the compensation and the dates of service for each adviser.

2. Explain any changes in the basis of computing the adviser's compensation during the fiscal year.

3. If a Registrant has more than one investment adviser, disclose the aggregate fee paid to all of the advisers, rather than the fees paid to each adviser, in response to this Item.

(b) *Portfolio Manager*. State the name, title, and length of service of the person or persons employed by or associated with the Registrant or an investment adviser of the Registrant who are primarily responsible for the day-to-day management of the Registrant's portfolio ("Portfolio Manager"). For each Portfolio Manager identified, state the Portfolio Manager's business experience during the past 5 years. Include a statement, adjacent to the foregoing disclosure, that the SAI provides additional information about

the Portfolio Manager's compensation, other accounts managed by the Portfolio Manager, and the Portfolio Manager's ownership of securities in the Registrant. If a Portfolio Manager is a member of a committee, team, or other group of persons associated with the Registrant or an investment adviser of the Registrant that is jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, provide a brief description of the person's role on the committee, team, or other group (*e.g.*, lead member), including a description of any limitations on the person's role and the relationship between the person's role and the roles of other persons who have responsibility for the day-to-day management of the Registrant's portfolio.

Item 8. Charges

(a) *Description*. Briefly describe all current charges deducted from purchase payments, Investor Accounts, or assets of the Registrant, or any other source (*e.g.*, sales loads, premium taxes and other taxes, administrative and transaction charges, risk charges, Contract loan charges, and optional benefit charges). Indicate whether each charge will be deducted from purchase payments, Investor Accounts, or the Registrant's assets, the proceeds of withdrawals or surrenders, or some other source. When possible, specify the amount of any charge as a percentage or dollar figure (*e.g.*, 0.95% of average daily net assets or $5 per exchange). For recurring charges, specify the frequency of the deduction (*e.g.*, daily, monthly, annually). Identify the person who receives the amount deducted, briefly explain what is provided in consideration for the charges, and explain the extent to which any charge can be modified. Where it is possible to identify what is provided in consideration for a particular charge (*e.g.*, use of sales load to pay distribution costs), explain what is provided in consideration for that charge separately.

Instructions

1. Describe the sales loads applicable to the Contract and how sales loads are charged and calculated, including the factors affecting the computation of the amount of the sales load. If the Contract has a front-end sales load, describe the sales load as a percentage of the applicable measure of purchase payments and as a percentage of the net amount invested for each breakpoint. For Contracts with a deferred sales load, describe the sales load as a percentage of the applicable measure of purchase payments (or other basis) that the deferred sales load may represent. Percentages should be shown in a table. Identify any events on which a deferred sales load is deducted (*e.g.*, surrender or withdrawal). The description of any deferred sales load should include how the deduction will be allocated among Investment Options of the Registrant and when, if ever, the sales load will be waived (*e.g.*, if the Contract provides a free withdrawal amount).

2. Unless set forth in response to Instruction 1, list any special purchase plans or methods established pursuant to a rule or an exemptive order that reflect scheduled variations in, or elimination of, the sales load (*e.g.*, group discounts, waiver of sales load upon annuitization or attainment of a certain age, waiver of deferred sales load for a certain percentage of Contract value ("free corridor"), investment of proceeds from another policy, exchange privileges, employee benefit plans, or the terms of a merger,

acquisition or exchange offer made pursuant to a plan of reorganization); identify each class of individuals or transactions to which such plans apply; state each different sales charge available as a percentage of the public offering price and as a percentage of the net amount invested; and state from whom additional information may be obtained. Describe any other special purchase plans or methods established pursuant to a rule that reflect other variations in, or elimination of, the sales load or in any administrative charge or other deductions from purchase payments, and generally describe the basis for the variation or elimination in the sales load or other deduction (*i.e.*, the size of the purchaser, a prior or existing relationship with the purchaser, the purchaser's assumption of certain administrative functions, or other characteristics that result in differences in costs or services).

3. If proceeds from sales loads will not cover the expected costs of distributing the Contracts, identify from what source the shortfall, if any, will be paid. If any shortfall is to be made from assets from the Insurance Company's general account, disclose, if applicable, that any amounts paid by the Insurance Company may consist, among other things, of proceeds derived from Base Contract Expenses deducted from the account.

4. If the Contract's charge for premium or other taxes varies according to jurisdiction, identification of the range of current premium or other taxes is sufficient.

(b) *Commissions Paid to Dealers*. State the commissions paid to dealers as a percentage of purchase payments.

(c) *Investment Option Charges.* State that charges are deducted from and expenses paid out of the assets of the Investment Options.

(d) *Operating Expenses.* Describe any type of operating expenses for which the Registrant is responsible. If organizational expenses of the Registrant are to be paid out of its assets, explain how the expenses will be amortized and the period over which the amortization will occur.

Item 9. General Description of Contracts

(a) *Contract Rights.* Identify the person or persons (*e.g.*, the investor, participant, annuitant, or beneficiary) who have material rights under the Contracts, and the nature of those rights, (1) during the accumulation period, (2) during the annuity period, and (3) after the death of the annuitant or investor.

Instruction. Disclose all material state variations and intermediary specific variations (*e.g.*, variations resulting from different brokerage channels) to the offering.

(b) *Contract Provisions and Limitations.* Briefly describe any provisions and limitations for:

(1) minimum Contract value, and the consequences of falling below that amount;

(2) allocation of purchase payments among Investment Options of the Registrant;

(3) transfer of Contract value between Investment Options of the Registrant, including transfer programs (*e.g.*, dollar cost averaging, portfolio rebalancing, asset allocation programs, and automatic transfer programs);

(4) conversion or exchange of Contracts for another contract, including a fixed or variable annuity or life insurance contract; and

Instruction. In discussing conversion or exchange of Contracts, the Registrant should include any time limits on conversion or exchange, the name of the company issuing the other contract and whether that company is affiliated with the issuer of the Contract, and how the cash value of the Contract will be affected by the conversion or exchange.

(5) buyout offers, including interests or participations therein.

(c) *General Account.* Describe the obligations under the Contract that are funded by the Insurance Company's general account (*e.g.*, death benefits, living benefits, or other benefits available under the Contract), and state that these amounts are subject to the Insurance Company's claims paying ability and financial strength.

(d) *Contract or Registrant Changes*. Briefly describe the changes that can be made in the Contracts or the operations of the Registrant by the Registrant or the Insurance Company, including:

(1) why a change may be made (*e.g.*, changes in applicable law or interpretations of law);

(2) who, if anyone, must approve any change (*e.g.*, the investor or the Commission); and

(3) who, if anyone, must be notified of any change.

Instruction. Describe only those changes that would be material to a purchaser of the Contracts, such as a reservation of the right to deregister the Registrant under the Investment Company Act or to substitute one Investment Option for another. Do not describe possible non-material changes, such as changing the time of day at which accumulation unit values are determined.

(e) *Class of Purchasers*. Disclose any limitations on the class or classes of purchasers to whom the Contract is being offered.

(f) *Frequent Transfers among Investment Options of the Registrant*

(1) Describe the risks, if any, that frequent transfers of Contract value among Investment Options of the Registrant may present for other investors and other persons (*e.g.*, participants, annuitants, or beneficiaries) who have material rights under the Contract.

(2) State whether or not the Registrant or Insurance Company has adopted policies and procedures with respect to frequent transfers of Contract value among Investment Options of the Registrant.

(3) If neither the Registrant nor Insurance Company has adopted any such policies and procedures, provide a statement of the specific basis for the view of the board that it is appropriate for the Registrant not to have such policies and procedures.

(4) If the Registrant or Insurance Company has any such policies and procedures, describe those policies and procedures, including:

(i) whether or not the Registrant or Insurance Company discourages frequent transfers of Contract value among Investment Options of the Registrant;

(ii) whether or not the Registrant or Insurance Company accommodates frequent transfers of Contract value among Investment Options of the Registrant; and

(iii) any policies and procedures of the Registrant or Insurance Company for deterring frequent transfers of Contract value among Investment Options of the Registrant, including any restrictions imposed by the Registrant or Insurance Company to prevent or minimize frequent transfers. Describe each of these policies, procedures, and restrictions with specificity. Indicate whether each of these restrictions applies uniformly in all cases or whether the restriction will not be imposed under certain circumstances, including whether each of these restrictions applies to trades that occur through omnibus accounts at intermediaries, such as investment advisers, broker-dealers, transfer agents, and third party administrators. Describe with specificity the circumstances under which any restriction will not be imposed. Include a description of the following restrictions, if applicable:

(A) any restrictions on the volume or number of transfers that may be made within a given time period;

(B) any transfer fee;

(C) any costs or administrative or other fees or charges that are imposed on persons deemed to be engaged in frequent transfers of Contract value among Investment Options of the Registrant, together with a description of the circumstances under which such costs, fees, or charges will be imposed;

(D) any minimum holding period that is imposed before a transfer may be made from an Investment Option into another Investment Option of the Registrant;

(E) any restrictions imposed on transfer requests submitted by overnight delivery, electronically, or via facsimile or telephone; and

(F) any right of the Registrant or Insurance Company to reject, limit, delay, or impose other conditions on transfers or to terminate or otherwise limit Contracts based on a history of frequent transfers among Investment Options, including the circumstances under which such right will be exercised.

(5) If applicable, include a statement, adjacent to the disclosure required by paragraphs (f)(1) through (f)(4) of this Item, that the Statement of Additional Information includes a description of all arrangements with any person to permit frequent transfers of Contract value among Investment Options of the Registrant.

Item 10. Annuity Period

Briefly describe the annuity options available. The discussion should include:

(a) Material factors that determine the level of annuity benefits;

(b) The annuity commencement date (give the earliest and latest possible dates);

(c) Frequency and duration of annuity payments, and the effect of these on the level of payment;

(d) The effect of assumed investment return;

(e) Any minimum amount necessary for an annuity option and the consequences of an insufficient amount; and

(f) Rights, if any, to change annuity options or to effect a transfer of investment base after the annuity commencement date.

Instructions

1. Describe the choices, if any, available to a prospective annuitant, and the effect of not specifying a choice. Where an annuitant is given a choice in assumed investment return, explain the effect of choosing a higher, as opposed to a lower, assumed investment return.

2. Detailed disclosure on the method of calculating annuity payments should be placed in the SAI in response to Item 30.

(g) If applicable, state that the investor will not be able to withdraw any Contract value amounts after the annuity commencement date.

Item 11. Benefits Available Under the Contract

(a) Include the following information:

The following table[s] summarize information about the benefits available under the contract.

Name of Benefit	Purpose	Is Benefit Standard or Optional	Maximum Fee	Brief Description of Restrictions/ Limitations
			[ ]%	
			[ ]%	

Instructions

1. *General.*

   (a) The table required by paragraph (a) of this Item is meant to provide a tabular summary overview of the benefits described in paragraph (b) of this Item (*e.g.*, standard or optional death benefits, standard or optional living benefits, etc.)

   (b) If the Contract offers multiple benefits of the same type (*e.g.*, death benefit, accumulation benefit, withdrawal benefit, long-term care benefit), the Registrant may include multiple tables in response to paragraph (a) of this Item, if doing so might better permit comparisons of different benefits of the same type. Registrants that choose to use a single table should consider whether grouping together multiple benefits of the same type, with appropriate headings, might similarly permit better comparisons of those benefits.

   (c) The Registrant should include appropriate titles, headings, or any other information to promote clarity and facilitate understanding of the table(s) presented in response to paragraph (a) of this Item. For example, if certain optional benefits are only available to certain investors (*e.g.*, investors who invested during specific time periods), the table could include footnotes or headings to identify which optional benefits are affected and to whom those optional benefits are available.

2. *Name of Benefit.* State the name of each benefit included in the table(s).

3. *Purpose*. Briefly describe the purpose of each benefit included in the table(s).

4. *Is Benefit Standard or Optional*. State whether the benefit is standard or optional. If the Registrant includes titles or headings for the table(s) specifying whether the benefit is standard or optional, the Registrant does not need to include the "Is Benefit Standard or Optional" column in the table(s).

5. *Maximum Fee*. State the maximum fee associated with each benefit included in the table(s). Include parentheticals providing information about what the stated percentage refers to (*e.g.*, percentage of Contract value, percentage of benefit base, etc.).

6. *Current Fee*. The Registrant may disclose the current charge in a separate column titled "Current Charge," if the disclosure of the current charge is no more prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge.

7. *Brief Description of Restrictions/Limitations*. Briefly describe the restriction(s) or limitation(s) associated with each benefit. Registrants are encouraged to use short phrases (*e.g.*, "benefit limits [Investment Options] available," "withdrawals could terminate benefit") to describe the restriction(s) or limitation(s).

(b) Briefly describe any benefits (*e.g.*, death benefits, living benefits, etc.) offered under a Contract, including:

(1) Whether the benefit is standard or optional;

(2) The operation of the benefit, including the amount of the benefit and how the benefit amount may vary, the circumstances under which the value of the benefit may increase or be reduced (including the effect of withdrawals), and how the benefit may be terminated;

(3) Fees and costs, if any, associated with the benefit; and

(4) How the benefit amount is calculated and payable and the effect of choosing a specific method of payment on calculation of the benefit.

(c) Briefly describe any limitations, restrictions and risks associated with any benefit offered under the Contract (*e.g.*, restrictions on which Investment Options may be selected; risk of reduction or termination of benefit or of additional costs resulting from excess withdrawals).

Instruction. In responding to paragraphs (b) and (c) of this Item, provide one or more examples illustrating the operation of each benefit in a clear, concise, and understandable manner.

Item 12. Purchases and Contract Value

(a) Briefly describe the procedures for purchasing a Contract. Include a concise explanation of:

(1) the minimum initial and subsequent purchase payments required and any limitations on the amount of purchase payments that will be accepted (if there are separate limits for each Investment Option, state these limits); and

(2) a statement of when initial and subsequent purchase payments are credited.

(b) Describe the manner in which purchase payments are credited, including: (A) an explanation that purchase payments are credited on the basis of accumulation unit value; (B) how accumulation unit value is determined; (C) how the number of accumulation units credited to a Contract is determined; and (D) how accumulation unit value is allocated to the investment options, including how such allocation would take place in the absence of instructions from the investor.

(c) Explain that investment performance of the Investment Options, expenses, and deduction of certain charges affect accumulation unit value and/or the number of accumulation units.

(d) Identify the method used to value the Registrant's assets (*e.g.*, market value, good faith determination, amortized cost).

Instruction. A Registrant (other than a Money Market Fund) must provide a brief explanation of the circumstances under which it will use fair value pricing and the effects of using fair value pricing. With respect to any portion of a Registrant's assets that are invested in one or more open-end management investment companies that are registered under the Investment Company Act, the Registrant may briefly explain that the Registrant's net asset value is calculated based upon the net asset values of the registered open-end management investment companies in which the Registrant invests, and that the prospectuses for these companies explain the circumstances under which those companies will use fair value pricing and the effects of using fair value pricing.

(e) Describe when calculations of accumulation unit value are made and that purchase payments are credited to a Contract on the basis of accumulation unit value next determined after receipt of a purchase payment.

(f) Identify each principal underwriter (other than the Insurance Company) of the Contracts and state its principal business address. If the principal underwriter is affiliated with the Registrant, the Insurance Company, or any affiliated person of the Registrant or the Insurance Company, identify how they are affiliated (*e.g.*, the principal underwriter is controlled by the Insurance Company).

Item 13. Surrenders and Withdrawals

(a) *Surrender and Withdrawal*. Briefly describe how surrenders and withdrawals can be made from a Contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable. Briefly describe the potential effect of such surrenders and withdrawals.

(b) *Additional Information Regarding Surrender and Withdrawal*. Indicate generally whether and under what circumstances surrenders and withdrawals are available under a Contract, including the minimum and maximum amounts that may be surrendered or

withdrawn, any limits on their availability, how the proceeds are calculated, and when the proceeds are payable.

(c) *Effect of Surrender and Withdrawal*. Indicate generally whether and under what circumstances surrenders or withdrawals will affect a Contract's cash value, death benefit(s), and/or any living benefits, and whether any charge(s) will apply.

(d) *Investment Option Allocation*. Describe how surrenders and withdrawals will be allocated to the Investment Options, including how such allocation would take place in the absence of instructions from the investor.

Instruction. The Registrant should generally describe the terms and conditions that apply to surrender and withdrawal transactions. Technical information regarding the determination of amounts available to be surrendered or withdrawn should be included in the SAI.

(e) *Involuntary Redemption.* Briefly describe any provision for involuntary redemptions under the Contract and the reasons for it, such as the size of the account or infrequency of purchase payments.

(f) *Revocation Rights*. Briefly describe any revocation rights (*e.g.*, "free-look" provisions), including a description of how the amount refunded is determined, the method for crediting earnings to purchase payments during the free-look period, and whether Investment Options are limited during the free-look period.

Item 14. Loans

Briefly describe the loan provisions of the Contract, including any of the following that are applicable.

(a) *Availability of Loans*. State that a portion of the Contract's cash surrender value may be borrowed. State how the amount available for a loan is calculated.

(b) *Limitations*. Describe any limits on availability of loans (*e.g.*, a prohibition on loans during the first Contract year).

(c) *Interest*. Describe how interest accrues on the loan, when it is payable, and how interest is treated if not paid. Explain how interest on the amount in the collateral account is credited to the Contract and allocated to the Investment Options.

(d) *Effect on Contract Value and Death Benefit*. Describe how loans and loan repayments affect Contract value and how they are allocated among the Investment Options, including, if applicable, how such allocation would take place in the absence of instructions from the investor. Include (i) a brief explanation that amounts borrowed under a Contract do not participate in a Registrant's investment experience and that loans, therefore, can affect the Contract value and death benefit whether or not the loan is repaid, and (ii) a brief explanation that the Contract value at surrender and the death

proceeds payable will be reduced by the amount of any outstanding Contract loan plus accrued interest.

(e) *Other Effects*. Describe any other effect that a loan could have on the Contract (*e.g.*, the effect of a Contract loan in excess of Contract value).

(f) *Procedures*. Describe the loan procedures, including how and when amounts borrowed are transferred out of the Registrant and how and when amounts repaid are credited to the Registrant.

Item 15. Taxes

(a) *Tax Consequences*. Describe the material tax consequences to the investor and beneficiary of buying, holding, exchanging, or exercising rights under the Contract.

Instruction. Discuss the taxation of annuity payments, death benefit proceeds, periodic and non-periodic withdrawals, loans, and any other distribution that may be received under the Contract, as well as the tax benefits accorded the Contract, and other material tax consequences. Describe, if applicable, whether the tax consequences vary with different uses of the Contract.

(b) *Qualified Plans*. Identify the types of qualified plans for which the Contracts are intended to be used.

Instructions.

1. Identify the types of persons who may use the plans (*e.g.*, corporations, self-employed individuals) and disclose, if applicable, that the terms of the plan may limit the rights otherwise available under the Contracts.

2. Do not describe the Internal Revenue Code requirements for qualifications of plans or the non-annuity tax consequences of qualification (*e.g.*, the effect on employer taxation).

(c) *Effect*. Describe the effect, if any, of taxation on the determination of cash values or sub-account values.

Item 16. Legal Proceedings

Describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, or the Registrant's investment adviser, principal underwriter, or Insurance Company is a party. Include the name of the court where the case is pending, the date instituted, the principal parties involved, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any proceedings instituted, or known to be contemplated, by a governmental authority.

Instruction. For purposes of this requirement, legal proceedings are material only to the extent that they are likely to have a material adverse effect on the Registrant, the ability of the investment adviser or principal underwriter to perform its contract with the Registrant, or the ability of the Insurance Company to meet its obligations under the Contracts.

Item 17. Financial Statements

If all of the required financial statements of the Registrant and the Insurance Company are not in the prospectus (*see* Item 31 and General Instruction C.3.(b)), state, under a separate caption, where the financial statements may be found. Briefly explain how investors may obtain any financial statements not in the Statement of Additional Information.

Item 18. Investment Options Available Under the Contract

Include as an Appendix under the heading **"Appendix: Investment Options Available Under the Contract"** the following legend, in the format specified below:

The following is a list of Investment Options available under the Contract. More information about the Investment Options is available in the Statutory Prospectus for the Contract, which can be requested at no cost by following the instructions on [the front cover page or beginning of the Summary Prospectus].

The current expenses and performance information below reflects contract fees and expenses that are paid by each investor. Each Investment Option's past performance is not necessarily an indication of future performance.

Type/ Investment Objective	**Investment Option and *Adviser/ Subadviser***	**Current Expenses (excluding optional benefit expenses)**	**Average Annual Total Returns (excluding optional benefit expenses** *(as of 12/31/_)*		
			1 year	**5 year**	**10 year**
[Insert]	[Names of Investment Option and *adviser/ subadviser*]	[_]%	[_]%	[_]%	[_]%

Instructions.

1. *General.*

(a) Only include Investment Options under the Contract. Indicate if investments in any of the Investment Options are restricted (*e.g.*, because of a "hard" or "soft" close).

(b) The legend may indicate, if applicable, that the prospectuses and other information are available from a financial intermediary (such as an insurance sales agent or broker-dealer) through which the Contract may be purchased or sold.

(c) A Statutory Prospectus may omit the appendix described in this Item if the appendix is not included in a Summary Prospectus. The last sentence of the first paragraph of the legend preceding the table is only required in the case of a Summary Prospectus.

(d) If applicable, include a statement explaining that updated performance information is available and providing a website address and/or toll-free (or collect) telephone number where the updated information may be obtained.

(e) If the availability of one or more Investment Options varies by benefit offered under the Contract:

(i) The following sentence should be added to the first paragraph of the legend preceding the table: "Depending on the optional benefits you choose, you may not be able to invest in certain Investment Options."; and

(ii) Indicate which Investment Options are available (or are restricted) under the benefits offered under the Contract. The Appendix could incorporate a separate table that is structured pursuant to the following example, or could use any other presentation that might promote clarity and facilitate understanding:

[Investment Option]	**[Benefit #1]**	**[Benefit #2]**	**[Benefit #3]**	**[Benefit #4]**
Investment Option A	☑	☑	☑	☑
Investment Option B	☑	☑	☑	
Investment Option C	☑	☑		
Investment Option D	☑			

2. *Type/Investment Objective*. Briefly describe each Investment Option's type (*e.g.*, Money Market Account, bond fund, balanced fund, etc.), or include a brief statement describing the Investment Option's investment objectives.

3. *Investment Option and Adviser/Subadviser*. State the name of each Investment Option and its adviser/subadviser, as applicable. The adviser's/sub-adviser's name may be omitted if it is incorporated into the name of the Investment Option. A Registrant also need not identify a sub-adviser whose sole responsibility for the Investment Option is limited to day-to-day management of the Investment Option's holdings of cash and cash equivalent instruments, unless the Investment Option is a Money Market Fund or other Investment Option with a principal investment strategy of regularly holding cash and cash equivalent instruments. If the Investment Option has three or more sub-advisers, each of which manages a portion of the Investment Option's portfolio, the Registrant need not identify each such sub-adviser, except that the Registrant must identify any sub-adviser that is (or is reasonably expected to be) responsible for the management of a significant portion of the Investment Option's net assets. For purposes of this paragraph, a significant portion of an Investment Option's net assets generally will be deemed to be 30% or more of the Investment Option's net assets.

4. *Current Expenses*. Report "Total Annual Contract Expenses" as calculated pursuant to Item 4, excluding Optional Benefit Expenses, and reflecting any expense reimbursements or fee waiver arrangements that are in place and reported in the prospectus for the Investment Option. If applicable, identify each Investment Option subject to an expense reimbursement or fee waiver arrangement and provide a footnote stating that their annual expenses reflect temporary fee reductions. If the Registrant is a Multiple Class Fund, disclosures need only be made for one Class (*i.e.*, the Class referenced in Instruction 5 to this item).

5. *Average Annual Total Returns.* For purposes of this Item, "average annual total returns" means the "average annual total return" (before taxes) as calculated pursuant to Item 19(c)(3) of this Form. If the Registrant is a Multiple Class Fund, disclosures need only be made for one Class pursuant to Instruction 3.(a) to Item 19(c).

Item 19. Additional Information About Investment Options Available Under the Contract

(a) *Investment Objectives.* Provide the following information for each Investment Option.

(1) *Investment Objectives*. State the Investment Option's investment objectives and, if applicable, state that those objectives may be changed without shareholder approval.

(2) *Implementation of Investment Objectives*. Describe how the Investment Option intends to achieve its investment objectives. In the discussion:

(i) Describe the Investment Option's principal investment strategies, including the particular type or types of securities in which the Investment Option principally invests or will invest.

Instructions

1. A strategy includes any policy, practice, or technique used by the Investment Option to achieve its investment objectives.

2. Whether a particular strategy, including a strategy to invest in a particular type of security, is a principal investment strategy depends on the strategy's anticipated importance in achieving the Registrant's investment objectives, and how the strategy affects the Investment Option's potential risks and returns. In determining what is a principal investment strategy, consider, among other things, the amount of the Investment Option's assets expected to be committed to the strategy, the amount of the Investment Option's assets expected to be placed at risk by the strategy, and the likelihood of the Investment Option losing some or all of those assets from implementing the strategy.

3. A negative strategy (*e.g.*, a strategy not to invest in a particular type of security or not to borrow money) is not a principal investment strategy.

4. Disclose any policy to concentrate in securities of issuers in a particular industry or group of industries (*i.e.*, investing more than 25% of an Investment Option's net assets in a particular industry or group of industries).

5. Disclose any other policy specified in Item 22(b)(1) that is a principal investment strategy of the Investment Option.

6. Disclose, if applicable, that the Investment Option may, from time to time, take temporary defensive positions that are inconsistent with the Investment Option's principal investment strategies in attempting to respond to adverse market, economic, political, or other conditions. Also disclose the effect of taking such a temporary defensive position (*e.g.*, that the Registrant may not achieve its investment objective).

7. Disclose whether the Investment Option (if not a Money Market Account) may engage in active and frequent trading of portfolio securities to achieve its principal investment strategies. If so, explain the tax consequences to investors of increased portfolio turnover, and how the tax consequences of, or trading costs associated with, an Investment Option's portfolio turnover may affect the Investment Option's performance.

(ii) Explain in general terms how the Investment Option decides which securities to buy and sell (*e.g.*, for an equity fund, discuss, if applicable, whether the Investment Option emphasizes value or growth or blends the two approaches).

(b) *Risks*. Disclose the principal risks of investing in the Investment Option(s), including the risks to which the Investment Option's particular portfolio as a whole is expected to be

subject and the circumstances reasonably likely to affect adversely the Investment Option's accumulation unit values, yield, or total return.

(c) *Performance*. Provide the following for each Investment Option.

(1) Include the bar chart and table required by paragraphs (c)(2) and (3) of this Item. Provide a brief explanation of how the information illustrates the variability of the Investment Option's returns (*e.g.*, by stating that the information provides some indication of the risks of investing in the Registrant by showing changes in the Investment Option's performance from year to year and by showing how the Investment Option's average annual returns for 1, 5, and 10 years compare with those of a broad measure of market performance). Provide a statement to the effect that the Registrant's past performance is not necessarily an indication of how the Investment Option will perform in the future. If applicable, include a statement explaining that updated performance information is available and providing a web site address and/or toll-free (or collect) telephone number where the updated information may be obtained.

(2) If the Investment Option has annual returns for at least one calendar year, provide a bar chart showing the Investment Option's annual total returns for each of the last 10 calendar years (or for the life of the Investment Option if less than 10 years), but only for periods subsequent to the effective date of the Registrant's registration statement. Present the corresponding numerical return adjacent to each bar. If the Registrant's fiscal year is other than a calendar year, include the year-to-date return information as of the end of the most recent quarter in a footnote to the bar chart. Following the bar chart, disclose the Investment Option's highest and lowest return for a quarter during the 10 years or other period of the bar chart.

(3) If the Investment Option has annual returns for at least one calendar year, provide a table showing the Investment Option's average annual total return. All returns should be shown for 1-, 5-, and 10- calendar year periods ending on the date of the most recently completed calendar year (or for the life of the Investment Option, if shorter), but only for periods subsequent to the effective date of the Registrant's registration statement. The table also should show the returns of an appropriate broad-based securities market index for the same periods. An Investment Option that has been in existence for more than 10 years also may include returns for the life of the Investment Option. A Money Market Account may provide the Investment Option's 7-day yield ending on the date of the most recent calendar year or disclose a toll-free (or collect) telephone number that investors can use to obtain the Investment Option's current 7-day yield. For each Investment Option, provide the information in the following table with the specified captions:

Performance reflects Contract fees and expenses that are paid by each investor. This performance does not reflect optional benefit expenses.

AVERAGE ANNUAL TOTAL RETURNS
(For the period ended December 31, ___)

	1 year	**5 years** (or Life of Investment Option)	**10 years** (or Life of Investment Option)
Average Annual Total Returns	%	%	%
Index (reflects no deduction for [fees, expenses, or taxes])	%	%	%

Instructions

1. *Bar Chart.*

(a) Provide annual total returns beginning with the earliest calendar year.

(i) Assume an initial investment made at the net asset value calculated on the last business day before the first day of each period shown.

(ii) Do not reflect sales loads or account fees in the initial investment, but, if sales loads or account fees are imposed, note that they are not reflected in total return.

(iii) Reflect any sales load assessed upon reinvestment of dividends or distributions.

(iv) Assume a redemption at the price calculated on the last business day of each period shown.

(v) For a period less than a full calendar year, state the total return for the period and disclose that total return is not annualized in a note to the chart.

(vi) If a Registrant's units are sold subject to a sales load or account fees, state that sales loads or account fees are not reflected in the bar chart and that, if these amounts were reflected, returns would be less than those shown.

(b) For an Investment Option that provides annual total returns for only one calendar year or for an Investment Option that does not include the bar chart because it does not have annual returns for a full calendar year, modify, as appropriate, the narrative explanation required by paragraph (c)(1) of this Item (*e.g.*, by stating that

the information gives some indication of the risks of an investment in the Investment Option by comparing the Investment Option's performance with a broad measure of market performance).

2. *Table.*

   (a) For purposes of this table, an "appropriate broad-based securities market index" is one that is administered by an organization that is not an affiliated person of the Registrant, its investment adviser, or principal underwriter, unless the index is widely recognized and used. Adjust the index to reflect the reinvestment of dividends on securities in the index, but do not reflect the expenses of the Registrant.

   (b) Calculate a Money Market Account's 7-day yield under Item 29(a) and the Investment Option's average annual total return under Item 29(b)(1).

   (c) An Investment Option is encouraged to compare its performance not only to the required broad-based index, but also to other more narrowly based indexes that reflect the market sectors in which the Investment Option invests. An Investment Option also may compare its performance to an additional broad-based index, or to a non-securities index (*e.g.*, the Consumer Price Index), so long as the comparison is not misleading. If an additional index is included, disclose information about the additional index in the narrative explanation accompanying the bar chart and table (*e.g.*, by stating that the information shows how the Investment Option's performance compares with the returns of an index of funds with similar investment objectives).

   (d) If the Investment Option selects an index that is different from the index used in a table for the immediately preceding period, explain the reason(s) for the selection of a different index and provide information for both the newly selected and the former index.

   (e) An Investment Option (other than a Money Market Account) may include the Investment Option's yield calculated under Item 29(b)(2). If an Investment Option's yield is included, provide a toll-free (or collect) telephone number that investors can use to obtain current yield information.

3. *Multiple Class Funds.*

   (a) When a Multiple Class Fund presents information for more than one Class together in response to this Item, provide annual total returns in the bar chart for only one of those Classes. The Multiple Class Fund can select which Class to include (*e.g.*, the oldest Class, the Class with the greatest net assets) if the Multiple Class Fund:

      (i) Selects the Class with 10 or more years of annual returns if other Classes have fewer than 10 years of annual returns;

(ii) Selects the Class with the longest period of annual returns when the Classes all have fewer than 10 years of returns; and

(iii) If the Multiple Class Fund provides annual total returns in the bar chart for a Class that is different from the Class selected for the most immediately preceding period, explain in a footnote to the bar chart the reasons for the selection of a different Class.

(b) When a Multiple Class Fund offers a new Class in a prospectus and separately presents information for the new Class in response to this Item, include the bar chart with annual total returns for any other existing Class for the first year that the Class is offered. Explain in a footnote that the returns are for a Class that is not presented that would have substantially similar annual returns because the shares are invested in the same portfolio of securities and the annual returns would differ only to the extent that the Classes do not have the same expenses. Include return information for the other Class reflected in the bar chart in the performance table.

(c) When a Multiple Class Fund presents information for more than one Class together in response to this Item:

(i) Provide the average annual total returns required this Item for each of the Classes.

(ii) All returns shown should be identified by Class.

(d) If a Multiple Class Fund offers a Class in the prospectus that converts into another Class after a stated period, compute average annual total returns in the table by using the returns of the other Class for the period after conversion.

4. *Change in Investment Adviser*. If the Investment Option has not had the same investment adviser during the last 10 calendar years, the Investment Option may begin the bar chart and the performance information in the table on the date that the current adviser began to provide advisory services to the Investment Option so long as:

(a) Neither the current adviser nor any affiliate is or has been in "control" of the previous adviser under section 2(a)(9) of the Investment Company Act [15 U.S.C. 80a-2(a)(9)];

(b) The current adviser employs no officer(s) of the previous adviser or employees of the previous adviser who were responsible for providing investment advisory or portfolio management services to the Registrant; and

(c) The graph is accompanied by a statement explaining that previous periods during which the Investment Option was advised by another investment adviser are not shown.

PART B - INFORMATION REQUIRED IN A STATEMENT OF ADDITIONAL INFORMATION

Item 20. Cover Page and Table of Contents

(a) *Front Cover Page*. Include the following information on the outside front cover page of the SAI:

(1) The Registrant's name.

(2) The Insurance Company's name.

(3) The name of the Contract and the Class or Classes, if any, to which the Contract relates.

(4) A statement or statements:

(i) That the SAI is not a prospectus;

(ii) How the prospectus may be obtained; and

(iii) Whether and from where information is incorporated by reference into the SAI; as permitted by General Instruction D.

Instruction. Any information incorporated by reference into the SAI must be delivered with the SAI.

(5) The date of the SAI and the prospectus to which the SAI relates.

(b) *Table of Contents*. Include under appropriate captions (and subcaptions) a list of the contents of the SAI and, when useful, provide cross-references to related disclosure in the prospectus.

Item 21. General Information and History

(a) *Insurance Company*. Provide the date and form of organization of the Insurance Company, the name of the state or other jurisdiction in which the Insurance Company is organized, and a description of the general nature of the Insurance Company's business.

Instruction. The description of the Insurance Company's business should be short and need not list all of the businesses in which the Insurance Company engages or identify the jurisdictions in which it does business if a general description (*e.g.*, "variable annuity" or "reinsurance") is provided.

(b) *Registrant*. Provide the date and form of organization of the Registrant and the Registrant's classification pursuant to section 4 of the Investment Company Act [15 U.S.C. 80a-4] (*i.e.*, separate account and an open-end investment company).

(c) *History of Insurance Company and Registrant*. If the Insurance Company's name was changed during the past five years, state its former name and the approximate date on which it was changed. If, at the request of any state, sales of contracts offered by the Registrant have been suspended at any time, or if sales of contracts offered by the Insurance Company have been suspended during the past five years, briefly describe the reasons for and results of the suspension. Briefly describe the nature and results of any bankruptcy, receivership, or similar proceeding, or any other material reorganization, readjustment, or succession of the Insurance Company during the past five years.

(d) *Ownership of Investment Option Assets*. If 10 percent or more of the assets of any Investment Option are not attributable to Contracts or to accumulated deductions or reserves (*e.g.*, initial capital contributed by the Insurance Company), state what percentage those assets are of the total assets of the Registrant. If the Insurance Company, or any other person controlling the assets, has any present intention of removing the assets from the Investment Option, so state.

(e) *Control of Insurance Company*. State the name of each person who controls the Insurance Company and the nature of its business.

Instruction. If the Insurance Company is controlled by another person that, in turn, is controlled by another person, give the name of each control person and the nature of its business.

Item 22. Investment Objectives and Risks

Instruction. If the Registrant offers more than one Investment Option under the Contract, provide the requested information for each Investment Option. Otherwise, the requested information may be provided at the Registrant level.

(a) *Investment Strategies and Risks*. Describe any investment strategies, including a strategy to invest in a particular type of security, used by an investment adviser of the Registrant in managing the Registrant that are not principal strategies and the risks of those strategies.

(b) *Registrant Policies*.

(1) Describe the Registrant's policy with respect to each of the following:

(i) Issuing senior securities;

(ii) Borrowing money, including the purpose for which the proceeds will be used;

(iii) Underwriting securities of other issuers;

(iv) Concentrating investments in a particular industry or group of industries;

(v) Purchasing or selling real estate or commodities;

(vi) Making loans; and

(vii) Any other policy that the Registrant deems fundamental or that may not be changed without shareholder approval, including, if applicable, Registrant's investment objectives.

Instruction. If the Registrant reserves freedom of action with respect to any practice specified in paragraph (b)(1) of this Item, state the maximum percentage of assets to be devoted to the practice and disclose the risks of the practice.

(2) State whether shareholder approval is necessary to change any policy specified in paragraph (b)(1) of this Item. If so, describe the vote required to obtain this approval.

(c) *Temporary Defensive Position*. Disclose, if applicable, the types of investments that a Registrant may make while assuming a temporary defensive position described in response to Item 19(a).

(d) *Portfolio Turnover*. Explain any significant variation in the Registrant's portfolio turnover rates over the two most recently completed fiscal years or any anticipated variation in the portfolio turnover rate from that reported for the last fiscal year in response to Item 4.

Instruction. This paragraph does not apply to a Money Market Fund or a Money Market Account.

(e) *Disclosure of Portfolio Holdings*

(1) Describe the Registrant's policies and procedures with respect to the disclosure of the Registrant's portfolio securities to any person, including:

(i) How the policies and procedures apply to disclosure to different categories of persons, including individual investors, institutional investors, intermediaries that distribute the Registrant's units, third-party service providers, rating and ranking organizations, and affiliated persons of the Registrant;

(ii) Any conditions or restrictions placed on the use of information about portfolio securities that is disclosed, including any requirement that the information be kept confidential or prohibitions on trading based on the information, and any procedures to monitor the use of this information;

(iii) The frequency with which information about portfolio securities is disclosed, and the length of the lag, if any, between the date of the information and the date on which the information is disclosed;

(iv) Any policies and procedures with respect to the receipt of compensation or other consideration by the Registrant, its investment adviser, or any other party in connection with the disclosure of information about portfolio securities;

(v) The individuals or categories of individuals who may authorize disclosure of the Registrant's portfolio securities (*e.g.*, executive officers of the Registrant);

(vi) The procedures that the Registrant uses to ensure that disclosure of information about portfolio securities is in the best interests of investors in the Registrant, including procedures to address conflicts between the interests of investors in the Registrant, on the one hand, and those of the Registrant's investment adviser; principal underwriter; or any affiliated person of the Registrant, its investment adviser, or its principal underwriter, on the other; and

(vii) The manner in which the board of directors exercises oversight of disclosure of the Registrant's portfolio securities.

Instruction. Include any policies and procedures of the Registrant's investment adviser, or any other third party, that the Registrant uses, or that are used on the Registrant's behalf, with respect to the disclosure of the Registrant's portfolio securities to any person.

(2) Describe any ongoing arrangements to make available information about the Registrant's portfolio securities to any person, including the identity of the persons who receive information pursuant to such arrangements. Describe any compensation or other consideration received by the Registrant, its investment adviser, or any other party in connection with each such arrangement, and provide the information described by paragraphs (e)(1)(ii), (iii), and (v) of this Item with respect to such arrangements.

Instructions

1. The consideration required to be disclosed by paragraph (e)(2) of this Item includes any agreement to maintain assets in the Registrant or in other investment companies or accounts managed by the investment adviser or by any affiliated person of the investment adviser.

2. The Registrant is not required to describe an ongoing arrangement to make available information about the Registrant's portfolio securities pursuant to this Item, if, not later than the time that the Registrant makes the portfolio securities information available to any person pursuant to the arrangement, the Registrant discloses the information in a publicly available filing with the Commission that is required to include the information.

3. The Registrant is not required to describe an ongoing arrangement to make available information about the Registrant's portfolio securities pursuant to this Item if:

(a) the Registrant makes the portfolio securities information available to any person pursuant to the arrangement no earlier than the day next following the day on which the Registrant makes the information available on its website in the manner specified in its prospectus pursuant to paragraph (b) of this Instruction 3; and

(b) the Registrant has disclosed in its current prospectus that the portfolio securities information will be available on its website, including (1) the nature of the information that will be available, including both the date as of which the information will be current (*e.g.*, month-end) and the scope of the information (*e.g.*, complete portfolio holdings, Registrant's largest 20 holdings); (2) the date when the information will first become available and the period for which the information will remain available, which shall end no earlier than the date on which the Registrant files its Form N-CSR or Form N-PORT for the last month of the Registrant's first or third fiscal quarters with the Commission for the period that includes the date as of which the website information is current; and (3) the location on the Registrant's website where either the information or a prominent hyperlink (or series of prominent hyperlinks) to the information will be available.

(f) *Money Market Fund Material Events.* In the case of a Registrant holding itself out as a Money Market Fund or an Investment Option holding itself out as a Money Market Account (except any Money Market Fund or Money Market Account that is not subject to the requirements of rules 2a-7(c)(2)(i) and/or (ii) under the Investment Company Act [17 CFR §§ 270.2a–7(c)(2)(i) and/or (ii)] pursuant to rule 2a–7(c)(2)(iii) under the Investment Company Act [17 CFR 270.2a-7(c)(2)(iii)], and has not chosen to rely on the ability to impose liquidity fees and suspend redemptions consistent with the requirements of rules 2a–7(c)(2)(i) and/or (ii)) disclose, as applicable, the following events:

(1) *Imposition of Liquidity Fees and Temporary Suspensions of Registrant Redemptions.*

(i) During the last 10 years, any occasion on which the Registrant has invested less than ten percent of its total assets in weekly liquid assets (as provided in rule 2a–7(c)(2)(ii)), and with respect to each such occasion, whether the Registrant's board of directors determined to impose a liquidity fee pursuant to rule 2a–7(c)(2)(ii) and/or temporarily suspend the Registrant's redemptions pursuant to rule 2a–7(c)(2)(i).

(ii) During the last 10 years, any occasion on which the Registrant has invested less than thirty percent, but more than ten percent, of its total assets in weekly liquid assets (as provided in rule 2a–7(c)(2)(i)) and the Registrant's board of directors has determined to impose a liquidity fee pursuant to rule 2a–7(c)(2)(i) and/or temporarily suspend the Registrant's redemptions pursuant to rule 2a–7(c)(2)(i).

Instructions

1. With respect to each such occasion, disclose: the dates and length of time for which the Registrant invested less than ten percent (or thirty percent, as applicable) of its total assets in weekly liquid assets; the dates and length of time for which the Registrant's board of directors determined to impose a liquidity fee pursuant to rule 2a–7(c)(2)(i) or rule 2a–7(c)(2)(ii), and/or temporarily suspend the Registrant's redemptions pursuant to rule 2a–7(c)(2)(i); and the size of any liquidity fee imposed pursuant to rule 2a–7(c)(2)(i) or rule 2a–7(c)(2)(ii).

2. The disclosure required by paragraph (f)(1) of this Item should incorporate, as appropriate, any information that the Registrant is required to report to the Commission on Items E.1, E.2, E.3, E.4, F.1, F.2, and G.1 of Form N–CR [17 CFR 274.222].

3. The disclosure required by paragraph (f)(1) of this Item should conclude with the following statement: "The Registrant was required to disclose additional information about this event [or "these events," as appropriate] on Form N–CR and to file this form with the Securities and Exchange Commission. Any Form N–CR filing submitted by the Registrant is available on the EDGAR Database on the Securities and Exchange Commission's website at http://www.sec.gov."

(2) *Financial Support Provided to Money Market Funds or Money Market Accounts.* During the last 10 years, any occasion on which an affiliated person, promoter, or principal underwriter of the Registrant, or an affiliated person of such a person, provided any form of financial support to the Registrant, including a description of the nature of support, person providing support, brief description of the relationship between the person providing support and the Registrant, date support provided, amount of support, security supported (if applicable), and the value of security supported on date support was initiated (if applicable).

Instructions

1. The term "financial support" includes any capital contribution, purchase of a security from the Registrant in reliance on rule 17a–9 under the Investment Company Act [17 CFR 270.17a-9], purchase of any defaulted or devalued security at par, execution of letter of credit or letter of indemnity, capital support agreement (whether or not the Registrant ultimately received support), performance guarantee, or any other similar action reasonably intended to increase or stabilize the value or liquidity of the Registrant's portfolio; excluding, however, any routine waiver of fees or reimbursement of Registrant expenses, routine inter-fund lending, routine inter-fund purchases of Registrant shares, or any action that would qualify as financial support as defined above, that the board of directors has otherwise determined not to be reasonably intended to increase or stabilize the value or liquidity of the Registrant's portfolio.

2. If during the last 10 years, the Registrant has participated in one or more mergers with another investment company (a "merging investment company"), provide the information required by paragraph (f)(2) of this Item with respect to any merging investment company as well as with respect to the Registrant; for purposes of this Instruction, the term "merger" means a merger, consolidation, or purchase or sale of substantially all of the assets between the Registrant and a merging investment company. If the person or entity that previously provided financial support to a merging investment company is not currently an affiliated person, promoter, or principal underwriter of the Registrant, the Registrant need not provide the information required by paragraph (f)(2) of this Item with respect to that merging investment company.

3. The disclosure required by paragraph (f)(2) of this Item should incorporate, as appropriate, any information that the Registrant is required to report to the Commission on Items C.1, C.2, C.3, C.4, C.5, C.6, and C.7 of Form N–CR [17 CFR 274.222].

4. The disclosure required by paragraph (f)(2) of this Item should conclude with the following statement: "The Registrant was required to disclose additional information about this event [or "these events," as appropriate] on Form N–CR and to file this form with the Securities and Exchange Commission. Any Form N–CR filing submitted by the Registrant is available on the EDGAR Database on the Securities and Exchange Commission's website at http://www.sec.gov."

Item 23. Management of the Registrant

Instructions

1. For purposes of this Item, the terms below have the following meanings:

   (a) The term "family of investment companies" means any two or more registered investment companies that:

      (i) Share the same investment adviser or principal underwriter; and

      (ii) Hold themselves out to investors as related companies for purposes of investment and investor services.

   (b) The term "fund complex" means two or more registered investment companies that:

      (i) Hold themselves out to investors as related companies for purposes of investment and investor services; or

      (ii) Have a common investment adviser or have an investment adviser that is an affiliated person of the investment adviser of any of the other registered investment companies.

(c) The term "immediate family member" means a person's spouse; child residing in the person's household (including step and adoptive children); and any dependent of the person, as defined in section 152 of the Internal Revenue Code (26 U.S.C. 152).

(d) The term "officer" means the president, vice-president, secretary, treasurer, controller, or any other officer who performs policy-making functions.

2. When providing information about directors, furnish information for directors who are interested persons of the Registrant separately from the information for directors who are not interested persons of the Registrant. For example, when furnishing information in a table, you should provide separate tables (or separate sections of a single table) for directors who are interested persons and for directors who are not interested persons. When furnishing information in narrative form, indicate by heading or otherwise the directors who are interested persons and the directors who are not interested persons.

(a) *Management Information.*

(1) Provide the information required by the following table for each member of the board of managers ("director") and officer of the Registrant, and, if the Registrant has an advisory board, member of the board. Explain in a footnote to the table any family relationship between the persons listed.

(1)	(2)	(3)	(4)	(5)	(6)
Name, Address and Age	Position(s) Held with Registrant	Term of Office and Length of Time Served	Principal Occupation(s) During Past 5 Years	Number of Portfolios in Fund Complex Overseen by Director	Other Directorships Held by Director

Instructions

1. For purposes of this paragraph, the term "family relationship" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

2. For each director who is an interested person of the Registrant, describe, in a footnote or otherwise, the relationship, events, or transactions by reason of which the director is an interested person.

3. State the principal business of any company listed under column (4) unless the principal business is implicit in its name.

4. Indicate in column (6) directorships not included in column (5) that are held by a director in any company with a class of securities registered pursuant to section 12 of the Exchange Act [15 U.S.C. 78l] or subject to the requirements of section 15(d)

of the Exchange Act [15 U.S.C. 78o(d)] or any company registered as an investment company under the Investment Company Act, and name the companies in which the directorships are held. Where the other directorships include directorships overseeing two or more portfolios in the same fund complex, identify the fund complex and provide the number of portfolios overseen as a director in the fund complex rather than listing each portfolio separately.

(2) For each individual listed in column (1) of the table required by paragraph (a)(1) of this Item, except for any director who is not an interested person of the Registrant, describe any positions, including as an officer, employee, director, or general partner, held with affiliated persons or principal underwriters of the Registrant.

Instruction. When an individual holds the same position(s) with two or more registered investment companies that are part of the same fund complex, identify the fund complex and provide the number of registered investment companies for which the position(s) are held rather than listing each registered investment company separately.

(3) Describe briefly any arrangement or understanding between any director or officer and any other person(s) (naming the person(s)) pursuant to which he was selected as a director or officer.

Instruction. Do not include arrangements or understandings with directors or officers acting solely in their capacities as such.

(b) *Leadership Structure and Board of Directors*

(1) Briefly describe the leadership structure of the Registrant's board, including the responsibilities of the board of directors with respect to the Registrant's management and whether the chairman of the board is an interested person of the Registrant. If the chairman of the board is an interested person of the Registrant, disclose whether the Registrant has a lead independent director and what specific role the lead independent director plays in the leadership of the Registrant. This disclosure should indicate why the Registrant has determined that its leadership structure is appropriate given the specific characteristics or circumstances of the Registrant. In addition, disclose the extent of the board's role in the risk oversight of the Registrant, such as how the board administers its oversight function and the effect that this has on the board's leadership structure.

(2) Identify the standing committees of the Registrant's board of directors, and provide the following information about each committee:

(i) A concise statement of the functions of the committee;

(ii) The members of the committee;

(iii) The number of committee meetings held during the last fiscal year; and

(iv) If the committee is a nominating or similar committee, state whether the committee will consider nominees recommended by security holders and, if so, describe the procedures to be followed by security holders in submitting recommendations.

(3) (i) Unless disclosed in the table required by paragraph (a)(1) of this Item, describe any positions, including as an officer, employee, director, or general partner, held by any director who is not an interested person of the Registrant, or immediate family member of the director, during the two most recently completed calendar years with:

(A) The Registrant;

(B) An investment company, or a person that would be an investment company but for the exclusions provided by sections 3(c)(1) and 3(c)(7) of the Investment Company Act [15 U.S.C. 80a-3(c)(1) and (c)(7)], having the same Insurance Company, investment adviser or principal underwriter as the Registrant or having an Insurance Company, investment adviser or principal underwriter that directly or indirectly controls, is controlled by, or is under common control with the Insurance Company or an investment adviser or principal underwriter of the Registrant;

(C) The Insurance Company or an investment adviser, principal underwriter, or affiliated person of the Registrant; or

(D) Any person directly or indirectly controlling, controlled by, or under common control with the Insurance Company or an investment adviser or principal underwriter of the Registrant.

(ii) Unless disclosed in the table required by paragraph (a)(1) of this Item or in response to paragraph (b)(3)(i) of this Item, indicate any directorships held during the past five years by each director in any company with a class of securities registered pursuant to section 12 of the Securities Exchange Act [15 U.S.C. 78l] or subject to the requirements of section 15(d) of the Securities Exchange Act [15 U.S.C. 78o(d)] or any company registered as an investment company under the Investment Company Act, and name the companies in which the directorships were held.

Instruction. When an individual holds the same position(s) with two or more portfolios that are part of the same fund complex, identify the fund complex and provide the number of portfolios for which the position(s) are held rather than listing each portfolio separately.

(4) For each director, state the dollar range of equity securities beneficially owned by the director as required by the following table:

(i) In the Registrant; and

(ii) On an aggregate basis, in any registered investment companies overseen by the director within the same family of investment companies as the Registrant.

(1)	(2)	(3)
Name of Director	Dollar Range of Equity Securities in the Registrant	Aggregate Dollar Range of Equity Securities in All Registered Investment Companies Overseen by Director in Family of Investment Companies

Instructions

1. Information should be provided as of the end of the most recently completed calendar year. Specify the valuation date by footnote or otherwise.

2. Determine "beneficial ownership" in accordance with rule 16a-1(a)(2) under the Exchange Act [17 CFR 240.16a-1(a)(2)].

3. If the SAI covers more than one Investment Option, disclose in column (2) the dollar range of equity securities beneficially owned by a director in each Investment Option overseen by the director.

4. In disclosing the dollar range of equity securities beneficially owned by a director in columns (2) and (3), use the following ranges: none, $1–$10,000, $10,001–$50,000, $50,001–$100,000, or over $100,000.

(5) For each director who is not an interested person of the Registrant, and his immediate family members, furnish the information required by the following table as to each class of securities owned beneficially or of record in.

(i) The Insurance Company or an investment adviser or principal underwriter of the Registrant; or

(ii) A person (other than a registered investment company) directly or indirectly controlling, controlled by, or under common control with the Insurance Company or an investment adviser or principal underwriter of the Registrant:

(1)	(2)	(3)	(4)	(5)	(6)

Name of Director	Name of Owners and Relationships to Director	Company	Title of Class	Value of Securities	Percent of Class

Instructions

1. Information should be provided as of the end of the most recently completed calendar year. Specify the valuation date by footnote or otherwise.

2. An individual is a "beneficial owner" of a security if he is a "beneficial owner" under either rule 13d-3 or rule 16a-1(a)(2) under the Exchange Act [17 CFR 240.13d-3 or 240.16a-1(a)(2)].

3. Identify the company in which the director or immediate family member of the director owns securities in column (3). When the company is a person directly or indirectly controlling, controlled by, or under common control with the Insurance Company or an investment adviser or principal underwriter, describe the company's relationship with the Insurance Company, investment adviser, or principal underwriter.

4. Provide the information required by columns (5) and (6) on an aggregate basis for each director and his immediate family members.

(6) Unless disclosed in response to paragraph (b)(5) of this Item, describe any direct or indirect interest, the value of which exceeds $120,000, of each director who is not an interested person of the Registrant, or immediate family member of the director, during the two most recently completed calendar years, in:

(i) The Insurance Company or an investment adviser or principal underwriter of the Registrant; or

(ii) A person (other than a registered investment company) directly or indirectly controlling, controlled by, or under common control with the Insurance Company or an investment adviser or principal underwriter of the Registrant.

Instructions

1. A director or immediate family member has an interest in a company if he is a party to a contract, arrangement, or understanding with respect to any securities of, or interest in, the company

2. The interest of the director and the interests of his immediate family members should be aggregated in determining whether the value exceeds $120,000.

(7) Describe briefly any material interest, direct or indirect, of any director who is not an interested person of the Registrant, or immediate family member of the director, in any transaction, or series of similar transactions, during the two most recently completed calendar years, in which the amount involved exceeds $120,000 and to which any of the following persons was a party:

(i) The Registrant;

(ii) An officer of the Registrant;

(iii) An investment company, or a person that would be an investment company but for the exclusions provided by sections 3(c)(1) and 3(c)(7) of the Investment Company Act [15 U.S.C. 80a-3(c)(1) and (c)(7)], having the same Insurance Company, investment adviser or principal underwriter as the Registrant or having an Insurance Company, investment adviser or principal underwriter that directly or indirectly controls, is controlled by, or is under common control with an Insurance Company, investment adviser or principal underwriter of the Registrant;

(iv) An officer of an investment company, or a person that would be an investment company but for the exclusions provided by sections 3(c)(1) and 3(c)(7) [15 U.S.C. 80a-3(c)(1) and (c)(7)], having the same Insurance Company, investment adviser or principal underwriter as the Registrant or having an Insurance Company, investment adviser or principal underwriter that directly or indirectly controls, is controlled by, or is under common control with the Insurance Company or an investment adviser or principal underwriter of the Registrant;

(v) The Insurance Company or an investment adviser or principal underwriter of the Registrant;

(vi) An officer of the Insurance Company or an investment adviser or principal underwriter of the Registrant;

(vii) A person directly or indirectly controlling, controlled by, or under common control with the Insurance Company or an investment adviser or principal underwriter of the Registrant; or

(viii) An officer of a person directly or indirectly controlling, controlled by, or under common control with the Insurance Company or an investment adviser or principal underwriter of the Registrant.

Instructions

1. Include the name of each director or immediate family member whose interest in any transaction or series of similar transactions is described and the nature of the circumstances by reason of which the interest is required to be described.

2. State the nature of the interest, the approximate dollar amount involved in the transaction, and, where practicable, the approximate dollar amount of the interest.

3. In computing the amount involved in the transaction or series of similar transactions, include all periodic payments in the case of any lease or other agreement providing for periodic payments.

4. Compute the amount of the interest of any director or immediate family member of the director without regard to the amount of profit or loss involved in the transaction(s).

5. As to any transaction involving the purchase or sale of assets, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost to the seller. Describe the method used in determining the purchase or sale price and the name of the person making the determination.

6. Disclose indirect, as well as direct, material interests in transactions. A person who has a position or relationship with, or interest in, a company that engages in a transaction with one of the persons listed in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item may have an indirect interest in the transaction by reason of the position, relationship, or interest. The interest in the transaction, however, will not be deemed "material" within the meaning of paragraph (b)(7) of this Item where the interest of the director or immediate family member arises solely from the holding of an equity interest (including a limited partnership interest, but excluding a general partnership interest) or a creditor interest in a company that is a party to the transaction with one of the persons specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item, and the transaction is not material to the company.

7. The materiality of any interest is to be determined on the basis of the significance of the information to investors in light of all the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction with each other, and the amount involved in the transaction are among the factors to be considered in determining the significance of the information to investors.

8. No information need be given as to any transaction where the interest of the director or immediate family member arises solely from the ownership of securities of a person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item and the director or immediate family member receives no extra or special benefit not shared on a pro rata basis by all holders of the Class of securities.

9. Transactions include loans, lines of credit, and other indebtedness. For indebtedness, indicate the largest aggregate amount of indebtedness outstanding at any time during the period, the nature of the indebtedness and the transaction in

which it was incurred, the amount outstanding as of the end of the most recently completed calendar year, and the rate of interest paid or charged.

10. No information need be given as to any routine, retail transaction. For example, the Registrant need not disclose that a director has a credit card, bank or brokerage account, residential mortgage, or insurance policy with a person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item unless the director is accorded special treatment.

(8) Describe briefly any direct or indirect relationship, in which the amount involved exceeds $120,000, of any director who is not an interested person of the Registrant, or immediate family member of the director, that existed at any time during the two most recently completed calendar years with any of the persons specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item. Relationships include.

(i) Payments for property or services to or from any person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item;

(ii) Provision of legal services to any person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item;

(iii) Provision of investment banking services to any person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item, other than as a participating underwriter in a syndicate; and

(iv) Any consulting or other relationship that is substantially similar in nature and scope to the relationships listed in paragraphs (b)(8)(i) through (b)(8)(iii) of this Item.

Instructions

1. Include the name of each director or immediate family member whose relationship is described and the nature of the circumstances by reason of which the relationship is required to be described.

2. State the nature of the relationship and the amount of business conducted between the director or immediate family member and the person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item as a result of the relationship during the two most recently completed calendar years.

3. In computing the amount involved in a relationship, include all periodic payments in the case of any agreement providing for periodic payments.

4. Disclose indirect, as well as direct, relationships. A person who has a position or relationship with, or interest in, a company that has a relationship with one of the

persons listed in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item may have an indirect relationship by reason of the position, relationship, or interest.

5. In determining whether the amount involved in a relationship exceeds $120,000, amounts involved in a relationship of the director should be aggregated with those of his immediate family members.

6. In the case of an indirect interest, identify the company with which a person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item has a relationship; the name of the director or immediate family member affiliated with the company and the nature of the affiliation; and the amount of business conducted between the company and the person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item during the two most recently completed calendar years.

7. In calculating payments for property and services for purposes of paragraph (b)(8)(i) of this Item, the following may be excluded:

   (a) Payments where the transaction involves the rendering of services as a common contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority; or

   (b) Payments that arise solely from the ownership of securities of a person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item and no extra or special benefit not shared on a pro rata basis by all holders of the class of securities is received.

8. No information need be given as to any routine, retail relationship. For example, the Registrant need not disclose that a director has a credit card, bank or brokerage account, residential mortgage, or insurance policy with a person specified in paragraphs (b)(7)(i) through (b)(7)(viii) of this Item unless the director is accorded special treatment.

(9) If an officer of the Insurance Company or an investment adviser or principal underwriter of the Registrant, or an officer of a person directly or indirectly controlling, controlled by, or under common control with the Insurance Company or an investment adviser or principal underwriter of the Registrant, served during the two most recently completed calendar years, on the board of directors of a company where a director of the Registrant who is not an interested person of the Registrant, or immediate family member of the director, was during the two most recently completed calendar years, an officer, identify:

   (i) The company;

   (ii) The individual who serves or has served as a director of the company and the period of service as director;

(iii) The Insurance Company, investment adviser or principal underwriter or person controlling, controlled by, or under common control with the Insurance Company, investment adviser or principal underwriter where the individual named in paragraph (b)(9)(ii) of this Item holds or held office and the office held; and

(iv) The director of the Registrant or immediate family member who is or was an officer of the company; the office held; and the period of holding the office.

(10) For each director, briefly discuss the specific experience, qualifications, attributes, or skills that led to the conclusion that the person should serve as a director for the Registrant at the time that the disclosure is made, in light of the Registrant's business and structure. If material, this disclosure should cover more than the past five years, including information about the person's particular areas of expertise or other relevant qualifications.

(c) *Compensation*. For all directors of the Registrant and for all members of any advisory board who receive compensation from the Registrant, and for each of the three highest paid officers or any affiliated person of the Registrant who received aggregate compensation from the Registrant for the most recently completed fiscal year exceeding $60,000 ("Compensated Persons"):

(1) Provide the information required by the following table:

COMPENSATION TABLE

(1)	(2)	(3)	(4)	(5)
Name of Person, Position	Aggregate Compensation From Registrant	Pension or Retirement Benefits Accrued As Part of Registrant's Expenses	Estimated Annual Benefits Upon Retirement	Total Compensation From Registrant and Fund Complex Paid to Directors

Instructions

1. For column (1), indicate, as necessary, the capacity in which the remuneration is received. For Compensated Persons who are directors of the Registrant, compensation is amounts received for service as a director.

2. If the Registrant has not completed its first full year since its organization, furnish the information for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding. Disclose in a footnote to the Compensation Table the period for which the information is furnished.

3. Include in column (2) amounts deferred at the election of the Compensated Person, whether pursuant to a plan established under section 401(k) of the Internal Revenue Code [26 U.S.C. 401(k)] or otherwise for the fiscal year in which earned. Disclose in a footnote to the Compensation Table the total amount of deferred compensation (including interest) payable to or accrued for any Compensated Person.

4. Include in columns (3) and (4) all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Registrant, any of its subsidiaries, or other companies in the fund complex. Omit column (4) where retirement benefits are not determinable.

5. For any defined benefit or actuarial plan under which benefits are determined primarily by final compensation (or average final compensation) and years of service, provide the information required in column (4) in a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) in specified compensation and years of service classifications. Also provide the estimated credited years of service for each Compensated Person.

6. Include in column (5) only aggregate compensation paid to a director for service on the board and all other boards of investment companies in a fund complex specifying the number of such other investment companies.

7. No information is required to be provided concerning the officers of the sponsoring insurance company who are not directly or indirectly engaged in activities related to the separate account.

(2) Describe briefly the material provisions of any pension, retirement, or other plan or any arrangement, other than fee arrangements disclosed in paragraph (c)(1), under which the Compensated Persons are or may be compensated for services provided, including amounts paid, if any, to the compensated Person under these arrangements during the most recently completed fiscal year. Specifically include the criteria used to determine amounts payable under the plan, the length of service or vesting period required by the plan, the retirement age or other event that gives rise to payment under the plan, and whether the payment of benefits is secured or funded by the Registrant.

(d) *Sales Loads*. Disclose any arrangements that result in breakpoints in, or elimination of, sales loads for directors and other affiliated persons of the Registrant. Identify each class of individuals and transactions to which the arrangements apply and state each different breakpoint as a percentage of both the offering price and the net amount invested of the Registrant's units. Explain, as applicable, the reasons for the difference in the price at which securities are offered generally to the public, and the prices at which securities are offered to directors and other affiliated persons of the Registrant.

(e) *Codes of Ethics*. Provide a brief statement disclosing whether the Registrant and its investment adviser and principal underwriter have adopted codes of ethics under rule 17j-1 of the Investment Company Act [17 CFR 270.17j-1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant.

Instruction. A Registrant that is not required to adopt a code of ethics under rule 17j-1 of the Investment Company Act is not required to respond to this Item.

(f) *Proxy Voting Policies*. Unless the Registrant invests exclusively in non-voting securities, describe the policies and procedures that the Registrant uses to determine how to vote proxies relating to portfolio securities, including the procedures that the Registrant uses when a vote presents a conflict between the interests of investors, on the one hand, and those of the Registrant's investment adviser; principal underwriter; or any affiliated person of the Registrant, its investment adviser, or its principal underwriter, on the other. Include any policies and procedures of the Registrant's investment adviser, or any other third party, that the Registrant uses, or that are used on the Registrant's behalf, to determine how to vote proxies relating to portfolio securities. Also, state that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (1) without charge, upon request, by calling a specified toll-free (or collect) telephone number; or on or through the Registrant's website at a specified internet address; or both; and (2) on the Commission's website at http://www.sec.gov.

Instructions

1. A Registrant may satisfy the requirement to provide a description of the policies and procedures that it uses to determine how to vote proxies relating to portfolio securities by including a copy of the policies and procedures themselves.

2. If a Registrant discloses that the Registrant's proxy voting record is available by calling a toll-free (or collect) telephone number, and the Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for this information, the Registrant (or financial intermediary) must send the information disclosed in the Registrant's most recently filed report on Form N-PX [17 CFR 274.129], within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

3. If a Registrant discloses that the Registrant's proxy voting record is available on or through its website, the Registrant must make available free of charge the information disclosed in the Registrant's most recently filed report on Form N-PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Registrant's most recently filed report on Form N-PX must remain available on or through the Registrant's website for as long as the Registrant remains subject to the requirements of rule 30b1-4 [17 CFR 270.30b1-4] and

discloses that the Registrant's proxy voting record is available on or through its website.

Item 24. Investment Advisory and Other Services

(a) *Investment Advisers.* Disclose the following information about each investment adviser:

(1) The name of any person who controls the adviser, the basis of the person's control, and the general nature of the person's business. Also disclose, if material, the business history of any organization that controls the adviser.

(2) The name of any affiliated person of the Registrant or the Insurance Company who also is an affiliated person of the adviser, and a list of all capacities in which the person is affiliated with the Registrant or the Insurance Company and with the adviser.

Instruction. If an affiliated person of the Registrant or the Insurance Company alone or together with others controls the investment adviser, state that fact. It is not necessary to provide the amount or percentage of the outstanding voting securities owned by the controlling person.

(3) the method of calculating the advisory fee payable by the Registrant including:

(i) The total dollar amounts that the Registrant or the Insurance Company paid to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser, under the investment advisory contract for the last three fiscal years;

(ii) If applicable, any credits that reduced the advisory fee for any of the last three fiscal years; and

(iii) Any expense limitation provision.

Instructions

1. If the advisory fee payable by the Registrant or the Insurance Company varies depending on the Registrant's investment performance in relation to a standard, describe the standard along with a fee schedule in tabular form. The Registrant may include examples showing the fees that the adviser would earn at various levels of performance as long as the examples include calculations showing the maximum and minimum fee percentages that could be earned under the contract.

2. State each type of credit or offset separately.

3. When a Registrant is subject to more than one expense limitation provision, describe only the most restrictive provision.

4. For a Registrant with more than one Investment Option, or a Multiple Class Fund, describe the methods of allocation and payment of advisory fees for each Investment Option or Class.

(b) *Services Provided by Each Investment Adviser and Registrant Expenses Paid by Third Parties*

(1) Describe all services performed for or on behalf of the Registrant supplied or paid for wholly or in substantial part by each investment adviser.

(2) Describe all fees, expenses, and costs of the Registrant that are to be paid by persons other than an investment adviser, the Insurance Company, or the Registrant, and identify those persons.

(c) *Service Agreements*. Summarize the substantive provisions of any management-related service contract that may be of interest to a purchaser of the Registrant's securities, under which services are provided to the Registrant, unless the contract is described in response to some other item of the form. Indicate the parties to the contract, and the total dollars paid and by whom for each of the past three years.

Instructions

1. The term "management-related service contract" includes any contract with the Registrant to keep, prepare, or file accounts, books, records, or other documents required under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include the following:

   (a) Any contract with the Registrant to provide investment advice;

   (b) Any agreement with the Registrant to act as custodian or agent to administer purchases and redemptions under the Contracts; and

   (c) Any contract with the Registrant for outside legal or auditing services, or contract for personal employment entered into with the Registrant in the ordinary course of business.

2. No information need be given in response to this paragraph with respect to the service of mailing proxies or periodic reports to the Registrant's investors.

3. In summarizing the substantive provisions of any management-related service contract, include the following:

   (a) The name of the person providing the service;

(b) The direct or indirect relationships, if any, of the person with the Registrant, an investment adviser of the Registrant, its Insurance Company, or the Registrant's principal underwriter; and

(c) The nature of the services provided, and the basis of the compensation paid for the services for the Registrant's last three fiscal years.

(d) *Other Investment Advice*. If any person (other than a director, officer, member of an advisory board, employee, or investment adviser of the Registrant), through any understanding, whether formal or informal, regularly advises the Registrant or the Registrant's investment adviser with respect to the Registrant's investing in, purchasing, or selling securities or other property, or has the authority to determine what securities or other property should be purchased or sold by the Registrant, and receives direct or indirect remuneration, provide the following information:

(1) the person's name;

(2) a description of the nature of the arrangement, and the advice or information given; and

(3) any remuneration (including, for example, participation, directly or indirectly, in commissions or other compensation paid in connection with transactions in Registrant's portfolio securities) paid for such advice or information, and a statement of how and by whom such remuneration was paid for the last three fiscal years.

Instruction. Do not include information for the following:

1. Persons who advised the investment adviser or the Registrant solely through uniform publications distributed to subscribers;

2. Persons who provided the investment adviser or the Registrant with only statistical and other factual information, advice about economic factors and trends, or advice as to occasional transactions in specific securities, but without generally advising about the purchase or sale of securities by the Registrant;

3. A company that is excluded from the definition of "investment adviser" of an investment company under section 2(a)(20)(iii) [15 U.S.C. 80a-2(a)(20)(iii)];

4. Any person the character and amount of whose compensation for these services must be approved by a court; or

5. Other persons as the Commission has by rule or order determined not to be an "investment adviser" of an investment company.

(e) *Dealer Reallowances*. Disclose any front-end sales load reallowed to dealers as a percentage of the offering price of the Registrant's units.

(f) *Rule 12b-1 Plans*. If the Registrant has adopted a plan under rule 12b-1 under the Investment Company Act [17 CFR 270.12b-1], describe the material aspects of the plan, and any agreements relating to the implementation of the plan, including:

(1) A list of the principal types of activities for which payments are or will be made, including the dollar amount and the manner in which amounts paid by the Registrant under the plan during the last fiscal year were spent on:

(i) Advertising;

(ii) Printing and mailing of prospectuses to other than current investors;

(iii) Compensation to underwriters;

(iv) Compensation to broker-dealers;

(v) Compensation to sales personnel;

(vi) Interest, carrying, or other financing charges; and

(vii) Other (specify).

(2) The relationship between amounts paid to the distributor and the expenses that it incurs (*e.g.*, whether the plan reimburses the distributor only for expenses incurred or compensates the distributor regardless of its expenses).

(3) The amount of any unreimbursed expenses incurred under the plan in a previous year and carried over to future years, in dollars and as a percentage of the Registrant's net assets on the last day of the previous year.

(4) Whether the Registrant participates in any joint distribution activities with another investment company. If so, disclose, if applicable, that fees paid under the Registrant's rule 12b-1 plan may be used to finance the distribution of the shares of another investment company, and state the method of allocating distribution costs (*e.g.*, relative net asset size, number of shareholder accounts).

(5) Whether any of the following persons had a direct or indirect financial interest in the operation of the plan or related agreements:

(i) Any interested person of the Registrant; or

(ii) Any director of the Registrant who is not an interested person of the Registrant.

(6) The anticipated benefits to the Registrant that may result from the plan.

(g) *Other Service Providers*

(1) Unless disclosed in response to paragraph (c) or another Item of this form, identify and state the principal business address of any person who provides significant administrative or business affairs management services for the Registrant (*e.g.*, an "Administrator"), describe the services provided, and the compensation paid for the services.

(2) State the name and principal business address of the Registrant's custodian and independent public accountant and describe generally the services performed by each.

(3) If the Registrant's assets are held by a person other than the Insurance Company, a commercial bank, trust company, or depository registered with the Commission as custodian, state the nature of the business of each such person.

(4) If an affiliated person of the Registrant, or an affiliated person of such an affiliated person, acts as administrative or servicing agent for the Registrant, describe the services the person performs and the basis for remuneration. State, for the past three years, the total dollars paid for the services, and by whom.

Instruction. No disclosure need be given in response to paragraph (g)(4) of this Item for an administrative or servicing agent who is also the Insurance Company.

(5) If the Insurance Company is the principal underwriter of the Contract, so state.

(h) *Securities Lending*.

(1) Provide the following dollar amounts of income and fees/compensation related to the securities lending activities of each Investment Option during its most recent fiscal year:

(i) Gross income from securities lending activities, including income from cash collateral reinvestment;

(ii) All fees and/or compensation for each of the following securities lending activities and related services: any share of revenue generated by the securities lending program paid to the securities lending agent(s) ("revenue split"); fees paid for cash collateral management services (including fees deducted from a pooled cash collateral reinvestment vehicle) that are not included in the revenue split; administrative fees that are not included in the revenue split; fees for indemnification that are not included in the revenue split; rebates paid to borrowers; and any other fees relating to the securities lending program that are not included in the revenue split, including a description of those other fees;

(iii) The aggregate fees/compensation disclosed pursuant to paragraph (ii); and

(iv) Net income from securities lending activities (*i.e.*, the dollar amount in paragraph (i) minus the dollar amount in paragraph (iii)).

Instruction. If a fee for a service is included in the revenue split, state that the fee is "included in the revenue split."

(2) Describe the services provided in relation to the Investment Option by the securities lending agent in the Investment Option's most recent fiscal year.

Item 25. Portfolio Managers

(a) *Other Accounts Managed.* If a Portfolio Manager required to be identified in response to Item 7(b) is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:

(1) The Portfolio Manager's name;

(2) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:

(i) Registered investment companies;

(ii) Other pooled investment vehicles; and

(iii) Other accounts.

(3) For each of the categories in paragraph (a)(2) of this Item, the number of accounts and the total assets in the accounts with respect to which the advisory fee is based on the performance of the account; and

(4) A description of any material conflicts of interest that may arise in connection with the Portfolio Manager's management of the Registrant's investments, on the one hand, and the investments of the other accounts included in response to paragraph (a)(2) of this Item, on the other. This description would include, for example, material conflicts between the investment strategy of the Registrant and the investment strategy of other accounts managed by the Portfolio Manager and material conflicts in allocation of investment opportunities between the Registrant and other accounts managed by the Portfolio Manager.

Instructions

1. Provide the information required by this paragraph as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. If a committee, team, or other group of persons that includes the Portfolio Manager is jointly and primarily responsible for the day-to-day management of the portfolio of an account, include the account in responding to paragraph (a) of this Item.

(b) *Compensation*. Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to Item 7(b). For each type of compensation (*e.g.*, salary, bonus, deferred compensation, retirement plans and arrangements), describe with specificity the criteria on which that type of compensation is based, for example, whether compensation is fixed, whether (and, if so, how) compensation is based on Registrant pre- or after-tax performance over a certain time period, and whether (and, if so, how) compensation is based on the value of assets held in the Registrant's portfolio. For example, if compensation is based solely or in part on performance, identify any benchmark used to measure performance and state the length of the period over which performance is measured.

Instructions

1. Provide the information required by this paragraph as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. Compensation includes, without limitation, salary, bonus, deferred compensation, and pension and retirement plans and arrangements, whether the compensation is cash or non-cash. Group life, health, hospitalization, medical reimbursement, relocation, and pension and retirement plans and arrangements may be omitted, provided that they do not discriminate in scope, terms, or operation in favor of the Portfolio Manager or a group of employees that includes the Portfolio Manager and are available generally to all salaried employees. The value of compensation is not required to be disclosed under this Item.

3. Include a description of the structure of, and the method used to determine, any compensation received by the Portfolio Manager from the Registrant, the Registrant's investment adviser, or any other source with respect to management of the Registrant and any other accounts included in the response to paragraph (a)(2) of this Item. This description must clearly disclose any differences between the method used to determine the Portfolio Manager's compensation with respect to the Registrant and other accounts, *e.g.*, if the Portfolio Manager receives part of an advisory fee that is based on performance with respect to some accounts but not the Registrant, this must be disclosed.

(c) *Ownership of Securities.* For each Portfolio Manager required to be identified in response to Item 7(b), state the dollar range of equity securities in the Registrant

beneficially owned by the Portfolio Manager using the following ranges: none, $1–$10,000, $10,001–$50,000, $50,001–$100,000, $100,001–$500,000, $500,001–$1,000,000, or over $1,000,000.

Instructions

1. Provide the information required by this paragraph as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Specify the valuation date.

2. Determine "beneficial ownership" in accordance with rule 16a-1(a)(2) under the Exchange Act [17 CFR 240.16a-1(a)(2)].

Item 26. Brokerage Allocation and Other Practices

(a) *Brokerage Transactions*. Describe how transactions in portfolio securities are effected, including a general statement about brokerage commissions, markups, and markdowns on principal transactions and the aggregate amount of any brokerage commissions paid by the Registrant during its three most recent fiscal years. If, during either of the two years preceding the Registrant's most recent fiscal year, the aggregate dollar amount of brokerage commissions paid by the Registrant differed materially from the amount paid during the most recent fiscal year, state the reason(s) for the difference(s).

(b) *Commissions*

(1) Identify, disclose the relationship, and state the aggregate dollar amount of brokerage commissions paid by the Registrant during its three most recent fiscal years to any broker:

(i) That is an affiliated person of the Registrant or an affiliated person of that person; or

(ii) An affiliated person of which is an affiliated person of the Registrant, its Insurance Company, its investment adviser, or principal underwriter.

(2) For each broker identified in response to paragraph (b)(1), state:

(i) The percentage of the Registrant's aggregate brokerage commissions paid to the broker during the most recent fiscal year; and

(ii) The percentage of the Registrant's aggregate dollar amount of transactions involving the payment of commissions effected through the broker during the most recent fiscal year.

(3) State the reasons for any material difference in the percentage of brokerage commissions paid to, and the percentage of transactions effected through, a broker disclosed in response to paragraph (b)(1).

(c) *Brokerage Selection*. Describe how the Registrant will select brokers to effect securities transactions for the Registrant and how the Registrant will evaluate the overall reasonableness of brokerage commissions paid, including the factors that the Registrant will consider in making these determinations.

Instructions

1. If the Registrant will consider the receipt of products or services other than brokerage or research services in selecting brokers, specify those products and services.

2. If the Registrant will consider the receipt of research services in selecting brokers, identify the nature of those research services.

3. State whether persons acting on the Registrant's behalf are authorized to pay a broker a higher brokerage commission than another broker might have charged for the same transaction in recognition of the value of (a) brokerage or (b) research services provided by the broker.

4. If applicable, explain that research services provided by brokers through which the Registrant effects securities transactions may be used by the Registrant's investment adviser in servicing all of its accounts and that not all of these services may be used by the adviser in connection with the Registrant. If other policies or practices are applicable to the Registrant with respect to the allocation of research services provided by brokers, explain those policies and practices.

(d) *Directed Brokerage.* If, during the last fiscal year, the Registrant, its Insurance Company, or its investment adviser, through an agreement or understanding with a broker, or otherwise through an internal allocation procedure, directed the Registrant's brokerage transactions to a broker because of research services provided, state the amount of the transactions and related commissions.

(e) *Regular Broker-Dealers*. If the Registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers as defined in rule 10b-1 under the Investment Company Act [17 CFR 270.10b-1] or of their parents, identify those brokers or dealers and state the value of the Registrant's aggregate holdings of the securities of each issuer as of the close of the Registrant's most recent fiscal year.

Instruction. The Registrant need only disclose information about an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year.

Item 27. Purchase of Securities Being Offered

(a) Describe the manner in which Registrant's securities are offered to the public. Include a description of any special purchase plans and any exchange privileges not described in the prospectus.

Instruction. Address exchange privileges between Investment Options, between the Registrant and other separate accounts, and between the Registrant and contracts offered through the Insurance Company's general account.

(b) Describe the method that will be used to determine the sales load on the Contracts offered by the Registrant.

Instruction. Explain fully any difference in the price at which Contracts are offered to members of the public, as individuals or as groups, and the prices at which the Contracts are offered for any class of transactions or to any class of individuals, including officers, directors, members of the board of managers, or employees of the Insurance Company, underwriter, or investment adviser.

(c) Describe the method used to value the Registrants' assets if not described in the prospectus.

Instructions

1. Describe the valuation procedure used to determine accumulation unit value.

2. If Registrant uses either penny-rounding pricing or amortized cost valuation, pursuant to either an order of exemption from the Commission or rule 2a-7 under the Investment Company Act [17 CFR 270.2a-7], describe the nature, extent and effect of any conditions under the exemption.

(d) Describe the way in which purchase payments are credited to the contract to the extent not described in the prospectus.

(e) If the Registrant has received an order of exemption from section 18(f) of the Investment Company Act [15 U.S.C. 80a-18(f)] from the Commission or has filed a notice of election pursuant to rule 18f-1 under the Act [17 CFR 270.18f-1] which has not been withdrawn, fully describe the nature, extent, and effect of the exemptive relief in the Statement of Additional Information if the information is not in the prospectus.

(f) *Frequent Transfer Arrangements.* Describe any arrangements with any person to permit frequent transfers of Contract value among Investment Options of the Registrant, including the identity of the persons permitted to engage in frequent transfers pursuant to such arrangements, and any compensation or other consideration received by the Registrant, the Insurance Company, or any other party pursuant to such arrangements.

Instructions

1. The consideration required to be disclosed by paragraph (f) of this Item includes any agreement to maintain assets in the Registrant or in other investment companies or accounts managed or sponsored by the Insurance Company, its investment adviser, or any affiliated person of the Insurance Company or of any such investment adviser.

2. If the Registrant has an arrangement to permit frequent transfers of Contract value among Investment Options of the Registrant by a group of individuals, such as the participants in a defined contribution plan that meets the requirements for qualification under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)), the Registrant may identify the group rather than identifying each individual group member.

Item 28. Underwriters

(a) *Identification*. Identify each principal underwriter (other than the Insurance Company) of the Contracts, and state its principal business address. If the principal underwriter is affiliated with the Registrant, the Insurance Company, or any affiliated person of the Registrant or the Insurance Company, identify how they are affiliated (*e.g.*, the principal underwriter is controlled by the Insurance Company).

(b) *Offering and Commissions*. For each principal underwriter distributing Contracts of the Registrant, state:

(1) whether the offering is continuous; and

(2) the aggregate dollar amount of underwriting commissions paid to, and the amount retained by, the principal underwriter for each of the Registrant's last three fiscal years.

(c) *Other Payments*. With respect to any payments made by the Registrant to an underwriter of or dealer in the Contracts during the Registrant's last fiscal year, disclose the name and address of the underwriter or dealer, the amount paid; and basis for determining that amount, the circumstances surrounding the payments, and the consideration received by the Registrant. Do not include information about:

(1) Payments made through deduction from purchase payments made at the time of sale of the Contracts; or

(2) Payments made from Contract values upon surrender of or withdrawal from the Contracts.

Instructions

1. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

2. Exclude information about bona fide contracts with the Registrant or its Insurance Company for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant or its Insurance Company in the ordinary course of business.

3. Information need not be given about any service for which total payments of less than $15,000 were made during each of the Registrant's last three fiscal years.

4. Information need not be given about payments made under any contract to act as administrative or servicing agent.

5. If the payments were made under an arrangement or policy applicable to dealers generally, describe only the arrangement or policy.

Item 29. Calculation of Performance Data

(a) *Money Market Accounts*. Yield quotation(s) included in the prospectus for an Investment Option that holds itself out as a Money Market Account should be calculated according to paragraphs (a)(1) - (2) of this Item.

(1) *Yield Quotation*. Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the Investment Option at the beginning of the period, subtracting a hypothetical charge reflecting deductions from Investor Accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent.

(2) *Effective Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the effective yield, carried to at least the nearest hundredth of one percent, by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the Investment Option at the beginning of the period, subtracting a hypothetical charge reflecting deductions from Investor Accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

$$\text{EFFECTIVE YIELD} = [(\text{BASE PERIOD RETURN} + 1)^{365/7}] - 1.$$

Instructions

1. When calculating the yield or effective yield quotations, the calculation of net change in account value must include all deductions that are charged to all Investor Accounts in proportion to the length of the base period. For any account fees that vary with the size of the account, assume an account size equal to the Investment Option's mean (or median) account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of yield and effective yield. However, the amount or specific rate of such deductions must be disclosed.

3. Exclude realized gains and losses from the sale of securities and unrealized appreciation and depreciation from the calculation of yield and effective yield. Exclude income other than investment income.

4. If applicable, disclose that the performance information may not reflect all contract charges (contracts may impose certain charges that are not reflected in the performance of the subaccount, but reduce the value of an investment in the subaccount, such as optional benefit charges). Performance would be lower if these charges were included.

(b) *Other Investment Options*. Performance information included in the prospectus should be calculated according to paragraphs (b)(1) – (3).

(1) *Average Annual Total Return Quotation*. For the 1-, 5-, and 10-year periods ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the average annual total return by finding the average annual compounded rates of return over the 1-, 5-, and 10-year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$$P(1+T)^n = ERV$$

Where:

P = a hypothetical initial purchase payment of $1,000.
T = average annual total return.
n = number of years.
ERV = ending redeemable value of a hypothetical $1,000 purchase payment made at the beginning of the 1-, 5-, or 10-year periods at the end of the 1-, 5-, or 10-year periods (or fractional portion).

Instructions

1. Assume the maximum sales load (or other charges deducted from purchase payments) is deducted from the initial $1,000 purchase payment.

2. Include all recurring fees that are charged to all Investor Accounts. For any account fees that vary with the size of the account, assume an account size equal to the Investment Option's mean (or median) account size. If recurring fees charged to Investor Accounts are paid other than by redemption of accumulation units, they should be appropriately reflected.

3. Determine the ending redeemable value by assuming a complete redemption at the end of the 1, 5, or 10 year periods and the deduction of all nonrecurring charges deducted at the end of each period.

4. If the Registrant's registration statement has been in effect less than one, five, or ten years, the time period during which the registration statement has been in effect should be substituted for the period stated.

5. Carry the total return quotation to the nearest hundredth of one percent.

6. Total return information in the prospectus need only be current to the end of the Investment Option's most recent fiscal year.

7. If applicable, disclose that the performance information may not reflect all contract charges (contracts may impose certain charges that are not reflected in the performance of the subaccount, but reduce the value of an investment in the subaccount, such as optional benefit charges). Performance would be lower if these charges were included.

(2) *Yield Quotation.* Based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate yield by dividing the net investment income per accumulation unit earned during the period by the maximum offering price per unit on the last day of the period, according to the following formula:

$$YIELD = 2[(\frac{a - b}{cd} + 1)^6 - 1]$$

Where:

a = dividends and interest earned during the period.
b = expenses accrued for the period (net of reimbursements).
c = the average daily number of accumulation units outstanding during the period.
d = the maximum offering price per accumulation units on the last day of the period.

Instructions

1. To calculate interest earned (for the purpose of "a" above) on debt obligations:

(a) Compute the yield to maturity of each obligation held by the Investment Option based on the market value of the obligation (including actual accrued interest) at the close of business on the last business day of each month, or, with respect to obligations purchased during the month, the purchase price (plus actual accrued interest).

(b) Divide the yield to maturity by 360 and multiply the quotient by the market value of the obligation (including actual accrued interest) (as referred to in Instruction 1(a) above) to determine the interest income on the obligation for each day of the subsequent month that the obligation is in the portfolio. Assume that each month has thirty days.

(c) Total the interest earned on all debt obligation and all dividends accrued on all equity securities during the thirty-day or one month period.

NOTE: Although the period for computing interest earned referred to above is based on calendar months, a thirty-day yield may be calculated by aggregating the daily interest on the portfolio from portions of two months. Nothing in these instructions prohibits a Registrant from recalculating daily interest income on the portfolio more than once a month.

(d) For purpose of Instruction 1(a), the maturity of an obligation with a call provision(s) is the next call date on which the obligation reasonably may be expected to be called or, if none, the maturity date.

2. With respect to the treatment of discount and premium on mortgage or other receivables-backed obligations which are expected to be subject to monthly payments of principal and interest ("paydowns"):

(a) Account for gain or loss attributable to actual monthly paydowns as an increase or decrease to interest income during the period.

(b) The Investment Option may elect (i) to amortize the discount and premium on the remaining security, based on the cost of the security, to the weighted average maturity date, if such information is available, or to the remaining term of the security, if the weighted average maturity date is not available, or (ii) not to amortize discount or premium on the remaining security.

3. Solely for the purpose of computing yield, recognize dividend income by accruing 1/360 of the stated dividend rate of the security each day that the security is in the portfolio.

4. Do not use equalization accounting in the calculation of yield.

5. Include expenses accrued pursuant to a plan adopted under rule 12b-1 under the Investment Company Act [17 CFR 270.12b-1] among the expenses accrued for the period. Reimbursement accrued pursuant to a plan may reduce the accrued expenses, but only to the extent the reimbursement does not exceed expenses accrued for the period.

6. Include among the expenses accrued for the period all recurring fees that are charged to all Investor Accounts. For any account fees that vary with the size of the account, assume an account size equal to the Investment Option's mean (or median) account size.

7. If a broker-dealer or an affiliate (as defined in paragraph (b) of rule 1-02 of Regulation S-X [17 CFR 210.1-02(b)) of the broker-dealer has, in connection with directing the Investment Option's brokerage transactions to the broker-dealer, provided, agreed to provide, paid for, or agreed to pay for, in whole or in part, services provided to the Investment Option (other than brokerage and research services as these terms are defined in section 28(e) of the Securities Exchange Act [15 U.S.C. 78bb(e)]), add to expenses accrued for the period an estimate of additional amounts that would have been accrued for the period if the Investment Option had paid for the services directly in an arms-length transaction.

8. Disclose the amount or specific rate of any nonrecurring account or sales charges.

9. If applicable, disclose that the performance information may not reflect all Contract charges (Contracts may impose certain charges that are not reflected in the performance of the subaccount, but reduce the value of an investment in the subaccount, such as optional benefit charges). Performance would be lower if these charges were included.

(3) *Non-Standardized Performance Quotation*. An Investment Option may calculate performance using any other historical measure of performance (not subject to any prescribed method of computation) if the measurement reflects all elements of return.

Item 30. Annuity Payments

Describe the method for determining the amount of annuity payments if not described in the prospectus. In addition, describe how any change in the amount of a payment after the first payment is determined.

Item 31. Financial Statements

(a) *Registrant*. Provide financial statements of the Registrant.

Instructions:

1. Include, in a separate section, the financial statements and schedules required by Regulation S-X [17 CFR 210]. Financial statements of the Registrant may be limited to:

    (a) An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

    (b) An audited statement of operations of the most recent fiscal year conforming to the requirements of rule 6-07 of Regulation S-X [17 CFR 210.6-07];

    (c) An audited statement of cash flows for the most recent fiscal year if necessary to comply with generally accepted accounting principles; and

    (d) Audited statements of changes in net assets conforming to the requirements of rule 6-09 of Regulation S-X [17 CFR 210.6-09] for the two most recent fiscal years.

2. Every annual report to investors required by section 30(e) of the 1940 Act [15 U.S.C. 80a-29(e)] and rule 30e-1 under it [17 CFR 270.30e-1] shall contain the following information:

    (a) the audited financial statements required by Regulation S-X for the periods specified by Regulation S-X, as modified by General Instruction C.3.(b) to this Form, and as permitted by Instruction 5 to this Item;

    (b) unless shown elsewhere in the report as part of the financial statements required by (a) above, the aggregate remuneration paid by the separate account during the period covered by the report (i) to all members of the board of managers and to all members of any advisory board for regular compensation; (ii) to each member of the board of managers and to each member of an advisory board for special compensation; (iii) to all officers; and (iv) to each person of whom any officer or member of the board of managers of the separate account is an affiliated person;

    (c) the information concerning changes in and disagreements with accountants and on accounting and financial disclosure required by Item 304 of Regulation S-K [17 CFR 229.304];

    (d) the management information required by paragraph (a) of Item 23; and

    (e) a statement that the SAI includes additional information about members of the board of managers of the Registrant and is available, without charge, upon request, and a toll-free (or collect) telephone number for investors to call to request the SAI.

3. Every report required by section 30(e) of the 1940 Act and rule 30e-1 under it [17 CFR 270.30e-1], except the annual report to investors, shall contain the following information (which need not be audited):

    (a) the financial statements required by Regulation S-X for the period commencing either with (i) the beginning of the separate account's fiscal year (or date of organization, if newly organized); or (ii) a date not later than the date after the close of the period included in the last report conforming with the requirements of rule 30e-1 and the most recent preceding fiscal year, as modified by as modified by General Instruction C.3.(b) to this Form, and as permitted by Instruction 5 below;

    (b) unless shown elsewhere in the report as part of the financial statements required by (a) above, the aggregate remuneration paid by the separate account during the period covered by the report (i) to all members of the board of managers and to all members of any advisory board for regular compensation; (ii) to each member of the board of managers and to each member of an advisory board for special compensation; (iii) to all officers; and (iv) to each person of whom any officer or member of the board of managers of the separate account is an affiliated person; and

    (c) the information concerning changes in and disagreements with accountants and on accounting and financial disclosure required by Item 304 of Regulation S-K [17 CFR 229.304].

4. Every report required by section 30(e) of the 1940 Act and rule 30e-1 under it [17 CFR 270.30e-1] shall contain the following information:

    (a) one or more tables, charts, or graphs depicting the portfolio holdings of the Registrant by reasonably identifiable categories (*e.g.*, type of security, industry sector, geographic region, credit quality, or maturity) showing the percentage of net asset value or total investments attributable to each. The categories and the basis of presentation (*e.g.*, net asset value or total investments) should be selected, and the presentation should be formatted, in a manner reasonably designed to depict clearly the types of investments made by the Registrant, given its investment objectives. If the Registrant depicts portfolio holdings according to credit quality, it should include a description of how the credit quality of the holdings were determined, and if credit ratings, as defined in section 3(a)(60) of the Securities Exchange Act [15 U.S.C. 78(c)(a)(60)], assigned by a credit rating agency, as defined in section 3(a)(61) of the Securities Exchange Act [15 U.S.C. 78(c)(a)(61)], are used, explain how they were identified and selected. This description should be included near, or as part of, the graphical representation;

(b) a statement that: (i) the Registrant files its complete schedule of portfolio holdings with the Commission for the first and third quarters of each fiscal year on Form N-PORT; (ii) the Registrant's Form N-PORT reports are available on the Commission's website at http://www.sec.gov; and (iii) if the Registrant makes the information on Form N-PORT available to investors on its website or upon request, a description of how the information may be obtained from the Registrant;

(c) a statement that a description of the policies and procedures that the Registrant uses to determine how to vote proxies relating to portfolio securities is available (i) without charge, upon request, by calling a specified toll-free (or collect) telephone number; (ii) on the Registrant's website, if applicable; and (iii) on the Commission's website at http://www.sec.gov;

(d) a statement that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (i) without charge, upon request, by calling a specified toll- free (or collect) telephone number; or on or through the Registrant's website at a specified internet address; or both; and (ii) on the Commission's website at http://www.sec.gov;

(e) If the Registrant's board of managers approved any investment advisory contract during the Registrant's most recent fiscal half-year, discuss in reasonable detail the material factors and the conclusions with respect thereto that form the basis for the board's approval. Include the following in the discussion:

(i) Factors relating to both the board's selection of the investment adviser and approval of the advisory fee and any other amounts to be paid by the Registrant under the contract. This would include, but not be limited to, a discussion of the nature, extent, and quality of the services to be provided by the investment adviser; the investment performance of the Registrant and the investment adviser; the costs of the services to be provided and profits to be realized by the investment adviser and its affiliates from the relationship with the Registrant; the extent to which economies of scale would be realized as the Registrant grows, and whether fee levels reflect these economies of scale for the benefit of the Registrant's investors. Also indicate in the discussion whether the board relied upon comparisons of the services to be rendered and the amounts to be paid under the contract with those under other investment advisory contracts, such as contracts of the same and other investment advisers with other registered investment companies or other types of clients (*e.g.*, pension funds and other institutional investors). If the board relied upon such

comparisons, describe the comparisons that were relied on and how they assisted the board in concluding that the contract should be approved; and

(ii) If applicable, any benefits derived or to be derived by the investment adviser from the relationship with the Registrant such as soft dollar arrangements by which brokers provide research to the Registrant or its investment adviser in return for allocating the Registrant's brokerage, and

(iii) Board approvals covered by Instruction 4(e) to this Item include both approvals of new investment advisory contracts and approvals of contract renewals. Investment advisory contracts covered by Instruction 4(e) include subadvisory contracts. Conclusory statements or a list of factors will not be considered sufficient disclosure under Instruction 4(e). Relate the factors to the specific circumstances of the Registrant and the investment advisory contract and state how the board evaluated each factor. For example, it is not sufficient to state that the board considered the amount of the investment advisory fee without stating what the board concluded about the amount of the fee and how that affected its decision to approve the contract. If any factor enumerated in Instruction 4(e)(i) to this Item is not relevant to the board's evaluation of an investment advisory contract, note this and explain the reasons why the factor is not relevant.

(f) Include on the front cover page or at the beginning of the annual or semi-annual report a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports like this one will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.
If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in

paper will apply to all funds held with [the fund complex/your financial intermediary].

5. (a) Schedule VI – Summary schedule of investments in securities of unaffiliated issuers [17 CFR 210.12-12B] may be included in the financial statements required under Instructions 2.(a) and 3.(a) of this Item in lieu of Schedule I – Investments in securities of unaffiliated issuers [17 CFR 210.12-12] if:

(i) the Registrant states in the report that the Registrant's complete schedule of investments in securities of unaffiliated issuers is available (A) without charge, upon request, by calling a specified toll-free (or collect) telephone number; (B) on the Registrant's website, if applicable; and (C) on the Commission's website at http://www.sec.gov; and

(ii) whenever the Registrant (or financial intermediary through which units of the Registrant may be purchased or sold) receives a request for the Registrant's schedule of investments in securities of unaffiliated issuers, the Registrant (or financial intermediary) sends a copy of Schedule I– Investments in securities of unaffiliated issuers within 3 business days of receipt by first-class mail or other means designed to ensure equally prompt delivery.

(b) In the case of a Registrant or sub-account of a Registrant that holds itself out as a money market account or sub- account and meets the maturity, quality, and diversification requirements of rule 2a-7 [17 CFR 270.2a-7] under the 1940 Act, Schedule I – Investments in securities of unaffiliated issuers [17 CFR 210.12-12C] may be omitted from the financial statements required under Instructions 2.(a) and 3.(a) of this Item, provided that:

(i) the Registrant states in the report that the Registrant's complete schedule of investments in securities of unaffiliated issuers is available (A) without charge, upon request, by calling a specified toll-free (or collect) telephone number; (B) on the Registrant's website, if applicable; and (C) on the Commission's website at http://www.sec.gov; and

(ii) whenever the Registrant (or financial intermediary through which units of the Registrant may be purchased or sold) receives a request for the Registrant's schedule of investments in securities of unaffiliated issuers, the Registrant (or financial intermediary) sends a copy of Schedule I – Investments in securities of unaffiliated issuers within 3 business days of receipt by first-class mail or other means designed to ensure equally prompt delivery.

6. (a) When a Registrant (or financial intermediary through which units of the Registrant may be purchased or sold) receives a request for a description of the policies and procedures that the Registrant uses to determine how to vote proxies, the Registrant (or financial intermediary) must send the information disclosed in response to Item 23(f) of this Form, within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

(b) If a Registrant discloses that the Registrant's proxy voting record is available by calling a toll-free (or collect) telephone number, and the Registrant (or financial intermediary through which units of the Registrant may be purchased or sold) receives a request for this information, the Registrant (or financial intermediary) must send the information disclosed in the Registrant's most recently filed report on Form N-PX [17 CFR 274.129], within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

(c) If a Registrant discloses that the Registrant's proxy voting record is available on or through its website, the Registrant must make available free of charge the information disclosed in the Registrant's most recently filed report on Form N-PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Registrant's most recently filed report on Form N-PX must remain available on or through the Registrant's website for as long as the Registrant remains subject to the requirements of rule 30b1-4 under the Investment Company Act [17 CFR 270.30b1-4] and discloses that the Registrant's proxy voting record is available on or through its website.

(b) *Insurance Company*. Provide financial statements of the Insurance Company.

Instructions

1. Include, in a separate section, the financial statements and schedules of the Insurance Company required by Regulation S-X. If the Insurance Company would not have to prepare financial statements in accordance with generally accepted accounting principles except for use in this registration statement or other registration statements filed on Forms N-3, N-4, or N-6, its financial statements may be prepared in accordance with statutory requirements. The Insurance Company's financial statements must be prepared in accordance with generally accepted accounting principles if the Insurance Company prepares financial information in accordance with generally accepted accounting principles for use by the Insurance Company's parent, as defined in rule 1-02(p) of Regulation S-X [17 CFR 210.1-02(p)], in any report under sections 13(a) and 15(d) of the Securities Exchange Act [15 U.S.C. 78m(a) and 78*o*(d)] or any registration statement filed under the Securities Act.

2. All statements and schedules of the Insurance Company required by Regulation S-X, except for the consolidated balance sheets described in rule 3-01 of Regulation S-X [17 CFR 210.3-01], and any notes to these statements or schedules, may be omitted from Part B and instead included in Part C of the registration statement. If any of this information is omitted from Part B and included in Part C, the consolidated balance sheets included in Part B should be accompanied by a statement that additional financial information about the Insurance Company is available, without charge, upon request. When a request for the additional financial information is received, the Registrant should send the information within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

3. Notwithstanding rule 3-12 of Regulation S-X [17 CFR 210.3-12], the financial statements of the Insurance Company need not be more current than as of the end of the most recent fiscal year of the Insurance Company. In addition, when the anticipated effective date of a registration statement falls within 90 days subsequent to the end of the fiscal year of the Insurance Company, the registration statement need not including financial statements of the Insurance Company more current than as of the end of the third fiscal quarter of the most recently completed fiscal year of the Insurance Company unless the audited financial statements for such fiscal year are available. The exceptions to rule 3-12 of Regulation S-X contained in this Instruction 3 do not apply when:

   (a) The Insurance Company's financial statements have never been included in an effective registration statement under the Securities Act of a separate account that offers variable annuity contracts or variable life insurance contracts; or

   (b) The balance sheet of the Insurance Company at the end of either of the two most recent fiscal years included in response to this Item shows a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $2,500,000; or

   (c) The balance sheet of the Insurance Company at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the Securities Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the Investment Company Act) would show a combined capital surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $2,500,000. If two fiscal quarters end within the 135 day period, the Insurance Company may choose either for purposes of this test.

Any interim financial statements required by this Item need not be comparative with financial statements for the same interim period of an earlier year.

PART C - OTHER INFORMATION

Item 32. Exhibits

Subject to General Instruction D regarding incorporation by reference and rule 483 under the Securities Act [17 CFR 230.483], file the exhibits listed below as part of the registration statement. Letter or number the exhibits in the sequence indicated and file copies rather than originals, unless otherwise required by rule 483. Reflect any exhibit incorporated by reference in the list below and identify the previously filed document containing the incorporated material.

(a) *Board of Directors Resolution*. The resolution of the board of directors of the Insurance Company authorizing the establishment of the Registrant.

(b) *Bylaws.* Copies of the existing bylaws of the Registrant or instruments corresponding thereto.

(c) *Custodian Agreements*. All depository contracts and agreements for custody of securities and similar investments of the Registrant, including the schedule of remuneration.

(d) *Investment Advisory Contracts.* Copies of all investment advisory contracts relating to the management of the assets of the Registrant.

(e) *Underwriting Contracts*. Underwriting or distribution contracts between the Registrant or Insurance Company and a principal underwriter and agreements between principal underwriters or the Insurance Company and dealers.

(f) *Contracts*. The form of each Contract, including any riders or endorsements.

(g) *Applications*. The form of application used with any Contract provided in response to paragraph (f) above;

(h) *Insurance Company's Certificate of Incorporation and By-Laws*. The Insurance Company's current certificate of incorporation or other instrument of organization and by-laws and any related amendment.

(i) *Reinsurance Contracts*. Any contract of reinsurance related to a Contract.

(j) *Profit Sharing Contracts for the Benefit of the Board of Managers or Officers of Registrant*. Copies of all bonus, profit sharing, pension, or other similar contracts or arrangements wholly or partly for the benefit of members of the board of managers or officers of the Registrant in their capacity as such. If any plan is not set forth in a formal document, furnish a reasonably detailed description thereof.

(k) *Administrative Contracts.* Any contract relating to the performance of administrative services in connection with administering a Contract.

(l) *Other Material Contracts.* Other material contracts not made in the ordinary course of business to be performed in whole or in part on or after the filing date of the registration statement.

(m) *Legal Opinion.* An opinion and consent of counsel regarding the legality of the securities being registered, stating whether the securities will, when sold, be legally issued and represent binding obligations of the Insurance Company.

(n) *Other Opinions*. Copies of any other opinions, appraisals, or rulings, and consents of their use relied on in preparing this registration statement and required by section 7 of the Securities Act [15 U.S.C. 77g].

(o) *Omitted Financial Statements.* Financial statements omitted from Item 31.

(p) *Initial Capital Agreements*. Any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, Insurance Company, underwriter, or initial investors and written assurances from the Insurance Company or initial investors that purchases were made for investment purposes and not with the intention of redeeming or reselling.

(q) *Codes of Ethics*. Copies of any codes of ethics adopted under rule 17j-1 under the Investment Company Act [17 CFR 270.17j-1] and currently applicable to the Registrant (*i.e.*, the codes of the Registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Registrant, state the reason (*e.g.*, the Registrant is a Money Market Fund).

(r) *Form of Initial Summary Prospectuses.* The form of any Initial Summary Prospectus that the Registrant intends to use on or after the effective date of the registration statement, pursuant to rule 498A under the Securities Act [17 CFR 230.498A].

Instructions.

1. Schedules (or similar attachments) to the exhibits required by this Item are not required to be filed provided that they do not contain information material to an investment or voting decision and that information is not otherwise disclosed in the exhibit or the disclosure document. Each exhibit filed must contain a list briefly identifying the contents of all omitted schedules. Registrants need not prepare a separate list of omitted information if such information is already included within the exhibit in a manner that conveys the subject matter of the omitted schedules and attachments. In addition, the Registrant must provide a copy of any omitted schedule to the Commission or its staff upon request.

2. The Registrant may redact information from exhibits required to be filed by this Item if disclosure of such information would constitute a clearly unwarranted invasion of personal privacy (*e.g.*, disclosure of bank account numbers, social security numbers, home addresses and similar information).

3. The Registrant may redact provisions or terms of exhibits required to be filed by paragraphs (i) and (l) of this Item if those provisions or terms are both (i) not material and (ii) would likely cause competitive harm to the Registrant if publicly disclosed. If it does so, the Registrant should mark the exhibit index to indicate that portions of the exhibit or exhibits have been omitted and include a prominent statement on the first page of the redacted exhibit that certain identified information has been excluded from the exhibit because it is both (i) not material and (ii) would likely cause competitive harm to the Registrant if publicly disclosed. The Registrant also must indicate by brackets where the information is omitted from the filed version of the exhibit.

   If requested by the Commission or its staff, the Registrant must promptly provide an unredacted copy of the exhibit on a supplemental basis. The Commission staff also may request the Registrant to provide its materiality and competitive harm analyses on a supplemental basis. Upon evaluation of the Registrant's supplemental materials, the Commission or its staff may request the Registrant to amend its filing to include in the exhibit any previously redacted information that is not adequately supported by the Registrant's materiality and competitive harm analyses. The Registrant may request confidential treatment of the supplemental material pursuant to rule 83 of the Commission's Organizational Rules [17 CFR 200.83] while it is in the possession of the Commission or its staff. After completing its review of the supplemental information, the Commission or its staff will return or destroy it at the request of the Registrant, if the Registrant complies with the procedures outlined in rule 418 under the Securities Act [17 CFR 230.418].

4. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active link to an exhibit that is filed with the registration statement or, if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR. If the registration statement is amended, each amendment must include active hyperlinks to the exhibits required with the amendment.

5. Registrants are required to provide the Initial Summary Prospectus exhibits, as required by paragraph (r) of this Item, only in connection with the filing of an initial registration statement, or in connection with a pre-effective amendment or a post-effective amendment filed in accordance with paragraph (a) of rule 485 under the Securities Act [17 CFR 230.485(a)]. Registrants should add a legend clearly identifying the document as a form of Initial Summary Prospectus the Registrant intends to use on or after the effective date of the registration statement.

Item 33. Directors and Officers of the Insurance Company

Provide the following information about each director or officer of the Insurance Company:

(1) Name and Principal Business	(2) Positions and Offices with	(3) Positions and Offices with

Address	Insurance Company	Registrant

Instruction. Registrants are required to provide the above information only for officers or directors who are engaged directly or indirectly in activities relating to the Registrant or the Contracts, and for executive officers including the Insurance Company's president, secretary, treasurer, and vice presidents who have authority to act as president in his or her absence.

Item 34. Persons Controlled by or Under Common Control with the Insurance Company or the Registrant

Provide a list or diagram of all persons directly or indirectly controlled by or under common control with the Insurance Company or the Registrant. For any person controlled by another person, disclose the percentage of voting securities owned by the immediately controlling person or other basis of that person's control. For each company, also provide the state or other sovereign power under the laws of which the company is organized.

Instructions

1. Include the Registrant and the Insurance Company in the list or diagram and show the relationship of each company to the Registrant and Insurance Company and to the other companies named, using cross-references if a company is controlled through direct ownership of its securities by two or more persons.

2. Indicate with appropriate symbols subsidiaries that file separate financial statements, subsidiaries included in consolidated financial statements; or unconsolidated subsidiaries included in group financial statements. Indicate for other subsidiaries why financial statements are not filed.

Item 35. Indemnification

State the general effect of any contract, arrangements, or statute under which any underwriter or affiliated person of the Registrant is insured or indemnified against any liability incurred in his or her official capacity, other than insurance provided by any underwriter or affiliated person for his or her own protection.

Item 36. Business and Other Connections of Investment Adviser

Describe any other business, profession, vocation, or employment of a substantial nature in which each investment adviser of the Registrant, and each director, officer, or partner of any such investment adviser, is or has been, at any time during the past two fiscal years, engaged for his or her own account or as director, officer, employee, partner, or trustee.

Instructions

1. State the name and principal business address of any company of which any person specified above is a director, officer, employee, partner, or trustee, and the nature of such connection.

2. If the investment adviser is the Insurance Company or an affiliate thereof that is also an insurance company, Registrants need only provide the above information for officers or directors who are engaged directly or indirectly in activities relating to the assets of the Registrant, and for executive officers including the Insurance Company's or its affiliate's president, secretary, treasurer, and vice presidents who have authority to act as president in his or her absence.

3. The names of investment advisory clients need not be given.

Item 37. Principal Underwriters

(a) *Other Activity*. State the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing the Registrant's securities also acts as a principal underwriter, Insurance Company, sponsor, or investment adviser.

(b) *Management*. Provide the information required by the following table for each director, officer, or partner of each principal underwriter named in the response to Item 29:

(1) Name and Principal Business Address	(2) Positions and Offices with Underwriter	(3) Positions and Offices with Registrant

Instruction. If a principal underwriter is the Insurance Company or an affiliate of the Insurance Company, and is also an insurance company, the above information for officers or directors need only be provided for officers or directors who are engaged directly or indirectly in activities relating to the Registrant or the Contracts, and for executive officers including the Insurance Company's or its affiliate's president, secretary, treasurer, and vice presidents who have authority to act as president in his or her absence.

(c) *Compensation From the Registrant*. Provide the information required by the following table for all commissions and other compensation received, directly or indirectly, from the Registrant during the Registrant's last fiscal year by each principal underwriter:

(1) Name of Principal Underwriter	(2) Net Underwriting Discounts and Commissions	(3) Compensation on Redemption or Annuitization	(4) Brokerage Commissions	(5) Other Compensation

Instructions

1. Disclose the type of services rendered in consideration for the compensation listed under column (5).

2. Exclude information about bona fide contracts with the Registrant or its Insurance Company for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant or its Insurance Company in the ordinary course of business.

3. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

4. Exclude information about any service for which total payments of less than $15,000 were made during each of the Registrant's last three fiscal years.

5. Exclude information about payments made under any agreement whereby another person contracts with the Registrant or its Insurance Company to perform as custodian or administrative or servicing agent.

Item 38. Location of Accounts and Records

State the name and address of each person maintaining physical possession of each account, book, or other document, required to be maintained by section 31(a) of the Investment Company Act [15 U.S.C. 80a-30(a)] and the rules under that section.

Instruction. The Registrant may omit this information to the extent it is provided in its most recent report on Form N-CEN [17 CFR 274.101].

Item 39. Management Services

Provide a summary of the substantive provisions of any management-related service contract not discussed in Part A or Part B, disclosing the parties to the contract and the total amount paid and by whom for the Registrant's last three fiscal years.

Instructions

1. The instructions to Item 24(c) shall also apply to this Item.

2. Exclude information about any service provided for payments totaling less than $15,000 during each of the Registrant's last three fiscal years.

Item 40. Fee Representation

Provide a representation of the Insurance Company that the fees and charges deducted under the Contracts, in the aggregate, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the Insurance Company.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933 and the Investment Company Act of 1940, the Registrant (certifies that it meets all of the requirements for effectiveness of this registration statement under rule 485(b) under the Securities Act and) has duly caused this registration statement to be signed on its behalf by the undersigned, duly authorized, in City of_____, and State of _____, on this___day of_____,_____.

_____
(Registrant)
By _____
(Signature)
_____
(Title)
_____
(Depositor)
By _____
(Name of Officer of Depositor)
_____
(Title)

Instruction

If the registration statement is being filed only under the Securities Act or under both the Securities Act and the Investment Company Act, it should be signed by both the Registrant and the Insurance Company. If the registration statement is being filed only under the Investment Company Act, it should be signed only by the Registrant.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

_____	_____	_____
Signature	Title	Date

46. Effective January 1, 2022, Form N-3 (referenced in §§239.17a and 274.11b) is further amended by:

a. In Item 1, removing paragraph (a)(11); and

b. In Item 31(a), removing Instruction 4(f).

47. Revise Form N-4 (referenced in §§239.17b and 274.11c) to read as follows:

Note: The text of Form N-4 will not appear in the Code of Federal Regulations.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM N-4

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Pre-Effective Amendment No. _____ [ ]

Post-Effective Amendment No. _____ [ ]

and/or

REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

Amendment No. _____ [ ]

(Check appropriate box or boxes.)

_____

(Exact Name of Registrant)

_____

(Name of Depositor)

_____

(Address of Depositor's Principal Executive Offices) (Zip Code)

_____

(Depositor's Telephone Number, including Area Code)

_____

(Name and Address of Agent for Service)

Approximate Date of Proposed Public Offering: _____

It is proposed that this filing will become effective (check appropriate box):

[ ] immediately upon filing pursuant to paragraph (b)
[ ] on (date) pursuant to paragraph (b)
[ ] 60 days after filing pursuant to paragraph (a)(1)
[ ] on (date) pursuant to paragraph (a)(1) of rule 485 under the Securities Act.

If appropriate, check the following box:

[ ] this post-effective amendment designates a new effective date for a previously-filed post-effective amendment.

Omit from the facing sheet reference to the other Act if the registration statement or amendment is filed under only one of the Acts. Include the "Approximate Date of Proposed Public Offering" only where securities are being registered under the Securities Act of 1933.

Form N-4 is to be used by separate accounts that are unit investment trusts that offer variable annuity contracts to register under the Investment Company Act of 1940 and to offer their securities under the Securities Act of 1933. The Commission has designed Form N-4 to provide investors with information that will assist them in making a decision about investing in a variable annuity contract. The Commission also may use the information provided on Form N-4 in its regulatory, disclosure review, inspection, and policy making roles.

A Registrant is required to disclose the information specified by Form N-4, and the Commission will make this information public. A Registrant is not required to respond to the collection of information contained in Form N-4 unless the Form displays a currently valid Office of Management and Budget ("OMB") control number. Please direct comments concerning the accuracy of the information collection burden estimate and any suggestions for reducing the burden to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549. The OMB has reviewed this collection of information under the clearance requirements of 44 U.S.C. § 3507

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

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SIGNATURES

GENERAL INSTRUCTIONS

A. Definitions

References to sections and rules in this Form N-4 are to the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq*.] (the "Investment Company Act"), unless otherwise indicated. Terms used in this Form N-4 have the same meaning as in the Investment Company Act or the related rules, unless otherwise indicated. As used in this Form N-4, the terms set out below have the following meanings:

"Class" means a class of a Variable Annuity Contract that varies principally with respect to distribution-related fees and expenses.

"Depositor" means the person primarily responsible for the organization of the Registrant and the person, other than the trustee or custodian, who has continuing functions or responsibilities with respect to the administration of the affairs of the Registrant. "Depositor" includes the sponsoring insurance company that establishes and maintains the Registrant. If there is more than one Depositor, the information called for in this Form about the Depositor shall be provided for each Depositor.

"Investor Account" means any account of a contract owner, participant, annuitant, or beneficiary to which (net) purchase payments under a variable annuity contract are added and from which contract or transaction expenses may be subtracted.

"Platform Charge" means any fee charged by the Registrant to make a Portfolio Company available as an investment option under the Contract, and that varies solely on the basis of the Portfolio Company selected.

"Portfolio Company" means any company in which the Registrant invests and which may be selected as an option by the investor.

"Registrant" means the separate account (as defined in section 2(a)(37) of the Investment Company Act [15 U.S.C. 80a-2(a)(37)] that offers the Variable Annuity Contracts.

"SAI" means the Statement of Additional Information required by Part B of this Form.

"Securities Act" means the Securities Act of 1933 [15 U.S.C. 77a *et seq*.].

"Securities Exchange Act" means the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq*.].

"Statutory Prospectus" means a prospectus that satisfies the requirements of section 10(a) of the Securities Act [15 U.S.C. 77j(a)].

"Summary Prospectus" has the meaning provided by paragraph (a)(11) of rule 498A under the Securities Act [17 CFR 230.498A(a)(11)].

"Variable Annuity Contract" or "Contract" means any accumulation contract or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either during an accumulation period or after annuitization, or both, varies according to the investment experience of the separate account in which the contract participates. Unless the context otherwise requires, "Variable Annuity Contract" or "Contract" refers to the Variable Annuity Contracts being offered pursuant to the registration statement prepared on this Form.

B. Filing and Use of Form N-4

1. What is Form N-4 used for?

Form N-4 is used by all separate accounts organized as unit investment trusts and offering Variable Annuity Contracts to file:

(a) An initial registration statement under the Investment Company Act and any amendments to the registration statement;

(b) An initial registration statement required under the Securities Act and any amendments to the registration statement, including amendments required by section 10(a)(3) of the Securities Act [15 U.S.C. 77j(a)(3)]; or

(c) Any combination of the filings in paragraph (a) or (b).

2. What is included in the registration statement?

(a) For registration statements or amendments filed under both the Investment Company Act and the Securities Act or only under the Securities Act, include the facing sheet of the Form, Parts A, B, and C, and the required signatures.

(b) For registration statements or amendments filed only under the Investment Company Act, include the facing sheet of the Form, responses to all Items of Parts A (except Items 1, 4, 5, 9, and 16), B, and C (except Items 26(c), (k), (l), and (m)), and the required signatures.

3. What are the fees for Form N-4?

No registration fees are required for a filing on Form N-4 to register as an investment company under the Investment Company Act or to register securities under the Securities Act. If a filing on Form N-4 is made to register securities under the Securities Act and securities are sold to the public, registration fees must be paid on an ongoing basis after the end of the Registrant's fiscal year. *See* section 24(f) [15 U.S.C. 80a-24(f)] and related rule 24f-2 [17 CFR 270.24f-2].

4. What rules apply to the filing of a registration statement on Form N-4?

(a) For registration statements and amendments filed under both the Investment Company Act and the Securities Act or under only the Securities Act, the general rules under the Securities Act, particularly the rules regarding the filing of registration statements in Regulation C [17 CFR 230.400 – 230.498A], apply to the filing of registration statements on Form N-4. Specific requirements concerning investment companies appear in rules 480 - 488 and 495 - 498A of Regulation C.

(b) For registration statements and amendments filed only under the Investment Company Act, the general rules under the Investment Company Act, particularly the provisions in rules 8b-1 – 8b-31 [17 CFR 270.8b-1 to 8b-31], apply to the filing of registration statements on Form N-4.

(c) The plain English requirements of rule 421(d) under the Securities Act [17 CFR 230.421(d)] apply to prospectus disclosure in Part A of Form N-4.

(d) Regulation S-T [17 CFR 232.10 – 232.501] applies to all filings on the Commission's Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR").

C. Preparation of the Registration Statement

1. Administration of the Form N-4 Requirements

(a) The requirements of Form N-4 are intended to promote effective communication between the Registrant and prospective investors. A Registrant's prospectus should clearly disclose the fundamental features and risks of the Variable Annuity Contracts, using concise, straightforward, and easy to understand language. A Registrant should use document design techniques that promote effective communication.

(b) The prospectus disclosure requirements in Form N-4 are intended to elicit information for an average or typical investor who may not be sophisticated in legal or financial matters. The prospectus should help investors to evaluate the risks of an investment and to decide whether to invest in a Variable Annuity Contract by providing a balanced disclosure of positive and negative factors. Disclosure in the prospectus should be designed to assist an investor in comparing and contrasting a Variable Annuity Contract with other Contracts.

(c) Responses to the Items in Form N-4 should be as simple and direct as reasonably possible and should include only as much information as is necessary to enable an average or typical investor to understand the particular characteristics of the Variable Annuity Contracts. The prospectus should avoid including lengthy legal and technical discussions and simply restating legal or regulatory requirements to which Contracts generally are subject. Brevity is especially important in describing the practices or aspects of the Registrant's operations that do not differ materially from those of other separate accounts. Avoid excessive detail, technical or legal terminology, and complex language, including the use of formulas as the primary means of communicating certain terms or features of the Contract. Also avoid lengthy sentences and paragraphs that may make the prospectus difficult for investors to understand and detract from its usefulness.

(d) The requirements for prospectuses included in registration statements on Form N-4 will be administered by the Commission in a way that will allow variances in disclosure or presentation if appropriate for the circumstances involved while remaining consistent with the objectives of Form N-4.

2. Form N-4 is divided into three parts:

(a) *Part A.* Part A includes the information required in a Registrant's prospectus under section 10(a) of the Securities Act. The purpose of the prospectus is to provide essential information about the Registrant and the Contracts in a way that will help investors to make informed decisions about whether to purchase the securities described in the prospectus. In responding to the Items in Part A, avoid cross-references to the SAI. Cross-references within the prospectus are most useful when their use assists investors in understanding the information presented and does not add complexity to the prospectus.

(b) *Part B.* Part B includes the information required in a Registrant's SAI. The purpose of the SAI is to provide additional information about the Registrant and the Contracts that the Commission has concluded is not necessary or appropriate

in the public interest or for the protection of investors to be in the prospectus, but that some investors may find useful. Part B affords the Registrant an opportunity to expand discussions of the matters described in the prospectus by including additional information that the Registrant believes may be of interest to some investors. The Registrant should not duplicate in the SAI information that is provided in the prospectus, unless necessary to make the SAI comprehensible as a document independent of the prospectus.

(c) *Part C.* Part C includes other information required in a Registrant's registration statement.

3. Additional Matters

(a) *Organization of Information.* Organize the information in the prospectus and SAI to make it easy for investors to understand. Notwithstanding rule 421(a) under the Securities Act [17 CFR 230.421(a)] regarding the order of information required in a prospectus, disclose the information required by Item 2 (Key Information), Item 3 (Overview of the Contract), and Item 4 (Fee Table) in numerical order at the front of the prospectus. Do not precede Items 2, 3, and 4 with any other Item except the Cover Page (Item 1), a glossary, if any (General Instruction C.3.(d)), or a table of contents meeting the requirements of rule 481(c) under the Securities Act [17 CFR 230.481(c)]. If the discussion of the information required by Items 2 or 3 also responds to disclosure requirements in other items of the prospectus, a Registrant need not include additional disclosure in the prospectus that repeats the information disclosed in response to Items 2 and 3.

(b) *Other Information.* A Registrant may include, except in response to Items 2 and 3, information in the prospectus or the SAI that is not otherwise required so long as the information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of the information that is required to be included. For example, Registrants are free to include in the prospectus financial statements required to be in the SAI, and may include in the SAI financial statements that may be placed in Part C. However, information regarding non-principal risks that is not otherwise required to be in the prospectus must be disclosed in the SAI and not the prospectus, in accordance with Items 5 and 20.

(c) *Presentation of Information.* To aid investor comprehension, Registrants are encouraged to use, as appropriate, question-and-answer formats, tables, side-by-side comparisons, captions, bullet points, numeric examples, illustrations or similar presentation methods. For example, such presentation methods would be appropriate when presenting disclosure for similar Contract features, prospectuses describing multiple Variable Annuity Contracts, or the operation of optional benefits or annuitization.

(d) *Use of Terms.*

(i) *Definitions*. Define the special terms used in the prospectus (*e.g.*, accumulation unit, participant, sub-account, etc.) in any presentation that clearly conveys meaning to investors. If the Registrant elects to include a glossary or list of definitions, only special terms used throughout the prospectus must be defined or listed. If a special term is used in only one section of the prospectus, it may be defined there (and need not be included in any glossary or list of definitions that the Registrant includes).

(ii) *Alternate Terminology*. A Registrant may use alternate terminology other than that used in the form so long as the terminology used by the Registrant clearly conveys the meaning of, or provides comparable information as, the terminology included in the form.

(e) *Use of Form N-4 to Register Multiple Contracts*

(i) A single prospectus may describe multiple Contracts that are essentially identical. Whether the prospectus describes Contracts that are "essentially identical" will depend on the facts and circumstances. For example, a Contract that does not offer optional benefits would not be essentially identical to one that does for a charge. Similarly, group and individual Contracts would not be essentially identical. However, Contracts that vary only due to state regulatory requirements would be essentially identical.

(A) Paragraph (a) of General Instruction C.3 requires Registrants to disclose the information required by Items 2, 3, and 4 in numerical order at the front of the prospectus and generally not to precede the Items with other information. As a general matter, Registrants providing disclosure in a single prospectus for more than one Contract, may depart from the requirement of paragraph (a) as necessary to present the required information clearly and effectively (although the order of information required by each Item must remain the same). For example, the prospectus may present all of the Item 2 information for several Contracts (*e.g.*, by providing several Key Information Tables sequentially or by providing a single Key Information Table containing separate disclosures for each Contract to the extent that such disclosures would vary by Contract), followed by all of the Item 3 information for the Contracts, and followed by all of the Item 4 information for the Contracts. Alternatively, the prospectus may present Items 2, 3, and 4 for each of several Contracts sequentially. Other presentations also would be acceptable if they are consistent with the Form's intent to disclose the information required by Items 2, 3, and 4 in a standard order at the beginning of the prospectus. Registrants that present Items 2, 3, and 4 for each of several Contracts sequentially or that utilize another presentation should consider whether investors might benefit from a brief explanation about how the information in the prospectus is presented, such as headings for each contract in the prospectus' table of contents and/or a brief narrative at the beginning of the prospectus

explaining the presentation. Registrants are encouraged to present information in a manner that limits repetition.

(B) The Registrant should generally include appropriate titles, headings, or any other information to promote clarity and facilitate understanding regarding which disclosures apply to which Contract, if such disclosures would vary based on the Contract.

(ii) Multiple prospectuses may be combined in a single registration statement on Form N-4 when the prospectuses describe Contracts that are substantially similar. For example, a Registrant could determine it is appropriate to include multiple prospectuses in a registration statement in the following situations: (i) the prospectuses describe the same Contract that is sold through different distribution channels; (ii) the prospectuses describe Contracts that differ only with respect to Portfolio Companies offered; or (iii) the prospectuses describe both the original and a modified version of the same Contract (where the "modified" version differs in the features or options that the Registrant offers under that Contract).

(f) *Dates.* Rule 423 under the Securities Act [17 CFR 230.423] applies to the dates of the prospectus and the SAI. The SAI should be made available at the same time that the prospectus becomes available for purposes of rules 430 and 460 under the Securities Act [17 CFR 230.430 and 230.460].

(g) *Sales Literature.* A Registrant may include sales literature in the prospectus so long as the amount of this information does not add substantial length to the prospectus and its placement does not obscure essential disclosure.

(h) *Interactive Data File*

(i) An Interactive Data File (see rule 232.11 of Regulation S-T [17 CFR 232.11]) is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S-T [17 CFR 232.405] for any registration statement or post-effective amendment thereto on Form N-4 that includes or amends information provided in response to Items 2, 4, 5, 10, or 17 with regards to Contracts that are being sold to new investors.

(A) Except as required by paragraph (h)(i)(B), the Interactive Data File must be submitted as an amendment to the registration statement to which the Interactive Data File relates. The amendment must be submitted on or before the date the registration statement or post-effective amendment that contains the related information becomes effective.

(B) In the case of a post-effective amendment to a registration statement filed pursuant to paragraphs (b)(1)(i), (ii), (v), (vi), or (vii) of rule 485 under the Securities Act [17 CFR 230.485(b)], the Interactive Data File must be submitted either with the filing, or as an amendment to the

registration statement to which the Interactive Data Filing relates that is submitted on or before the date the post-effective amendment that contains the related information becomes effective.

(ii) An Interactive Data File is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S-T for any form of prospectus filed pursuant to paragraphs (c) or (e) of rule 497 under the Securities Act [17 CFR 230.497(c) or (e)] that includes information provided in response to Items 2, 4, 5, 10, or 17 that varies from the registration statement with regards to Contracts that are being sold to new investors. The Interactive Data File must be submitted with the filing made pursuant to rule 497.

(iii) The Interactive Data File must be submitted in accordance with the specifications in the EDGAR Filer Manual, and in such a manner that will permit the information for each Contract, and, for any information that does not relate to all of the Classes in a filing, each Class of the Contract to be separately identified.

(i) *Website Addresses.* Any website address included in an electronic version of the Statutory Prospectus must include an active hyperlink or other means of facilitating access that leads directly to the relevant website address. This requirement does not apply to an electronic Statutory Prospectus filed on the EDGAR system.

D. Incorporation by Reference

1. General Requirements

All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: rule 411 under the Securities Act [17 CFR 230.411] (general rules on incorporation by reference in a prospectus); rule 303 of Regulation S-T [17 CFR 232.303] (specific requirements for electronically filed documents); and rule 0-4 under the Investment Company Act [17 CFR 270.0-4] (additional rule on incorporation by reference for investment companies). In general, a Registrant may incorporate by reference, in the answer to any item of Form N-4 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

2. Specific Rules for Incorporation by Reference in Form N-4:

(a) A Registrant may not incorporate by reference into a prospectus information that Part A of this Form requires to be included in a prospectus, except as specifically permitted by Part A of the Form.

(b) A Registrant may incorporate by reference any or all of the SAI into the prospectus (but not to provide any information required by Part A to be included in the prospectus) without delivering the SAI with the prospectus.

(c) A Registrant may incorporate by reference into the SAI or its response to Part C information that Parts B and C require to be included in the Registrant's registration statement.

PART A - INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Front and Back Cover Pages

(a) *Front Cover Page*. Include the following information on the outside front cover page of the prospectus:

(1) The Registrant's name.

(2) The Depositor's name.

(3) The types of Variable Annuity Contracts offered by the prospectus (*e.g.*, group, individual, single premium immediate, flexible premium deferred).

(4) The name of the Contract and the Class or Classes, if any, to which the Contract relates.

(5) The date of the prospectus.

(6) The statement required by rule 481(b)(1) under the Securities Act [17 CFR 230.481(b)(1)].

(7) The statement that additional information about certain investment products, including variable annuities, has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

(8) If applicable, the legend: "If you are a new investor in the Contract, you may cancel your Contract within 10 days of receiving it without paying fees or penalties. In some states, this cancellation period may be longer. Upon cancellation, you will receive either a full refund of the amount you paid with your application or your total Contract value. You should review this prospectus, or consult with your investment professional, for additional information about the specific cancellation terms that apply."

(9) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the shareholder reports for portfolio companies [available under your Contract] will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports

and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all portfolio companies [available under your Contract].

Instruction. A Registrant may include on the front cover page any additional information, subject to the requirements of General Instruction C.3.(b) and (c).

(b) *Back Cover Page*. Include the following information on the outside back cover page of the prospectus:

(1) A statement that the SAI includes additional information about the Registrant. Explain that the SAI is available, without charge, upon request, and explain how investors may make inquiries about their Contracts. Provide a toll-free (or collect) telephone number for investors to call to request the SAI, to request other information about the Contracts, and to make investor inquiries.

Instructions.

1. A Registrant may indicate, if applicable, that the SAI and other information are available on its website and/or by email request.

2. A Registrant may indicate, if applicable, that the SAI and other information are available from an insurance agent or financial intermediary (such as a broker-dealer or bank) through which the Contracts may be purchased or sold.

3. When a Registrant (or an insurance agent or financial intermediary through which Contracts may be purchased or sold) receives a request for the SAI, the Registrant (or insurance agent or financial intermediary) must send the SAI within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

(2) A statement whether and from where information is incorporated by reference into the prospectus as permitted by General Instruction D. Unless the information is delivered with the prospectus, explain that the Registrant will provide the information without charge, upon request (referring to the telephone number provided in response to paragraph (b)(1)).

Instruction. The Registrant may combine the information about incorporation by reference with the statements required under paragraph (b)(1).

(3) A statement that reports and other information about the Registrant are available on the Commission's website at http://www.sec.gov, and that copies of this information may be obtained, upon payment of a duplicating fee, by electronic request at the following email address: publicinfo@sec.gov.

(4) The EDGAR contract identifier for the Contract on the bottom of the back cover page in type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).

Item 2. Key Information

Include the following information:

Important Information You Should Consider About the [Contract]

FEES AND EXPENSES	
Charges for Early Withdrawals	
Transaction Charges	
Ongoing Fees and Expenses (annual charges)	
RISKS	
Risk of Loss	
Not a Short-Term Investment	
Risks Associated with Investment Options	
Insurance Company Risks	
RESTRICTIONS	
Investments	
Optional Benefits	
TAXES	

Tax Implications	
CONFLICTS OF INTEREST	
Investment Professional Compensation	
Exchanges	

Instructions.

1. *General.*

   (a) Disclose the required information in the tabular presentation(s) reflected herein, in the order specified. A Registrant may exclude any disclosures that are not applicable, or modify any of the statements required to be included, so long as the modified statement contains comparable information. Notwithstanding this instruction and General Instruction C.3.(d)(ii), the title, headings, and sub-headings for this tabular presentation may not be modified or substituted with alternate terminology unless otherwise provided.

   (b) Provide cross-references to the location in the Statutory Prospectus where the subject matter is described in greater detail. Cross-references in electronic versions of the Summary Prospectus and/or Statutory Prospectus should link directly to the location in the Statutory Prospectus where the subject matter is discussed in greater detail, or should provide a means of facilitating access to that information through equivalent methods or technologies. The cross-reference should be adjacent to the relevant disclosure, either within the table row, or presented in an additional table column.

   (c) All disclosures provided in response to this Item should be short and succinct, consistent with the limitations of a tabular presentation.

2. *Fees and Expenses.*

   (a) *Charges for Early Withdrawals.* Include a statement that if the investor withdraws money from the Contract within [x] years following his or her last purchase payment, he or she will be assessed a surrender charge. Include in this statement the maximum surrender charge (as a percentage of [purchase payment or amount surrendered]), and the maximum number of years that a surrender charge may be assessed since the last purchase payment under the Contract. Provide an example of the maximum surrender charge an investor could pay (in dollars) under the Contract assuming a $100,000 investment (*e.g.*, "[i]f you make an early withdrawal, you could pay a surrender charge of up to $9,000 on a $100,000 investment.").

(b) *Transaction Charges.* State that in addition to surrender charges (if applicable), the investor may also be charged for other transactions, and provide a brief narrative description of the types of such charges (*e.g.*, front-end loads, charges for transferring cash value between investment options, charges for wire transfers, etc.).

(c) *Ongoing Fees and Expenses (annual charges).*

Include the following information, in the order specified:

(i) *Minimum and Maximum Annual Fee Table.*

(A) The legend: "The table below describes the fees and expenses that you may pay *each year*, depending on the options you choose. Please refer to your Contract specifications page for information about the specific fees you will pay each year based on the options you have elected."

(B) Provide Minimum and Maximum Annual Fees in substantially the following tabular format, in the order specified.

Annual Fee	**Minimum**	**Maximum**
Base Contract (varies by Contract Class)	[ ]%	[ ]%
Investment options (Portfolio Company fees and expenses)	[ ]%	[ ]%
Optional benefits available for an additional charge (for a single optional benefit, if elected)	[ ]%	[ ]%

(C) Explain, in a parenthetical or footnote to the table or each caption, the basis for each percentage (*e.g.*, % of separate account value or benefit base, or % of net asset value).

(D) Calculate Base Contract fees by dividing the total amount of Base Contract fees (including dollar-based Contract expenses) collected during the year that are attributable to the Contract by the total average net assets that are attributable to the Contract.

(E) If a Registrant offers multiple Portfolio Companies under the Contract, it should disclose the minimum and maximum "Annual Portfolio Company Expenses" calculated in accordance with Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A] (before expense reimbursements or fee waiver arrangements). If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the Registrant should include the maximum Platform Charge associated with

each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses.

(F) The Minimum Annual Fee means the lowest current fee for each annual fee category (*i.e.*, the least expensive Contract Class, the lowest Portfolio Company Total Annual Operating Expenses, and the least expensive optional benefit available for an additional charge). The Maximum Annual Fee means the highest current fee for each annual fee category (*i.e.*, the most expensive Contract Class, the highest Portfolio Company Total Annual Operating Expenses, and the most expensive optional benefit available for an additional charge).

(ii) *Lowest and Highest Annual Cost Table.*

(A) The legend: "Because your Contract is customizable, the choices you make affect how much you will pay. To help you understand the cost of owning your Contract, the following table shows the lowest and highest cost you could pay *each year*, based on current charges. This estimate assumes that you do not take withdrawals from the Contract, **which could add surrender charges that substantially increase costs**."

(B) Provide Lowest and Highest Annual Costs in substantially the following tabular format, in the order specified.

Lowest Annual Cost: $[ ]	**Highest Annual Cost: $[ ]**
Assumes: • Investment of $100,000 • 5% annual appreciation • Least expensive combination of Contract Classes and Portfolio Company fees and expenses • No optional benefits • No sales charges • No additional purchase payments, transfers or withdrawals	Assumes: • Investment of $100,000 • 5% annual appreciation • Most expensive combination of Contract Classes, optional benefits, and Portfolio Company fees and expenses • No sales charges • No additional purchase payments, transfers or withdrawals

(C) Calculate the Lowest and Highest Annual Cost estimates in the following manner:

a. Calculate the dollar amount of fees that would be assessed based on the assumptions described in the table above for each of the first 10 Contract years.

b. Total each year's fees (discounted to the present value using a 5% annual discount rate) and divide by 10 to calculate the estimated dollar amounts that are required to be set forth in the table above.

c. Sales loads, other than ongoing sales charges, should be excluded from the Lowest and Highest Annual Cost estimates.

d. Amounts of any bonus payment should be excluded from the Lowest and Highest Annual Cost estimates.

e. Unless otherwise provided, the least and most expensive combination of Contract Classes, Portfolio Company fees and expenses, and optional benefits should be based on the disclosures provided in the Example in Item 4. If a different combination of Contract Classes, Annual Portfolio Company Expenses, and/or optional benefits would result in different Minimum or Maximum fees in different years, use the least expensive and most expensive combination of Contract Classes, Annual Portfolio Company Expenses, and optional benefits each year.

3. *Risks.*

(a) *Risk of Loss.* State that an investor can lose money by investing in the Contract.

(b) *Not a Short-Term Investment*. State that a Contract is not a short-term investment and is not appropriate for an investor who needs ready access to cash, accompanied by a brief explanation.

(c) *Risks Associated with Investment Options.* State that an investment in the Contract is subject to the risk of poor investment performance and can vary depending on the performance of the investment options available under the Contract (*e.g.*, Portfolio Companies), that each investment option (including any fixed account investment option) will have its own unique risks, and that the investor should review these investment options before making an investment decision.

(d) *Insurance Company Risks.* State that an investment in the Contract is subject to the risks related to the Depositor, including that any obligations (including under any fixed account investment options), guarantees, or benefits are subject to the claims-paying ability of the Depositor. Further state that more information about the Depositor, including if applicable its financial strength ratings, is available upon

request, and indicate how such requests can be made (*e.g.*, via toll-free telephone number).

Instruction. A Registrant may include the Depositor's financial strength rating(s) and omit the portion of the disclosures regarding the availability of the Depositor's financial strength ratings specified by the last sentence of Instruction 3.(d).

4. *Restrictions.*

   (a) *Investments.* State whether there are any restrictions that may limit the investments that an investor may choose, as well as any limitations on the transfer of Contract value among Portfolio Companies. If applicable, state that the insurer reserves the right to remove or substitute Portfolio Companies as investment options.

   (b) *Optional Benefits.* State whether there are any restrictions or limitations relating to optional benefits, and/or whether an optional benefit may be modified or terminated by the Registrant. If applicable, state that withdrawals that exceed limits specified by the terms of an optional benefit may affect the availability of the benefit by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate the benefit.

5. *Taxes—Tax Implications*. State that an investor should consult with a tax professional to determine the tax implications of an investment in and purchase payments received under the Contract, and that there is no additional tax benefit to the investor if the Contract is purchased through a tax-qualified plan or individual retirement account (IRA). Explain that withdrawals will be subject to ordinary income tax, and may be subject to tax penalties.

6. *Conflicts of Interest.*

   (a) *Investment Professional Compensation*. State that some investment professionals may receive compensation for selling the Contract to investors, and briefly describe the basis upon which such compensation is typically paid (*e.g.*, commissions, revenue sharing, compensation from affiliates and third parties). State that these investment professionals may have a financial incentive to offer or recommend the Contract over another investment.

   (b) *Exchanges.* State that some investment professionals may have a financial incentive to offer an investor a new contract in place of the one he or she already owns, and that an investor should only exchange his or her Contract if he or she determines, after comparing the features, fees, and risks of both contracts, that it is preferable for him or her to purchase the new contract rather than continue to own the existing Contract.

Instruction. A Registrant may omit these line-items if neither the Registrant nor any of its related companies pay financial intermediaries for the sale of the Contract or related services.

Item 3. Overview of the Contract

Provide a concise description of the Contract including the following information:

(a) *Purpose.* Briefly describe the purpose(s) of the Contract (*e.g.*, to help the investor accumulate assets through an investment portfolio, to provide or supplement the investor's retirement income, to provide death and/or other benefits). State for whom the Contract may be appropriate (*e.g.*, by discussing a representative investor's time horizon, liquidity needs, and financial goals).

(b) *Phases of Contract*. Briefly describe the accumulation (savings) phase and annuity (income) phase of the Contract.

(1) This discussion should include a brief overview of the investment options available under the Contract (*e.g.*, any Portfolio Companies, as well as any "fixed account" (general account) investment options).

Instructions.

1. Prominently disclose that additional information about each Portfolio Company is provided in an appendix to the prospectus, and provide a cross-reference to the appendix.

2. A detailed explanation of the separate account, sub-accounts, Portfolio Companies, and any "fixed account" (general account) investment options is not necessary and should be avoided.

(2) State, if applicable, that if an investor annuitizes, he or she will receive a stream of income payments, however (i) he or she will be unable to make withdrawals, and (ii) death benefits and living benefits will terminate.

(c) *Contract Features*. Summarize the Contract's primary features, including death benefits, withdrawal options, loan provisions, and any available optional benefits. If applicable, state that the investor will incur an additional fee for selecting a particular benefit.

Item 4. Fee Table

Include the following information:

The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering or making withdrawals from the Contract. Please refer to your Contract specifications page for information about the specific fees you will pay each year based on the options you have elected.

The first table describes the fees and expenses that you will pay at the time that you buy the Contract, surrender or make withdrawals from the Contract, or transfer Contract value between investment options. State premium taxes may also be deducted.

Transaction Expenses

Sales Load Imposed on Purchases (as a percentage of purchase payments)	__%
Deferred Sales Load (or Surrender Charge) (as a percentage of purchase payments or amount surrendered, as applicable)	__%
Exchange Fee	__%

The next table describes the fees and expenses that you will pay *each year* during the time that you own the Contract (not including Portfolio Company fees and expenses).

If you choose to purchase an optional benefit, you will pay additional charges, as shown below.

Annual Contract Expenses

Administrative Expenses	$__
Base Contract Expenses (as a percentage of average account value)	__%
Optional Benefit Expenses (as a percentage of benefit base or other (*e.g.*, average account value))	__%

The next item shows the minimum and maximum total operating expenses charged by the Portfolio Companies that you may pay periodically during the time that you own the Contract. [These amounts also include applicable Platform Charges if you choose to invest in certain Portfolio Companies.] A complete list of Portfolio Companies available under the Contract, including their annual expenses, may be found at the back of this document.

Annual Portfolio Company Expenses	***Minimum***	***Maximum***
(expenses that are deducted from Portfolio Company assets, including management fees, distribution and/or service (12b-1) fees, and other expenses)	__%	__%

Example

This Example is intended to help you compare the cost of investing in the Contract with

the cost of investing in other variable annuity contracts. These costs include transaction expenses, annual Contract expenses, and Annual Portfolio Company Expenses.

The Example assumes that you invest $100,000 in the Contract for the time periods indicated. The Example also assumes that your investment has a 5% return each year and assumes the most expensive combination of Annual Portfolio Company Expenses and optional benefits available for an additional charge. Although your actual costs may be higher or lower, based on these assumptions, your costs would be:

If you surrender your Contract at the end of the applicable time period:	1 year $___	3 years $___	5 years $___	10 years $___
If you annuitize at the end of the applicable time period:	1 year $___	3 years $___	5 years $___	10 years $___
If you do *not* surrender your Contract:	1 year $___	3 years $___	5 years $___	10 years $___

Instructions

1. Include the narrative explanations in the order indicated. A Registrant may modify a narrative explanation if the explanation contains comparable information to that shown.

2. Assume that the Contract is owned during the accumulation period for purposes of the table (including the Example). If an annuitant would pay different fees or be subject to different expenses, disclose this in a brief narrative and provide a cross-reference to those portions of the prospectus describing these fees.

3. A Registrant may omit captions if the Registrant does not charge or reserve the right to charge the fees or expenses covered by the captions.

4. Round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.

5. In the Transaction Expenses and Annual Contract Expenses tables, the Registrant must disclose the maximum guaranteed charge, unless a specific instruction directs otherwise. If a fee is calculated based on a benchmark (*e.g.*, a fee that varies according to volatility levels or Treasury yields), the Registrant must also disclose the maximum guaranteed charge as a single number. The Registrant may disclose the current charge, in addition to the maximum charge, if the disclosure of the current charge is no more

prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge. In addition, the Registrant may include in a footnote to the table a tabular, narrative, or other presentation providing further detail regarding variations in the charge. For example, if deferred sales charges decline over time, the Registrant may include in a footnote a presentation regarding the scheduled reductions in the deferred sales charges.

6. Provide a separate fee table (or separate column within the table) for each Contract offered by the prospectus that has different fees.

7. For a Contract with more than one Class, provide a separate response for each Class.

Transaction Expenses

8. "Sales Load Imposed on Purchases" includes the maximum sales load imposed upon purchase payments and may include a tabular presentation, within the larger table, of the range of such sales loads.

9. "Deferred Sales Load" includes the maximum contingent deferred sales load (or surrender charge), expressed as a percentage of the original purchase price or amount surrendered, and may include a tabular presentation, within the larger table, of the range of contingent deferred sales loads over time.

10. "Exchange Fee" includes the maximum fee charged for any exchange or transfer of Contract value from the Registrant to another investment company or from one sub-account of the Registrant to another sub-account or the insurance company's general account. The Registrant may include a tabular presentation of the range of exchange fees unless such a presentation would be so lengthy as to encumber the larger table, in which case the Registrant should only provide a cross-reference to the narrative portion of the prospectus discussing the exchange fee.

11. If the Registrant (or any other party pursuant to an agreement with the Registrant) charges any other transaction fee, add another caption describing it and list the (maximum) amount or basis on which the fee is deducted.

Annual Contract Expenses

12. Administrative Expenses include any Contract, account, or similar fee imposed on all Investor Accounts on a dollar basis and charged on any recurring basis (*e.g.*, $50 per year).

13. Base Contract Expenses include mortality and expense risk fees, and account fees and expenses. Account fees and expenses include all fees and expenses (except sales loads, mortality and expense risk fees, and optional benefits expenses) that are deducted from separate account assets or charged to all Investor Accounts on a percentage basis.

14. Optional Benefits Expenses include any optional features (*e.g.*, enhanced death benefits and living benefits) offered under the Contract for an additional charge.

15. If the Registrant (or any other party pursuant to an agreement with the Registrant) imposes any other recurring charge (other than Annual Portfolio Company Expenses), add another caption describing it and list the (maximum) amount or basis on which the charge is deducted.

Annual Portfolio Company Expenses

16. If a Registrant offers multiple Portfolio Companies, it should disclose the minimum and maximum "Annual Portfolio Company Expenses" for any Portfolio Company calculated in accordance with Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A (before expense reimbursements or fee waiver arrangements). If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the Registrant should include the maximum Platform Charge associated with each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses.

17. A Registrant may also reflect, in an additional line-item to the range of Annual Portfolio Company Expenses, minimum and maximum Annual Portfolio Company Expenses calculated in accordance with Item 3 of Form N-1A that include expense reimbursements or fee waiver arrangements that are in place and reflected in the Portfolio Company's registration statement pursuant to Item 3 of Form N-1A. If the Registrant provides this disclosure, also disclose the period for which the expense reimbursements or fee waiver arrangement is expected to continue, and, if applicable, that it can be terminated at any time at the option of a Portfolio Company. If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the Registrant should include the current Platform Charge associated with each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses that include expense reimbursements or fee waiver arrangements.

Example

18. For purposes of the Example(s) in the table, provide the following for each Contract Class:

    (a) Assume that the percentage amounts listed under "Annual Contract Expenses" remain the same in each year of the 1-, 3-, 5-, and 10-year periods;

    (b) The most expensive combination of Contract features must be shown first. Additional expense presentations are permitted, but not required;

    (c) Assume the maximum sales load that may be deducted from purchase payments is deducted;

    (d) For any breakpoint in any fee, assume that the amount of the Registrant's (and the Portfolio Company's) assets remains constant as of the level at the end of the most recently completed fiscal year;

(e) Assume no exchanges or other transactions;

(f) Reflect any Contract expenses by dividing the total amount of Contract expenses (including dollar-based Contract expenses) collected during the year that are attributable to the Contract by the total average net assets that are attributable to the Contract. Add the resulting percentage to Base Contract expenses and assume that it remains the same in each year of the 1-, 3-, 5-, and 10-year periods;

(g) Reflect any deferred sales load (or surrender charge) by assuming a complete surrender on the last day of the year;

(h) Provide the information required in the second section of the Example only if the Registrant charges fees upon annuitization that are different from those charged upon surrender; and

(i) Provide the information required in the third section of the Example only if a sales load or other fee is charged upon a complete surrender.

Item 5. Principal Risks of Investing in the Contract

Summarize the principal risks of purchasing a Contract, including the risks of poor investment performance, that Contracts are unsuitable as short-term savings vehicles, limitations on access to cash value through withdrawals, and the possibility of adverse tax consequences.

Item 6. General Description of Registrant, Depositor, and Portfolio Companies

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

(a) *Depositor*. Provide the name and address of the Depositor.

(b) *Registrant*. Briefly describe the Registrant. Include a statement indicating that:

(1) income, gains, and losses credited to, or charged against, the Registrant reflect the Registrant's own investment experience and not the investment experience of the Depositor's other assets;

(2) the assets of the Registrant may not be used to pay any liabilities of the Depositor other than those arising from the Contracts; and

(3) the Depositor is obligated to pay all amounts promised to investors under the Contracts.

(c) *Portfolio Companies*. State that information regarding each Portfolio Company, including (i) its name, (ii) its type (*e.g.*, money market fund, bond fund, balanced fund, etc.) or a brief statement concerning its investment objectives, (iii) its investment adviser and any sub-investment adviser, (iv) current expenses, and (v) performance is available in the appendix to the prospectus, and provide cross-references. State that each Portfolio Company has issued a prospectus that contains more detailed information about the

Portfolio Company, and provide instructions regarding how investors may obtain paper or electronic copies.

(d) *Voting*. Concisely discuss the rights of investors to instruct the Depositor on the voting of shares of the Portfolio Companies, including the manner in which votes will be allocated.

Item 7. Charges

(a) *Description*. Briefly describe all current charges deducted from purchase payments, Investor Accounts, or assets of the Registrant, or any other source (*e.g.*, sales loads, premium taxes and other taxes, administrative and transaction charges, risk charges, Contract loan charges, and optional benefit charges). Indicate whether each charge will be deducted from purchase payments, Investor Accounts, or the Registrant's assets, the proceeds of withdrawals or surrenders, or some other source. When possible, specify the amount of any charge as a percentage or dollar figure (*e.g.*, 0.95% of average daily net assets or $5 per exchange). For recurring charges, specify the frequency of the deduction (*e.g.*, daily, monthly, annually). Identify the person who receives the amount deducted, briefly explain what is provided in consideration for the charges, and explain the extent to which any charge can be modified. Where it is possible to identify what is provided in consideration for a particular charge (*e.g.*, use of sales load to pay distribution costs), explain what is provided in consideration for that charge separately.

Instructions.

1. Describe the sales loads applicable to the Contract and how sales loads are charged and calculated, including the factors affecting the computation of the amount of the sales load. If the Contract has a front-end sales load, describe the sales load as a percentage of the applicable measure of purchase payments and as a percentage of the net amount invested for each breakpoint. For Contracts with a deferred sales load, describe the sales load as a percentage of the applicable measure of purchase payments (or other basis) that the deferred sales load may represent. Percentages should be shown in a table. Identify any events on which a deferred sales load is deducted (*e.g.*, surrender or withdrawal). The description of any deferred sales load should include how the deduction will be allocated among sub-accounts of the Registrant and when, if ever, the sales load will be waived (*e.g.*, if the Contract provides a free withdrawal amount).

2. Unless set forth in response to Instruction 1, list any special purchase plans or methods established pursuant to a rule or an exemptive order that reflect scheduled variations in, or elimination of, the sales load (*e.g.*, group discounts, waiver of sales load upon annuitization or attainment of a certain age, waiver of deferred sales load for a certain percentage of Contract value ("free corridor"), investment of proceeds from another policy, exchange privileges, employee benefit plans, or the terms of a merger, acquisition or exchange offer made pursuant to a plan of reorganization); identify each class of individuals or transactions to which such plans apply; state each different sales charge available as a percentage of the public offering price and as a percentage of the net amount invested; and state from whom additional information may be obtained.

Describe any other special purchase plans or methods established pursuant to a rule that reflect other variations in, or elimination of, the sales load or in any administrative charge or other deductions from purchase payments, and generally describe the basis for the variation or elimination in the sales load or other deduction (*i.e.*, the size of the purchaser, a prior or existing relationship with the purchaser, the purchaser's assumption of certain administrative functions, or other characteristics that result in differences in costs or services).

3. If proceeds from sales loads will not cover the expected costs of distributing the Contracts, identify from what source the shortfall, if any, will be paid. If any shortfall is to be made from assets from the Depositor's general account, disclose, if applicable, that any amounts paid by the Depositor may consist, among other things, of proceeds derived from Base Contract Expenses deducted from the account.

4. If the Contract's charge for premium or other taxes varies according to jurisdiction, identification of the range of current premium or other taxes is sufficient.

(b) *Commissions Paid to Dealers*. State the commissions paid to dealers as a percentage of purchase payments.

(c) *Portfolio Company Charges.* State that charges are deducted from and expenses paid out of the assets of the Portfolio Companies that are described in the prospectuses for those companies.

(d) *Operating Expenses.* Describe any type of operating expenses for which the Registrant is responsible. If organizational expenses of the Registrant are to be paid out of its assets, explain how the expenses will be amortized and the period over which the amortization will occur.

Item 8. General Description of Contracts

(a) *Contract Rights.* Identify the person or persons (*e.g.*, the investor, participant, annuitant, or beneficiary) who have material rights under the Contracts, and the nature of those rights, (1) during the accumulation period, (2) during the annuity period, and (3) after the death of the annuitant or investor.

Instruction. Disclose all material state variations and intermediary-specific variations (*e.g.*, variations resulting from different brokerage channels) to the offering.

(b) *Contract Provisions and Limitations.* Briefly describe any provisions and limitations for:

(1) minimum Contract value, and the consequences of falling below that amount;

(2) allocation of purchase payments among sub-accounts of the Registrant;

(3) transfer of Contract value between sub-accounts of the Registrant, including transfer programs (*e.g.*, dollar cost averaging, portfolio rebalancing, asset allocation programs, and automatic transfer programs);

(4) conversion or exchange of Contracts for another contract, including a fixed or variable annuity or life insurance contract; and

Instruction. In discussing conversion or exchange of Contracts, the Registrant should include any time limits on conversion or exchange, the name of the company issuing the other contract and whether that company is affiliated with the issuer of the Contract, and how the cash value of the Contract will be affected by the conversion or exchange.

(5) buyout offers, including interests or participations therein.

(c) *General Account.* Describe the obligations under the Contract that are funded by the Depositor's general account (*e.g.*, death benefits, living benefits, or other benefits available under the Contract), and state that these amounts are subject to the Depositor's claims-paying ability and financial strength.

(d) *Contract or Registrant Changes*. Briefly describe the changes that can be made in the Contracts or the operations of the Registrant by the Registrant or the Depositor, including:

(1) why a change may be made (*e.g.*, changes in applicable law or interpretations of law);

(2) who, if anyone, must approve any change (*e.g.*, the investor or the Commission); and

(3) who, if anyone, must be notified of any change.

Instruction. Describe only those changes that would be material to a purchaser of the Contracts, such as a reservation of the right to deregister the Registrant under the Investment Company Act or to substitute one Portfolio Company for another. Do not describe possible non-material changes, such as changing the time of day at which accumulation unit values are determined.

(e) *Class of Purchasers*. Disclose any limitations on the class or classes of purchasers to whom the Contract is being offered.

(f) *Frequent Transfers among Sub-accounts of the Registrant.*

(1) Describe the risks, if any, that frequent transfers of Contract value among sub-accounts of the Registrant may present for other investors and other persons (*e.g.*, participants, annuitants, or beneficiaries) who have material rights under the Contract.

(2) State whether or not the Registrant or Depositor has adopted policies and procedures with respect to frequent transfers of Contract value among sub-accounts of the Registrant.

(3) If neither the Registrant nor the Depositor has adopted any such policies and procedures, provide a statement of the specific basis for the view of the Depositor that it is appropriate for the Registrant and Depositor not to have such policies and procedures.

(4) If the Registrant or Depositor has any such policies and procedures, describe those policies and procedures, including:

(i) whether or not the Registrant or Depositor discourages frequent transfers of Contract value among sub-accounts of the Registrant;

(ii) whether or not the Registrant or Depositor accommodates frequent transfers of Contract value among sub-accounts of the Registrant; and

(iii) any policies and procedures of the Registrant or Depositor for deterring frequent transfers of Contract value among sub-accounts of the Registrant, including any restrictions imposed by the Registrant or Depositor to prevent or minimize frequent transfers. Describe each of these policies, procedures, and restrictions with specificity. Indicate whether each of these restrictions applies uniformly in all cases or whether the restriction will not be imposed under certain circumstances, including whether each of these restrictions applies to trades that occur through omnibus accounts at intermediaries, such as investment advisers, broker-dealers, transfer agents, and third party administrators. Describe with specificity the circumstances under which any restriction will not be imposed. Include a description of the following restrictions, if applicable:

(A) any restrictions on the volume or number of transfers that may be made within a given time period;

(B) any transfer fee;

(C) any costs or administrative or other fees or charges that are imposed on persons deemed to be engaged in frequent transfers of Contract value among sub-accounts of the Registrant, together with a description of the circumstances under which such costs, fees, or charges will be imposed;

(D) any minimum holding period that is imposed before a transfer may be made from a sub-account into another sub-account of the Registrant;

(E) any restrictions imposed on transfer requests submitted by overnight delivery, electronically, or via facsimile or telephone; and

(F) any right of the Registrant or Depositor to reject, limit, delay, or impose other conditions on transfers or to terminate or otherwise limit Contracts based on a history of frequent transfers among sub-accounts, including the circumstances under which such right will be exercised.

(5) If applicable, include a statement, adjacent to the disclosure required by paragraphs (f)(1) through (f)(4) of this Item, that the Statement of Additional Information includes a description of all arrangements with any person to permit frequent transfers of Contract value among sub-accounts of the Registrant.

Item 9. Annuity Period

Briefly describe the annuity options available. The discussion should include:

(a) Material factors that determine the level of annuity benefits;

(b) The annuity commencement date (give the earliest and latest possible dates);

(c) Frequency and duration of annuity payments, and the effect of these on the level of payment;

(d) The effect of assumed investment return;

(e) Any minimum amount necessary for an annuity option and the consequences of an insufficient amount; and

(f) Rights, if any, to change annuity options or to effect a transfer of investment base after the annuity commencement date.

Instructions:

1. Describe the choices, if any, available to a prospective annuitant, and the effect of not specifying a choice. Where an annuitant is given a choice in assumed investment return, explain the effect of choosing a higher, as opposed to a lower, assumed investment return.

2. Detailed disclosure on the method of calculating annuity payments should be placed in the SAI in response to Item 25.

(g) If applicable, state that the investor will not be able to withdraw any Contract value amounts after the annuity commencement date.

Item 10. Benefits Available Under the Contract

(a) Include the following information:

The following table[s] summarize information about the benefits available under the contract.

Name of Benefit	Purpose	Is Benefit Standard or Optional	Maximum Fee	Brief Description of Restrictions/ Limitations
			[ ]%	
			[ ]%	

Instructions.

1. *General.*

   (a) The table required by paragraph (a) of this Item is meant to provide a tabular summary overview of the benefits described in paragraph (b) of this Item (*e.g.*, standard or optional death benefits, standard or optional living benefits, etc.)

   (b) If the Contract offers multiple benefits of the same type (*e.g.*, death benefit, accumulation benefit, withdrawal benefit, long-term care benefit), the Registrant may include multiple tables in response to paragraph (a) of this Item, if doing so might better permit comparisons of different benefits of the same type. Registrants that choose to use a single table should consider whether grouping together multiple benefits of the same type, with appropriate headings, might similarly permit better comparisons of those benefits.

   (c) The Registrant should include appropriate titles, headings, or any other information to promote clarity and facilitate understanding of the table(s) presented in response to paragraph (a) of this Item. For example, if certain optional benefits are only available to certain investors (*e.g.*, investors who invested during specific time periods), the table could include footnotes or headings to identify which optional benefits are affected and to whom those optional benefits are available.

2. *Name of Benefit.* State the name of each benefit included in the table(s).

3. *Purpose*. Briefly describe the purpose of each benefit included in the table(s).

4. *Is Benefit Standard or Optional*. State whether the benefit is standard or optional. If the Registrant includes titles or headings for the table(s) specifying whether the benefit is standard or optional, the Registrant does not need to include the "Is Benefit Standard or Optional" column in the table(s).

5. *Maximum Fee*. State the maximum fee associated with each benefit included in the table(s). Include parentheticals providing information about what the stated percentage refers to (*e.g.*, percentage of Contract value, percentage of benefit base, etc.).

6. *Current Fee*. The Registrant may disclose the current charge in a separate column titled "Current Charge," if the disclosure of the current charge is no more prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge.

7. *Brief Description of Restrictions/Limitations*. Briefly describe the restriction(s) or limitation(s) associated with each benefit. Registrants are encouraged to use short phrases (*e.g.*, "benefit limits investment options available," "withdrawals could terminate benefit") to describe the restriction(s) or limitation(s).

(b) Briefly describe any benefits (*e.g.*, death benefits, living benefits, etc.) offered under a Contract, including:

(1) Whether the benefit is standard or optional;

(2) The operation of the benefit, including the amount of the benefit and how the benefit amount may vary, the circumstances under which the value of the benefit may increase or be reduced (including the effect of withdrawals), and how the benefit may be terminated;

(3) Fees and costs, if any, associated with the benefit; and

(4) How the benefit amount is calculated and payable and the effect of choosing a specific method of payment on calculation of the benefit.

(c) Briefly describe any limitations, restrictions and risks associated with any benefit offered under the Contract (*e.g.*, restrictions on which Portfolio Companies may be selected; risk of reduction or termination of benefit or of additional costs resulting from excess withdrawals).

Instruction. In responding to paragraphs (b) and (c) of this Item, provide one or more examples illustrating the operation of each benefit in a clear, concise, and understandable manner.

Item 11. Purchases and Contract Value

(a) Briefly describe the procedures for purchasing a Contract. Include a concise explanation of:

(1) the minimum initial and subsequent purchase payments required and any limitations on the amount of purchase payments that will be accepted (if there are separate limits for each sub-account, state these limits); and

(2) a statement of when initial and subsequent purchase payments are credited.

(b) Describe the manner in which purchase payments are credited, including: (A) an explanation that purchase payments are credited on the basis of accumulation unit value; (B) how accumulation unit value is determined; (C) how the number of accumulation units credited to a Contract is determined, and (D) how accumulation unit value is allocated to the investment options, including how such allocation would take place in the absence of instructions from the investor.

(c) Explain that investment performance of the Portfolio Companies, expenses, and deduction of certain charges affect accumulation unit value and/or the number of accumulation units.

(d) Describe when calculations of accumulation unit value are made and that purchase payments are credited to a Contract on the basis of accumulation unit value next determined after receipt of a purchase payment.

(e) Identify each principal underwriter (other than the Depositor) of the Contracts and state its principal business address. If the principal underwriter is affiliated with the Registrant, the Depositor, or any affiliated person of the Registrant or the Depositor, identify how they are affiliated (*e.g.*, the principal underwriter is controlled by the Depositor).

Item 12. Surrenders and Withdrawals

(a) *Surrender and Withdrawal*. Briefly describe how surrenders and withdrawals can be made from a Contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable. Briefly describe the potential effect of such surrenders and withdrawals.

(b) *Additional Information Regarding Surrender and Withdrawal*. Indicate generally whether and under what circumstances surrenders and withdrawals are available under a Contract, including the minimum and maximum amounts that may be surrendered or withdrawn, any limits on their availability, how the proceeds are calculated, and when the proceeds are payable.

(c) *Effect of Surrender and Withdrawal*. Indicate generally whether and under what circumstances surrenders or withdrawals will affect a Contract's cash value, death benefit(s), and/or any living benefits, and whether any charge(s) will apply.

(d) *Sub-Account Allocation*. Describe how surrenders and withdrawals will be allocated to the investment options, including how such allocation would take place in the absence of instructions from the investor.

Instruction. The Registrant should generally describe the terms and conditions that apply to surrender and withdrawal transactions. Technical information regarding the determination of amounts available to be surrendered or withdrawn should be included in the SAI.

(e) *Involuntary Redemption*. Briefly describe any provision for involuntary redemptions under the Contract and the reasons for it, such as the size of the account or infrequency of purchase payments.

(f) *Revocation Rights*. Briefly describe any revocation rights (*e.g.*, "free look" provisions), including a description of how the amount refunded is determined, the method for crediting earnings to purchase payments during the free look period, and whether investment options are limited during the free look period.

Item 13. Loans

Briefly describe the loan provisions of the Contract, including any of the following that are applicable.

(a) *Availability of Loans*. State that a portion of the Contract's cash surrender value may be borrowed. State how the amount available for a loan is calculated.

(b) *Limitations*. Describe any limits on availability of loans (*e.g.*, a prohibition on loans during the first Contract year).

(c) *Interest*. Describe how interest accrues on the loan, when it is payable, and how interest is treated if not paid. Explain how interest on the amount in the collateral account is credited to the Contract and allocated to the investment options.

(d) *Effect on Contract Value and Death Benefit*. Describe how loans and loan repayments affect Contract value and how they are allocated among the investment options, including, if applicable, how such allocation would take place in the absence of instructions from the investor. Include (i) a brief explanation that amounts borrowed under a Contract do not participate in a Registrant's investment experience and that loans, therefore, can affect the Contract value and death benefit whether or not the loan is repaid, and (ii) a brief explanation that the Contract value at surrender and the death proceeds payable will be reduced by the amount of any outstanding Contract loan plus accrued interest.

(e) *Other Effects*. Describe any other effect that a loan could have on the Contract (*e.g.*, the effect of a Contract loan in excess of Contract value).

(f) *Procedures*. Describe the loan procedures, including how and when amounts borrowed are transferred out of the Registrant and how and when amounts repaid are credited to the Registrant.

Item 14. Taxes

(a) *Tax Consequences*. Describe the material tax consequences to the investor and beneficiary of buying, holding, exchanging, or exercising rights under the Contract.

Instruction. Discuss the taxation of annuity payments, death benefit proceeds, periodic and non-periodic withdrawals, loans, and any other distribution that may be received under the Contract, as well as the tax benefits accorded the Contract, and other material tax consequences. Describe, if applicable, whether the tax consequences vary with different uses of the Contract.

(b) *Qualified Plans*. Identify the types of qualified plans for which the Contracts are intended to be used.

Instructions:

1. Identify the types of persons who may use the plans (*e.g.*, corporations, self-employed individuals) and disclose, if applicable, that the terms of the plan may limit the rights otherwise available under the Contracts.

2. Do not describe the Internal Revenue Code requirements for qualifications of plans or the non-annuity tax consequences of qualification (*e.g.*, the effect on employer taxation).

(c) *Effect*. Describe the effect, if any, of taxation on the determination of cash values or sub-account values.

Item 15. Legal Proceedings

Describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, the Registrant's principal underwriter or the Depositor is a party. Include the name of the court where the case is pending, the date instituted, the principal parties involved, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any proceedings instituted, or known to be contemplated, by a governmental authority.

Instruction. For purposes of this requirement, legal proceedings are material only to the extent that they are likely to have a material adverse effect on the Registrant, the ability of the principal underwriter to perform its contract with the Registrant, or the ability of the Depositor to meet its obligations under the Contracts.

Item 16. Financial Statements

If all of the required financial statements of the Registrant and the Depositor (see Item 26 and General Instruction C.3.(b)) are not in the prospectus, state, under a separate caption, where the financial statements may be found. Briefly explain how investors may obtain any financial statements not in the Statement of Additional Information.

Item 17. Portfolio Companies Available Under the Contract

Include as an Appendix under the heading **"Appendix: Portfolio Companies Available Under the Contract"** the following legend, in the format specified below:

The following is a list of Portfolio Companies available under the Contract. More information about the Portfolio Companies is available in the prospectuses for the Portfolio Companies, which may be amended from time to time and can be found online at [___]. You can also request this information at no cost by calling [____] or by sending an email request to [___].

The current expenses and performance information below reflects fee and expenses of the Portfolio Companies, but do not reflect the other fees and expenses that your Contract may charge [, such as Platform Charges]. Expenses would be higher and performance would be lower if these other charges were included. Each Portfolio Company's past performance is not necessarily an indication of future performance.

Type/Investment Objective	**Portfolio Company and Adviser/ Subadviser**	**Current Expenses**	**Average Annual Total Returns** *(as of 12/31/_)*		
			1 year	**5 year**	**10 year**
[Insert]	[Names of Portfolio Company and *adviser/subadviser*]	[_]%	[_]%	[_]%	[_]%

Instructions.

1. *General.*

   (a) Only include Portfolio Companies that are investment options under the Contract. Indicate if investments in any of the Portfolio Companies are restricted (*e.g.*, because of a "hard" or "soft" close).

   (b) The introductory legend to the table must provide a website address, other than the address of the Commission's electronic filing system; toll -free telephone number; and email address that investors can use to obtain the prospectuses of the Portfolio Companies and to request other information about the Portfolio Companies. The website address must be specific enough to lead investors directly to the prospectuses of the Portfolio Companies, rather than to the home page or other section of the website on which the materials are posted. The website could be a central site with prominent links to each document.

   (c) The legend may indicate, if applicable, that the prospectuses and other information are available from a financial intermediary (such as an insurance sales agent or broker-dealer) through which the Contract may be purchased or sold.

   (d) Registrants not relying upon rule 498A(j) under the Securities Act [17 CFR 230.498A(j)] with respect to the Portfolio Companies that are investment options under the Contract may, but are not required to, provide the next-to-last sentence of the first paragraph of the introductory legend to the table regarding online availability of the prospectuses.

   (e) If applicable, include a statement explaining that updated performance information is available and providing a website address and/or toll-free (or collect) telephone number where the updated information may be obtained.

   (f) If the availability of one or more Portfolio Companies as investment options under the Contract varies by benefit offered under the Contract:

(1) The following sentence should be added to the first paragraph of the legend preceding the table: "Depending on the optional benefits you choose, you may not be able to invest in certain Portfolio Companies."; and

(2) Indicate which Portfolio Companies are available (or are restricted) under the benefits offered under the Contract. The Appendix could incorporate a separate table that is structured pursuant to the following example, or could use any other presentation that might promote clarity and facilitate understanding:

[Portfolio Company]	**[Benefit #1]**	**[Benefit #2]**	**[Benefit #3]**	**[Benefit #4]**
Portfolio Company A	☑	☑	☑	☑
Portfolio Company B	☑	☑	☑	
Portfolio Company C	☑	☑		
Portfolio Company D	☑			

2. *Type/Investment Objective*. Briefly describe each Portfolio Company's type (*e.g.*, money market fund, bond fund, balanced fund, etc.), or include a brief statement describing the Portfolio Company's investment objectives.

3. *Portfolio Company and Adviser/Subadviser*. State the name of each Portfolio Company and its adviser/subadviser, as applicable. The adviser's/sub-adviser's name may be omitted if it is incorporated into the name of the Portfolio Company. A Registrant also need not identify a sub-adviser whose sole responsibility for the Portfolio Company is limited to day-to-day management of the Portfolio Company's holdings of cash and cash equivalent instruments, unless the Portfolio Company is a money market fund or other Portfolio Company with a principal investment strategy of regularly holding cash and cash equivalent instruments. If the Portfolio Company has three or more sub-advisers, each of which manages a portion of the Portfolio Company's portfolio, the Registrant need not identify each such sub-adviser, except that the Registrant must identify any sub-adviser that is (or is reasonably expected to be) responsible for the management of a significant portion of the Portfolio Company's net assets. For purposes of this paragraph, a significant portion of a Portfolio Company's net assets generally will be deemed to be 30% or more of the Portfolio Company's net assets.

4. *Current Expenses*. Report "Total Annual Fund Operating Expenses" as calculated pursuant to Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A], reflecting any expense reimbursements or fee waiver arrangements that are in place and reported in the Portfolio Company's registration statement pursuant to Item 3 of Form N-1A. If applicable, identify each Portfolio Company subject to an expense reimbursement or fee waiver arrangement and provide a footnote stating that their annual expenses reflect temporary fee reductions.

5. *Platform Charge.* If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, add a column titled "Platform Charge" disclosing the current Platform Charge for each Portfolio Company. If applicable, also provide a footnote indicating the highest level to which any relevant Platform Charge may be increased.

6. *Current Expenses + Platform Charge*. If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, add a column titled "Current Expenses + Platform Charge." The column contemplated by this Instruction must be presented in a manner reasonably calculated to draw investor attention to that column.

7. *Average Annual Total Returns.* For purposes of this Item, "average annual total returns" means the "average annual total return" (before taxes) as calculated pursuant to Item 4(b)(2)(iii) of Form N-1A.

PART B - INFORMATION REQUIRED IN A STATEMENT OF ADDITIONAL INFORMATION

Item 18. Cover Page and Table of Contents

(a) *Front Cover Page*. Include the following information on the outside front cover page of the SAI:

(1) The Registrant's name.

(2) The Depositor's name.

(3) The name of the Contract and the Class or Classes, if any, to which the Contract relates.

(4) A statement or statements:

(i) That the SAI is not a prospectus;

(ii) How the prospectus may be obtained; and

(iii) Whether and from where information is incorporated by reference into the SAI, as permitted by General Instruction D.

Instruction. Any information incorporated by reference into the SAI must be delivered with the SAI.

(5) The date of the SAI and the prospectus to which the SAI relates.

(b) *Table of Contents*. Include under appropriate captions (and subcaptions) a list of the contents of the SAI and, when useful, provide cross-references to related disclosure in the prospectus.

Item 19. General Information and History

(a) *Depositor.* Provide the date and form of organization of the Depositor, the name of the state or other jurisdiction in which the Depositor is organized, and a description of the general nature of the Depositor's business.

Instruction. The description of the Depositor's business should be short and need not list all of the businesses in which the Depositor engages or identify the jurisdictions in which it does business if a general description (*e.g.*, "variable annuity" or "reinsurance") is provided.

(b) *Registrant.* Provide the date and form of organization of the Registrant and the Registrant's classification pursuant to section 4 of the Investment Company Act [15 U.S.C. 80a-4] (*i.e.*, a separate account and a unit investment trust).

(c) *History of Depositor and Registrant.* If the Depositor's name was changed during the past five years, state its former name and the approximate date on which it was changed. If, at the request of any state, sales of contracts offered by the Registrant have been suspended at any time, or if sales of contracts offered by the Depositor have been suspended during the past five years, briefly describe the reasons for and results of the suspension. Briefly describe the nature and results of any bankruptcy, receivership, or similar proceeding, or any other material reorganization, readjustment, or succession of the Depositor during the past five years.

(d) *Ownership of Sub-Account Assets.* If 10 percent or more of the assets of any sub-account are not attributable to Contracts or to accumulated deductions or reserves (*e.g.*, initial capital contributed by the Depositor), state what percentage those assets are of the total assets of the Registrant. If the Depositor, or any other person controlling the assets, has any present intention of removing the assets from the sub-account, so state.

(e) *Control of Depositor.* State the name of each person who controls the Depositor and the nature of its business.

Instruction. If the Depositor is controlled by another person that, in turn, is controlled by another person, give the name of each control person and the nature of its business.

Item 20. Non-Principal Risks of Investing in the Contract

Summarize the non-principal risks of purchasing a Contract to the extent not disclosed in the prospectus.

Item 21. Services

(a) *Expenses Paid by Third Parties.* Describe all fees, expenses, and costs of the Registrant that are to be paid by persons other than the Depositor or the Registrant, and identify those persons.

(b) *Service Agreements.* Summarize the substantive provisions of any management-related service contract that may be of interest to a purchaser of the Registrant's securities, under

which services are provided to the Registrant, unless the contract is described in response to some other item of the form. Indicate the parties to the contract, and the total dollars paid and by whom for each of the past three years.

Instructions:

1. The term "management-related service contract" includes any contract with the Registrant to keep, prepare, or file accounts, books, records, or other documents required under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include the following:

   (a) Any agreement with the Registrant to act as custodian or agent to administer purchases and redemptions under the Contracts, and

   (b) Any contract with the Registrant for outside legal or auditing services, or contract for personal employment entered into with the Registrant in the ordinary course of business.

2. In summarizing the substantive provisions of any management-related service contract, include the following:

   (a) The name of the person providing the service;

   (b) The direct or indirect relationships, if any, of the person with the Registrant, its Depositor, or its principal underwriter; and

   (c) The nature of the services provided, and the basis of the compensation paid for the services for the Registrant's last three fiscal years.

(c) *Other Service Providers.*

(1) Unless disclosed in response to paragraph (b) or another item of this form, identify and state the principal business address of any person who provides significant administrative or business affairs management services for the Registrant (*e.g.*, an "Administrator," "Sub-Administrator," "Servicing Agent"), describe the services provided, and the compensation paid for the services.

(2) State the name and principal business address of the Registrant's custodian and independent public accountant and describe generally the services performed by each.

(3) If the Registrant's assets are held by a person other than the Depositor, a commercial bank, trust company, or depository registered with the Commission as custodian, state the nature of the business of each such person.

(4) If an affiliated person of the Registrant or the Depositor, or an affiliated person of such an affiliated person, acts as administrative or servicing agent for the Registrant, describe the services the person performs and the basis for remuneration. State, for the past three years, the total dollars paid for the services, and by whom.

Instruction. No disclosure need be given in response to paragraph (c)(4) of this Item for an administrative or servicing agent who is also the Depositor.

(5) If the Depositor is the principal underwriter of the Contracts, so state.

Item 22. Purchase of Securities Being Offered

(a) Describe the manner in which Registrant's securities are offered to the public. Include a description of any special purchase plans and any exchange privileges not described in the prospectus.

Instruction. Address exchange privileges between sub-accounts, between the Registrant and other separate accounts, and between the Registrant and contracts offered through the Depositor's general account.

(b) Describe the method that will be used to determine the sales load on the Contracts offered by the Registrant.

Instruction. Explain fully any difference in the price at which Contracts are offered to members of the public, as individuals or as groups, and the prices at which the Contracts are offered for any class of transactions or to any class of individuals, including officers, directors, members of the board of managers, or employees of the Depositor, underwriter, Portfolio Company, or investment adviser to the Portfolio Company.

(c) *Frequent Transfer Arrangements*. Describe any arrangements with any person to permit frequent transfers of Contract value among sub-accounts of the Registrant, including the identity of the persons permitted to engage in frequent transfers pursuant to such arrangements, and any compensation or other consideration received by the Registrant, the Depositor, or any other party pursuant to such arrangements.

Instructions:

1. The consideration required to be disclosed by paragraph (c) of this Item includes any agreement to maintain assets in the Registrant or in other investment companies or accounts managed or sponsored by the Depositor, any investment adviser of a Portfolio Company, or any affiliated person of the Depositor or of any such investment adviser.

2. If the Registrant has an arrangement to permit frequent transfers of Contract value among sub-accounts of the Registrant by a group of individuals, such as the participants in a defined contribution plan that meets the requirements for qualification under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)), the Registrant may identify the group rather than identifying each individual group member.

Item 23. Underwriters

(a) *Identification*. Identify each principal underwriter (other than the Depositor) of the Contracts, and state its principal business address. If the principal underwriter is affiliated with the Registrant, the Depositor, or any affiliated person of the Registrant or

the Depositor, identify how they are affiliated (*e.g.*, the principal underwriter is controlled by the Depositor).

(b) *Offering and Commissions*. For each principal underwriter distributing Contracts of the Registrant, state:

(1) whether the offering is continuous; and

(2) the aggregate dollar amount of underwriting commissions paid to, and the amount retained by, the principal underwriter for each of the Registrant's last three fiscal years.

(c) *Other Payments*. With respect to any payments made by the Registrant to an underwriter of or dealer in the Contracts during the Registrant's last fiscal year, disclose the name and address of the underwriter or dealer, the amount paid and basis for determining that amount, the circumstances surrounding the payments, and the consideration received by the Registrant. Do not include information about:

(1) Payments made through deduction from purchase payments made at the time of sale of the Contracts; or

(2) Payments made from Contract values upon surrender of or withdrawal from the Contracts

Instructions.

1. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

2. Exclude information about bona fide contracts with the Registrant or its Depositor for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant or its Depositor in the ordinary course of business.

3. Information need not be given about any service for which total payments of less than $15,000 were made during each of the Registrant's last three fiscal years.

4. Information need not be given about payments made under any contract to act as administrative or servicing agent.

5. If the payments were made under an arrangement or policy applicable to dealers generally, describe only the arrangement or policy.

Item 24. Calculation of Performance Data

(a) *Money Market Funded Sub-Accounts.* Yield quotation(s) included in the prospectus for an account or sub-account that holds itself out as a "money market" account or sub-account should be calculated according to paragraphs (a)(1) - (2).

(1) *Yield Quotation*. Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from Investor Accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent.

(2) *Effective Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the effective yield, carried to at least the nearest hundredth of one percent, by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from Investor Accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

$$\text{EFFECTIVE YIELD} = [(\text{BASE PERIOD RETURN} +1)^{365/7}]-1.$$

Instructions:

1. When calculating the yield or effective yield quotations, the calculation of net change in account value must include all deductions that are charged to all Investor Accounts in proportion to the length of the base period. For any account fees that vary with the size of the account, assume an account size equal to the sub-account's mean (or median) account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of yield and effective yield. However, the amount or specific rate of such deductions must be disclosed.

3. Exclude realized gains and losses from the sale of securities and unrealized appreciation and depreciation from the calculation of yield and effective yield. Exclude income other than investment income.

4. If applicable, disclose that the performance information may not reflect all Contract charges (contracts may impose certain charges that are not reflected in the performance of the sub-account, but reduce the value of an investment in the sub-account, such as optional benefit charges). Performance would be lower if these charges were included.

(b) *Other Sub-Accounts*. Performance information included in the prospectus should be calculated according to paragraphs (b)(i) – (iii).

(1) *Average Annual Total Return Quotation*. For the 1-, 5-, and 10-year periods ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the average annual total return by finding the average annual compounded rates of return over the 1-, 5-, and 10-year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$$P(1+T)^n = ERV$$

Where:

P = a hypothetical initial purchase payment of $1,000

T = average annual total return

n = number of years

ERV = ending redeemable value of a hypothetical $1,000 purchase payment made at the beginning of the 1-, 5-, or 10-year periods at the end of the 1-, 5-, or 10- year periods (or fractional portion).

Instructions:

1. Assume the maximum sales load (or other charges deducted from purchase payments) is deducted from the initial $1,000 purchase payment.

2. Include all recurring fees that are charged to all Investor Accounts. For any account fees that vary with the size of the account, assume an account size equal to the sub-account's mean (or median) account size. If recurring fees charged to Investor Accounts are paid other than by redemption of accumulation units, they should be appropriately reflected.

3. Determine the ending redeemable value by assuming a complete redemption at the end of the 1-, 5-, or 10- year periods and the deduction of all nonrecurring charges deducted at the end of each period.

4. If the Registrant's registration statement has been in effect less than one, five, or ten years, the time period during which the registration statement has been in effect should be substituted for the period stated.

5. Carry the total return quotation to the nearest hundredth of one percent.

6. Total return information in the prospectus need only be current to the end of the Registrant's most recent fiscal year.

7. If applicable, disclose that the performance information may not reflect all Contract charges and provide one or more examples of such charges (contracts may impose certain charges that are not reflected in the performance of the sub-account, but

reduce the value of an investment in the sub-account, such as optional benefit charges). State that performance would be lower if these charges were included.

(2) *Yield Quotation*. Based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate yield by dividing the net investment income per accumulation unit earned during the period by the maximum offering price per unit on the last day of the period, according to the following formula:

$$\text{YIELD} = 2[(\frac{a-b}{cd} + 1)^6 - 1]$$

Where:

a = net investment income earned during the period by the Portfolio Company attributable to shares owned by the sub-account

b = expenses accrued for the period (net of reimbursements)

c = the average daily number of accumulation units outstanding during the period

d = the maximum offering price per accumulation unit on the last day of the period.

Instructions:

1. Include among the expenses accrued for the period all recurring fees that are charged to all Investor Accounts. For any account fees that vary with the size of the account, assume an account size equal to the sub-account's mean (or median) account size.

2. If a broker-dealer or an affiliate (as defined in paragraph (b) of rule 1-02 of Regulation S-X [17 CFR 210.1-02(b)]) of the broker-dealer has, in connection with directing the Portfolio Company's brokerage transactions to the broker-dealer, provided, agreed to provide, paid for, or agreed to pay for, in whole or in part, services provided to the Portfolio Company (other than brokerage and research services as these terms are defined in section 28(e) of the Securities Exchange Act [15 U.S.C. 78bb(e)]), add to expenses accrued for the period an estimate of additional amounts that would have been accrued for the period if the Portfolio Company had paid for the services directly in an arms-length transaction.

3. Net investment income must be calculated by the Portfolio Company as prescribed by Item 26(b)(4) of Form N-1A.

NOTE: (a-b) = net investment income in the Item 26(b)(4) equation.

4. Disclose the amount or specific rate of any nonrecurring account or sales charges.

5. If applicable, disclose that the performance information may not reflect all Contract charges (contracts may impose certain charges that are not reflected in the performance of the sub-account, but reduce the value of an investment in the sub-account, such as optional benefit charges). State that performance would be lower if these charges were included.

(3) *Non-Standardized Performance Quotation.* A Registrant may calculate performance using any other historical measure of performance (not subject to any prescribed method of computation) if the measurement reflects all elements of return.

Item 25. Annuity Payments

Describe the method for determining the amount of annuity payments if not described in the prospectus. In addition, describe how any change in the amount of a payment after the first payment is determined.

Item 26. Financial Statements

(a) *Registrant*. Provide financial statements of the Registrant.

Instructions. Include, in a separate section, the financial statements and schedules required by Regulation S-X [17 CFR 210]. Financial statements of the Registrant may be limited to:

(i) An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

(ii) An audited statement of operations of the most recent fiscal year conforming to the requirements of rule 6-07 of Regulation S-X [17 CFR 210.6-07];

(iii) An audited statement of cash flows for the most recent fiscal year if necessary to comply with generally accepted accounting principles; and

(iv) Audited statements of changes in net assets conforming to the requirements of rule 6-09 of Regulation S-X [17 CFR 210.6-09] for the two most recent fiscal years.

(b) *Depositor*. Provide financial statements of the Depositor.

Instructions:

1. Include, in a separate section, the financial statements and schedules of the Depositor required by Regulation S-X. If the Depositor would not have to prepare financial statements in accordance with generally accepted accounting principles except for use in this registration statement or other registration statements filed on Forms N-3, N-4, or N-6, its financial statements may be prepared in accordance with statutory requirements. The Depositor's financial statements must be prepared in accordance with generally accepted accounting principles if the Depositor prepares financial information in accordance with generally accepted accounting principles for use by the Depositor's parent, as defined in rule 1-02(p) of Regulation S-X [17 CFR 210.1-02(p)],

in any report under sections 13(a) and 15(d) of the Securities Exchange Act [15 U.S.C. 78m(a) and 78*o*(d)] or any registration statement filed under the Securities Act.

2. All statements and schedules of the Depositor required by Regulation S-X, except for the consolidated balance sheets described in rule 3-01 of Regulation S-X [17 CFR 210.3-01], and any notes to these statements or schedules, may be omitted from Part B and instead included in Part C of the registration statement. If any of this information is omitted from Part B and included in Part C, the consolidated balance sheets included in Part B should be accompanied by a statement that additional financial information about the Depositor is available, without charge, upon request. When a request for the additional financial information is received, the Registrant should send the information within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

3. Notwithstanding rule 3-12 of Regulation S-X [17 CFR 210.3-12], the financial statements of the Depositor need not be more current than as of the end of the most recent fiscal year of the Depositor. In addition, when the anticipated effective date of a registration statement falls within 90 days subsequent to the end of the fiscal year of the Depositor, the registration statement need not include financial statements of the Depositor more current than as of the end of the third fiscal quarter of the most recently completed fiscal year of the Depositor unless the audited financial statements for such fiscal year are available. The exceptions to rule 3-12 of Regulation S-X contained in this Instruction 3 do not apply when:

   (a) The Depositor's financial statements have never been included in an effective registration statement under the Securities Act of a separate account that offers variable annuity contracts or variable life insurance contracts; or

   (b) The balance sheet of the Depositor at the end of either of the two most recent fiscal years included in response to this Item shows a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $2,500,000; or

   (c) The balance sheet of the Depositor at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the Securities Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the Investment Company Act) would show a combined capital surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $2,500,000. If two fiscal quarters end within the 135 day period, the Depositor may choose either for purposes of this test.

Any interim financial statements required by this Item need not be comparative with financial statements for the same interim period of an earlier year.

PART C - OTHER INFORMATION

Item 27. Exhibits

Subject to General Instruction D regarding incorporation by reference and rule 483 under the Securities Act [17 CFR 230.483], file the exhibits listed below as part of the registration statement. Letter or number the exhibits in the sequence indicated and file copies rather than originals, unless otherwise required by rule 483. Reflect any exhibit incorporated by reference in the list below and identify the previously filed document containing the incorporated material.

(a) *Board of Directors Resolution*. The resolution of the board of directors of the Depositor authorizing the establishment of the Registrant.

(b) *Custodian Agreements*. All agreements for custody of securities and similar investments of the Registrant, including the schedule of remuneration.

(c) *Underwriting Contracts*. Underwriting or distribution contracts between the Registrant or Depositor and a principal underwriter and agreements between principal underwriters or the Depositor and dealers.

(d) *Contracts*. The form of each Contract, including any riders or endorsements.

(e) *Applications*. The form of application used with any Contract provided in response to (d) above.

(f) *Depositor's Certificate of Incorporation and By-Laws*. The Depositor's current certificate of incorporation or other instrument of organization and by-laws and any related amendment.

(g) *Reinsurance Contracts*. Any contract of reinsurance related to a Contract.

(h) *Participation Agreements*. Any participation agreement or other contract relating to the investment by the Registrant in a Portfolio Company.

(i) *Administrative Contracts*. Any contract relating to the performance of administrative services in connection with administering a Contract.

(j) *Other Material Contracts*. Other material contracts not made in the ordinary course of business to be performed in whole or in part on or after the filing date of the registration statement.

(k) *Legal Opinion*. An opinion and consent of counsel regarding the legality of the securities being registered, stating whether the securities will, when sold, be legally issued and represent binding obligations of the Depositor.

(l) *Other Opinions*. Copies of any other opinions, appraisals, or rulings, and consents of their use relied on in preparing this registration statement and required by section 7 of the Securities Act [15 U.S.C. 77g].

(m) *Omitted Financial Statements*. Financial statements omitted from Item 26.

(n) *Initial Capital Agreements*. Any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, Depositor, underwriter, or initial investors and written assurances from the Depositor or initial investors that purchases were made for investment purposes and not with the intention of redeeming or reselling.

(o) *Form of Initial Summary Prospectuses*. The form of any Initial Summary Prospectus that the Registrant intends to use on or after the effective date of the registration statement, pursuant to rule 498A under the Securities Act [17 CFR 230.498A].

Instructions.

1. Schedules (or similar attachments) to the exhibits required by this Item are not required to be filed provided that they do not contain information material to an investment or voting decision and that information is not otherwise disclosed in the exhibit or the disclosure document. Each exhibit filed must contain a list briefly identifying the contents of all omitted schedules. Registrants need not prepare a separate list of omitted information if such information is already included within the exhibit in a manner that conveys the subject matter of the omitted schedules and attachments. In addition, the Registrant must provide a copy of any omitted schedule to the Commission or its staff upon request.

2. The Registrant may redact information from exhibits required to be filed by this Item if disclosure of such information would constitute a clearly unwarranted invasion of personal privacy (*e.g.*, disclosure of bank account numbers, social security numbers, home addresses and similar information).

3. The Registrant may redact provisions or terms of exhibits required to be filed by paragraphs (g) and (j) of this Item if those provisions or terms are both (i) not material and (ii) would likely cause competitive harm to the Registrant if publicly disclosed. If it does so, the Registrant should mark the exhibit index to indicate that portions of the exhibit or exhibits have been omitted and include a prominent statement on the first page of the redacted exhibit that certain identified information has been excluded from the exhibit because it is both (i) not material and (ii) would likely cause competitive harm to the Registrant if publicly disclosed. The Registrant also must indicate by brackets where the information is omitted from the filed version of the exhibit.

   If requested by the Commission or its staff, the Registrant must promptly provide an unredacted copy of the exhibit on a supplemental basis. The Commission staff also may request the Registrant to provide its materiality and competitive harm analyses on a supplemental basis. Upon evaluation of the Registrant's supplemental materials,

the Commission or its staff may request the Registrant to amend its filing to include in the exhibit any previously redacted information that is not adequately supported by the Registrant's materiality and competitive harm analyses. The Registrant may request confidential treatment of the supplemental material pursuant to rule 83 of the Commission's Organizational Rules [17 CFR 200.83] while it is in the possession of the Commission or its staff. After completing its review of the supplemental information, the Commission or its staff will return or destroy it at the request of the Registrant, if the Registrant complies with the procedures outlined in rule 418 under the Securities Act [17 CFR 230.418].

4. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active link to an exhibit that is filed with the registration statement or, if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR. If the registration statement is amended, each amendment must include active hyperlinks to the exhibits required with the amendment.

5. Registrants are required to provide the Initial Summary Prospectus exhibits, as required by paragraph (o) of this Item, only in connection with the filing of an initial registration statement, or in connection with a pre-effective amendment or a post-effective amendment filed in accordance with paragraph (a) of rule 485 under the Securities Act [17 CFR 230.485(a)]. Registrants should add a legend clearly identifying the document as a form of Initial Summary Prospectus the Registrant intends to use on or after the effective date of the registration statement.

Item 28. Directors and Officers of the Depositor

Provide the following information about each director or officer of the Depositor:

(1) Name and Principal Business Address	(2) Positions and Offices with Depositor

Instruction. Registrants are required to provide the above information only for officers or directors who are engaged directly or indirectly in activities relating to the Registrant or the Contracts, and for executive officers including the Depositor's president, secretary, treasurer, and vice presidents who have authority to act as president in his or her absence.

Item 29. Persons Controlled by or Under Common Control with the Depositor or the Registrant

Provide a list or diagram of all persons directly or indirectly controlled by or under common control with the Depositor or the Registrant. For any person controlled by another person, disclose the percentage of voting securities owned by the immediately controlling person or other basis of that person's control. For each company, also provide the state or other sovereign power under the laws of which the company is organized.

Instructions:

1. Include the Registrant and the Depositor in the list or diagram and show the relationship of each company to the Registrant and Depositor and to the other companies named, using cross-references if a company is controlled through direct ownership of its securities by two or more persons.

2. Indicate with appropriate symbols subsidiaries that file separate financial statements, subsidiaries included in consolidated financial statements, or unconsolidated subsidiaries included in group financial statements. Indicate for other subsidiaries why financial statements are not filed.

Item 30. Indemnification

State the general effect of any contract, arrangements, or statute under which any underwriter or affiliated person of the Registrant is insured or indemnified against any liability incurred in his or her official capacity, other than insurance provided by any underwriter or affiliated person for his or her own protection.

Item 31. Principal Underwriters

(a) *Other Activity*. State the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing the Registrant's securities also acts as a principal underwriter, depositor, sponsor, or investment adviser.

(b) *Management*. Provide the information required by the following table for each director, officer, or partner of each principal underwriter named in the response to Item 23:

(1) Name and Principal Business Address	(2) Positions and Offices with Underwriter

Instruction. If a principal underwriter is the Depositor or an affiliate of the Depositor, and is also an insurance company, the above information for officers or directors need only be provided for officers or directors who are engaged directly or indirectly in activities relating to the Registrant or the Contracts, and for executive officers including the Depositor's or its affiliate's president, secretary, treasurer, and vice presidents who have authority to act as president in his or her absence.

(c) *Compensation From the Registrant*. Provide the information required by the following table for all commissions and other compensation received, directly or indirectly, from the Registrant during the Registrant's last fiscal year by each principal underwriter:

(1) Name of	(2) Net	(3) Compensation	(4) Brokerage	(5) Other

Principal Underwriter	Underwriting Discounts	on Redemption	Commission	Compensation

Instructions:

1. Disclose the type of services rendered in consideration for the compensation listed under column (5).

2. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

3. Exclude information about bona fide contracts with the Registrant or its Depositor for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant or its Depositor in the ordinary course of business.

4. Exclude information about any service for which total payments of less than $15,000 were made during each of the Registrant's last three fiscal years.

5. Exclude information about payments made under any agreement whereby another person contracts with the Registrant or its Depositor to perform as custodian or administrative or servicing agent.

Item 32. Location of Accounts and Records

State the name and address of each person maintaining physical possession of each account, book, or other document, required to be maintained by section 31(a) of the Investment Company Act [15 U.S.C. 80a-30(a)] and the rules under that section.

Instruction. The Registrant may omit this information to the extent it is provided in its most recent report on Form N-CEN [17 CFR 274.101].

Item 33. Management Services

Provide a summary of the substantive provisions of any management-related service contract not discussed in Part A or Part B, disclosing the parties to the contract and the total amount paid and by whom for the Registrant's last three fiscal years.

Instructions:

1. The instructions to Item 21(b) shall also apply to this Item.

2. Exclude information about any service provided for payments totaling less than $15,000 during each of the Registrant's last three fiscal years.

Item 34. Fee Representation

Provide a representation of the Depositor that the fees and charges deducted under the Contracts, in the aggregate, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the Depositor.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933 and the Investment Company Act of 1940, the Registrant (certifies that it meets all of the requirements for effectiveness of this registration statement under rule 485(b) under the Securities Act and) has duly caused this registration statement to be signed on its behalf by the undersigned, duly authorized, in the City of_____, and State of _____, on this____day of_____,_____.

_____
(Registrant)

By _____
(Signature)

_____
(Title)

_____
(Depositor)

By _____
(Name of Officer of Depositor)

_____
(Title)

Instruction:

If the registration statement is being filed only under the Securities Act or under both the Securities Act and the Investment Company Act, it should be signed by both the Registrant and the Depositor. If the registration statement is being filed only under the Investment Company Act, it should be signed only by the Registrant.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

_____	_____	_____
Signature	Title	Date

48. Effective January 1, 2022, Form N-4 (referenced in §§239.17b and 274.11c) is further amended by removing paragraph (a)(9) of Item 1.

49. Revise Form N-6 (referenced in §§239.17c and 274.11d) to read as follows:

Note: The text of Form N-6 will not appear in the Code of Federal Regulations.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM N-6

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Pre-Effective Amendment No. _____ [ ]

Post-Effective Amendment No. _____ [ ]

and/or

REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

Amendment No. _____ [ ]

(Check appropriate box or boxes.)

_____

(Exact Name of Registrant)

_____

(Name of Depositor)

_____

(Address of Depositor's Principal Executive Offices) (Zip Code)

_____

(Depositor's Telephone Number, including Area Code)

_____

(Name and Address of Agent for Service)

Approximate Date of Proposed Public Offering: _____

It is proposed that this filing will become effective (check appropriate box):

[ ] immediately upon filing pursuant to paragraph (b)
[ ] on (date) pursuant to paragraph (b)
[ ] 60 days after filing pursuant to paragraph (a)(1)
[ ] on (date) pursuant to paragraph (a)(1) of rule 485 under the Securities Act.

If appropriate, check the following box:

[ ] this post-effective amendment designates a new effective date for a previously-filed post-effective amendment.

Omit from the facing sheet reference to the other Act if the registration statement or amendment is filed under only one of the Acts. Include the "Approximate Date of Proposed

Public Offering" only where securities are being registered under the Securities Act of 1933.

Form N-6 is to be used by separate accounts that are unit investment trusts that offer variable life insurance contracts to register under the Investment Company Act of 1940 and to offer their securities under the Securities Act of 1933. The Commission has designed Form N-6 to provide investors with information that will assist them in making a decision about investing in a variable life insurance contract. The Commission also may use the information provided on Form N-6 in its regulatory, disclosure review, inspection, and policy-making roles.

A Registrant is required to disclose the information specified by Form N-6, and the Commission will make this information public. A Registrant is not required to respond to the collection of information contained in Form N-6 unless the Form displays a currently valid Office of Management and Budget ("OMB") control number. Please direct comments concerning the accuracy of the information collection burden estimate and any suggestions for reducing the burden to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549. The OMB has reviewed this collection of information under the clearance requirements of 44 U.S.C. § 3507

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

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GENERAL INSTRUCTIONS

A. Definitions

References to sections and rules in this Form N-6 are to the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq*.] (the "Investment Company Act"), unless otherwise indicated. Terms used in this Form N-6 have the same meaning as in the Investment Company Act or the related rules, unless otherwise indicated. As used in this Form N-6, the terms set out below have the following meanings:

"Class" means a version of a Variable Life Insurance Contract that varies principally with respect to distribution-related fees and expenses.

"Depositor" means the person primarily responsible for the organization of the Registrant and the person, other than the trustee or custodian, who has continuing functions or responsibilities for the administration of the affairs of the Registrant. "Depositor" includes the sponsoring insurance company that establishes and maintains the Registrant. If there is more

than one Depositor, the information called for in this Form about the Depositor shall be provided for each Depositor.

"Investor Account" means any account of a contract owner, participant, or beneficiary to which (net) premiums under a variable life contract are added and from which contract or transaction expenses may be subtracted.

"Platform Charge" means any fee charged by the Registrant to make a Portfolio Company available as an investment option under the Contract, and that varies solely on the basis of the Portfolio Company selected.

"Portfolio Company" means any company in which the Registrant invests and which may be selected as an option by the investor.

"Registrant" means the separate account (as defined in section 2(a)(37) of the Investment Company Act [15 U.S.C. 80a-2(a)(37)]) that offers the Variable Life Insurance Contracts.

"SAI" means the Statement of Additional Information required by Part B of this Form.

"Securities Act" means the Securities Act of 1933 [15 U.S.C. 77a *et seq*.].

"Securities Exchange Act" means the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq*.].

"Statutory Prospectus" means a prospectus that satisfies the requirements of section 10(a) of the Securities Act [15 U.S.C. 77j(a)].

"Summary Prospectus" has the meaning provided by paragraph (a)(11) of rule 498A under the Securities Act [17 CFR 230.498A(a)(11)].

"Variable Life Insurance Contract" or "Contract" means a life insurance contract that provides for death benefits and cash values that may vary with the investment experience of any separate account. Unless the context otherwise requires, "Variable Life Insurance Contract" or "Contract" refers to the Variable Life Insurance Contracts being offered pursuant to the registration statement prepared on this Form.

B. Filing and Use of Form N-6

1. What is Form N-6 used for?

Form N-6 is used by all separate accounts organized as unit investment trusts and offering Variable Life Insurance Contracts to file:

(a) An initial registration statement under the Investment Company Act and any amendments to the registration statement;

(b) An initial registration statement required under the Securities Act and any amendments to the registration statement, including amendments required by section 10(a)(3) of the Securities Act [15 U.S.C. 77j(a)(3)]; or

(c) Any combination of the filings in paragraph (a) or (b).

2. What is included in the registration statement?

(a) For registration statements or amendments filed under both the Investment Company Act and the Securities Act or only under the Securities Act, include the facing sheet of the Form, Parts A, B, and C, and the required signatures.

(b) For registration statements or amendments filed only under the Investment Company Act, include the facing sheet of the Form, responses to all Items of Parts A (except Items 1, 4, 5, 10, and 17), B, and C (except Items 29(c), (k), (l), (n), and (o)), and the required signatures.

3. What are the fees for Form N-6?

No registration fees are required for a filing on Form N-6 to register as an investment company under the Investment Company Act or to register securities under the Securities Act. If a filing on Form N-6 is made to register securities under the Securities Act and securities are sold to the public, registration fees must be paid on an ongoing basis after the end of the Registrant's fiscal year. *See* section 24(f) [15 U.S.C. 80a-24(f)] and related rule 24f-2 [17 CFR 270.24f-2].

4. What rules apply to the filing of a registration statement on Form N-6?

(a) For registration statements and amendments filed under both the Investment Company Act and the Securities Act or under only the Securities Act, the general rules under the Securities Act, particularly the rules regarding the filing of registration statements in Regulation C [17 CFR 230.400 - 230.498A] apply to the filing of registration statements on Form N-6. Specific requirements concerning investment companies appear in rules 480 - 488 and 495 - 498A of Regulation C.

(b) For registration statements and amendments filed only under the Investment Company Act, the general rules under the Investment Company Act, particularly the provisions in rules 8b-1 – 8b-31 [17 CFR 270.8b-1 to 8b-31] apply to the filing of registration statements on Form N-6.

(c) The plain English requirements of rule 421(d) under the Securities Act [17 CFR 230.421(d)] apply to prospectus disclosure in Part A of Form N-6.

(d) Regulation S-T [17 CFR 232.10 - 232.501] applies to all filings on the Commission's Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR").

C. Preparation of the Registration Statement

1. Administration of the Form N-6 Requirements

(a) The requirements of Form N-6 are intended to promote effective communication between the Registrant and prospective investors. A Registrant's prospectus should clearly disclose the fundamental features and risks of the Variable Life Insurance Contracts, using concise, straightforward, and easy to understand language. A Registrant should use document design techniques that promote effective communication.

(b) The prospectus disclosure requirements in Form N-6 are intended to elicit information for an average or typical investor who may not be sophisticated in legal or financial matters. The prospectus should help investors to evaluate the risks of an investment and to decide whether to invest in a Variable Life Insurance Contract by providing a balanced disclosure of positive and negative factors. Disclosure in the prospectus should be designed to assist an investor in comparing and contrasting a Variable Life Insurance Contract with other Contracts.

(c) Responses to the Items in Form N-6 should be as simple and direct as reasonably possible and should include only as much information as is necessary to enable an average or typical investor to understand the particular characteristics of the Variable Life Insurance Contracts. The prospectus should avoid including lengthy legal and technical discussions and simply restating legal or regulatory requirements to which Contracts generally are subject. Brevity is especially important in describing the practices or aspects of the Registrant's operations that do not differ materially from those of other separate accounts. Avoid excessive detail, technical or legal terminology, and complex language, including the use of formulas as the primary means of communicating certain terms or features of the Contract. Also avoid lengthy sentences and paragraphs that may make the prospectus difficult for investors to understand and detract from its usefulness.

(d) The requirements for prospectuses included in registration statements on Form N-6 will be administered by the Commission in a way that will allow variances in disclosure or presentation if appropriate for the circumstances involved while remaining consistent with the objectives of Form N-6.

2. Form N-6 is divided into three parts:

(a) *Part A.* Part A includes the information required in a Registrant's prospectus under section 10(a) of the Securities Act. The purpose of the prospectus is to provide essential information about the Registrant and the Contracts in a way that will help investors to make informed decisions about whether to purchase the securities described in the prospectus. In responding to the Items in Part A, avoid cross-references to the SAI. Cross-references within the prospectus are most useful when

their use assists investors in understanding the information presented and does not add complexity to the prospectus.

(b) *Part B*. Part B includes the information required in a Registrant's SAI. The purpose of the SAI is to provide additional information about the Registrant and the Contracts that the Commission has concluded is not necessary or appropriate in the public interest or for the protection of investors to be in the prospectus, but that some investors may find useful. Part B affords the Registrant an opportunity to expand discussions of the matters described in the prospectus by including additional information that the Registrant believes may be of interest to some investors. The Registrant should not duplicate in the SAI information that is provided in the prospectus, unless necessary to make the SAI comprehensible as a document independent of the prospectus.

(c) *Part C*. Part C includes other information required in a Registrant's registration statement.

3. Additional Matters

(a) *Organization of Information*. Organize the information in the prospectus and SAI to make it easy for investors to understand. Notwithstanding rule 421(a) under the Securities Act [17 CFR 230.421(a)] regarding the order of information required in a prospectus, disclose the information required by Item 2 (Key Information), Item 3 (Overview of the Contract), and Item 4 (Fee Table) in numerical order at the front of the prospectus. Do not precede Items 2, 3, and 4 with any other Item except the Cover Page (Item 1), a glossary, if any (General Instruction C.3.(d)), or a table of contents meeting the requirements of rule 481(c) under the Securities Act [17 CFR 230.481(c)]. If the discussion of the information required by Items 2 or 3 also responds to disclosure requirements in other items of the prospectus, a Registrant need not include additional disclosure in the prospectus that repeats the information disclosed in response to Items 2 and 3.

(b) *Other Information*. A Registrant may include, except in response to Items 2 and 3, information in the prospectus or the SAI that is not otherwise required so long as the information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of the information that is required to be included. For example, Registrants are free to include in the prospectus financial statements required to be in the SAI, and may include in the SAI financial statements that may be placed in Part C. However, information regarding non-principal risks that is not otherwise required to be in the prospectus must be disclosed in the SAI and not the prospectus, in accordance with Items 5 and 21.

(c) *Presentation of Information*. To aid investor comprehension, Registrants are encouraged to use, as appropriate, question-and-answer formats, tables, side-by-side comparisons, captions, bullet points, numeric examples, illustrations or similar

presentation methods. For example, such presentation methods would be appropriate when presenting disclosure for similar Contract features, prospectuses describing multiple Variable Life Insurance Contracts, or the operation of optional benefits.

(d) *Use of Terms.*

(i) *Definitions*. Define the special terms used in the prospectus (*e.g.*, accumulation unit, participant, sub-account, etc.) in any presentation that clearly conveys meaning to investors. If the Registrant elects to include a glossary or list of definitions, only special terms used throughout the prospectus must be defined or listed. If a special term is used in only one section of the prospectus, it may be defined there (and need not be included in any glossary or list of definitions that the Registrant includes).

(ii) *Alternate Terminology*. A Registrant may use alternate terminology other than that used in the form so long as the terminology used by the Registrant clearly conveys the meaning of, or provides comparable information as, the terminology included in the form.

(e) *Use of Form N-6 to Register Multiple Contracts*.

(i) A single prospectus may describe multiple Contracts that are essentially identical. Whether the prospectus describes Contracts that are "essentially identical" will depend on the facts and circumstances. For example, a Contract that does not offer optional benefits would not be essentially identical to one that does for a charge. Similarly, group and individual Contracts would not be essentially identical. However, Contracts that vary only due to state regulatory requirements would be essentially identical.

(A) Paragraph (a) of General Instruction C.3 requires Registrants to disclose the information required by Items 2, 3, and 4 in numerical order at the front of the prospectus and generally not to precede the Items with other information. As a general matter, Registrants providing disclosure in a single prospectus for more than one Contract, may depart from the requirement of paragraph (a) as necessary to present the required information clearly and effectively (although the order of information required by each Item must remain the same). For example, the prospectus may present all of the Item 2 information for several Contracts (*e.g.*, by providing several Key Information Tables sequentially or by providing a single Key Information Table containing separate disclosures for each Contract to the extent that such disclosures would vary by Contract), followed by all of the Item 3 information for the Contracts, and followed by all of the Item 4 information for the Contracts. Alternatively, the prospectus may present Items 2, 3, and 4 for each of several Contracts sequentially. Other presentations also would be acceptable if they are consistent with the Form's intent to disclose the information required by Items 2, 3, and 4 in a standard order

at the beginning of the prospectus. Registrants that present Items 2, 3, and 4 for each of several Contracts sequentially or that utilize another presentation should consider whether investors might benefit from a brief explanation about how the information in the prospectus is presented, such as headings for each contract in the prospectus' table of contents and/or a brief narrative at the beginning of the prospectus explaining the presentation. Registrants are encouraged to present information in a manner that limits repetition.

(B) The Registrant should generally include appropriate titles, headings, or any other information to promote clarity and facilitate understanding regarding which disclosures apply to which Contract, if such disclosures would vary based on the Contract.

(ii) Multiple prospectuses may be combined in a single registration statement on Form N-6 when the prospectuses describe Contracts that are substantially similar. For example, a Registrant could determine it is appropriate to include multiple prospectuses in a registration statement in the following situations: (i) the prospectuses describe the same Contract that is sold through different distribution channels; (ii) the prospectuses describe Contracts that differ only with respect to Portfolio Companies offered; or (iii) the prospectuses describe both the original and a modified version of the same Contract (where the "modified" version differs in the features or options that the Registrant offers under that Contract).

(f) *Dates.* Rule 423 under the Securities Act [17 CFR 230.423] applies to the dates of the prospectus and the SAI. The SAI should be made available at the same time that the prospectus becomes available for purposes of rules 430 and 460 under the Securities Act [17 CFR 230.430 and 230.460].

(g) *Sales Literature.* A Registrant may include sales literature in the prospectus so long as the amount of this information does not add substantial length to the prospectus and its placement does not obscure essential disclosure.

(h) *Interactive Data File*

(i) An Interactive Data File (see rule 232.11 of Regulation S-T [17 CFR 232.11]) is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S-T [17 CFR 232.405] for any registration statement or post-effective amendment thereto on Form N-6 that includes or amends information provided in response to Items 2, 4, 5, 10, 11, or 18 with regards to Contracts that are being sold to new investors.

(A) Except as required by paragraph (h)(i)(B), the Interactive Data File must be submitted as an amendment to the registration statement to which the Interactive Data File relates. The amendment must be submitted on or before the date the registration statement or post-effective amendment that contains the related information becomes effective.

(B) In the case of a post-effective amendment to a registration statement filed pursuant to paragraphs (b)(1)(i), (ii), (v), (vi), or (vii) of rule 485 under the Securities Act [17 CFR 230.485(b)], the Interactive Data File must be submitted either with the filing, or as an amendment to the registration statement to which the Interactive Data Filing relates that is submitted on or before the date the post-effective amendment that contains the related information becomes effective.

(ii) An Interactive Data File is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S-T for any form of prospectus filed pursuant to paragraphs (c) or (e) of rule 497 under the Securities Act [17 CFR 230.497(c) or (e)] that includes information provided in response to Items 2, 4, 5, 10, 11, or 18 that varies from the registration statement with regards to Contracts that are being sold to new investors. The Interactive Data File must be submitted with the filing made pursuant to rule 497.

(iii)The Interactive Data File must be submitted in accordance with the specifications in the EDGAR Filer Manual, and in such a manner that will permit the information for each Contract, and, for any information that does not relate to all of the Classes in a filing, each Class of the Contract to be separately identified.

(i) *Website Addresses.* Any website address included in an electronic version of the Statutory Prospectus must include an active hyperlink or other means of facilitating access that leads directly to the relevant website address. This requirement does not apply to an electronic Statutory Prospectus filed on the EDGAR system.

D. Incorporation by Reference

1. General Requirements

All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: rule 411 under the Securities Act [17 CFR 230.411] (general rules on incorporation by reference in a prospectus); rule 303 of Regulation S-T [17 CFR 232.303] (specific requirements for electronically filed documents); and rule 0-4 under the Investment Company Act [17 CFR 270.0-4] (additional rule on incorporation by reference for investment companies). In general, a Registrant may incorporate by reference, in the answer to any item of Form N-4 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

2. Specific Rules for Incorporation by Reference in Form N-6

(a) A Registrant may not incorporate by reference into a prospectus information that Part A of this Form requires to be included in a prospectus, except as specifically permitted by Part A of the Form.

(b) A Registrant may incorporate by reference any or all of the SAI into the prospectus (but not to provide any information required by Part A to be included in the prospectus) without delivering the SAI with the prospectus.

(c) A Registrant may incorporate by reference into the SAI or its response to Part C information that Parts B and C require to be included in the Registrant's registration statement.

PART A - INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Front and Back Cover Pages

(a) *Front Cover Page*. Include the following information on the outside front cover page of the prospectus:

(1) The Registrant's name.

(2) The Depositor's name.

(3) The types of Variable Life Insurance Contracts offered by the prospectus (*e.g.*, group, individual, scheduled premium, flexible premium).

(4) The name of the Contract and the Class or Classes, if any, to which the Contract relates.

(5) The date of the prospectus.

(6) The statement required by rule 481(b)(1) under the Securities Act [17 CFR 230.481(b)(1)].

(7) The statement that additional information about certain investment products, including variable life insurance, has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

(8) If applicable, the legend: "If you are a new investor in the Contract, you may cancel your Contract within 10 days of receiving it without paying fees or penalties. In some states, this cancellation period may be longer. Upon cancellation, you will receive either a full refund of the amount you paid with your application or your total Contract value. You should review this prospectus, or consult with your investment professional, for additional information about the specific cancellation terms that apply."

(9) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the shareholder reports for portfolio companies [available under

your Contract] will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all portfolio companies [available under your Contract].

Instruction. A Registrant may include on the front cover page any additional information, subject to the requirements of General Instruction C.3.(b) and (c).

(b) *Back Cover Page*. Include the following information on the outside back cover page of the prospectus:

(1) A statement that the SAI includes additional information about the Registrant. Explain that the SAI is available, without charge, upon request, and explain how investors may make inquiries about their Contracts. Provide a toll-free (or collect) telephone number for investors to call to request the SAI, to request other information about the Contracts, and to make investor inquiries.

Instructions.

1. A Registrant may indicate, if applicable, that the SAI and other information are available on its website and/or by email request.

2. A Registrant may indicate, if applicable, that the SAI and other information are available from an insurance agent or financial intermediary (such as a broker-dealer or bank) through which the Contracts may be purchased or sold.

3. When a Registrant (or an insurance agent or financial intermediary through which Contracts may be purchased or sold) receives a request for the SAI, the Registrant (or insurance agent or financial intermediary) must send the SAI within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

(2) A statement whether and from where information is incorporated by reference into the prospectus as permitted by General Instruction D. Unless the information is delivered with the prospectus, explain that the Registrant will provide the information without charge, upon request (referring to the telephone number provided in response to paragraph (b)(i)).

Instruction. The Registrant may combine the information about incorporation by reference with the statements required under paragraph (b)(i).

(3) A statement that reports and other information about the Registrant are available on the Commission's website at http://www.sec.gov, and that copies of this information may be obtained, upon payment of a duplicating fee, by electronic request at the following email address: publicinfo@sec.gov.

(4) The EDGAR contract identifier for the Contract on the bottom of the back cover page in type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).

Item 2. Key Information

Include the following information:

Important Information You Should Consider About the [Contract]

FEES AND EXPENSES	
Charges for Early Withdrawals	
Transaction Charges	
Ongoing Fees and Expenses (annual charges)	
RISKS	
Risk of Loss	
Not a Short-Term Investment	
Risks Associated with Investment Options	
Insurance Company Risks	
Contract Lapse	

RESTRICTIONS	
Investments	
Optional Benefits	
TAXES	
Tax Implications	
CONFLICTS OF INTEREST	
Investment Professional Compensation	
Exchanges	

Instructions.

1. *General.*

   (a) Disclose the required information in the tabular presentation(s) reflected herein, in the order specified. A Registrant may exclude any disclosures that are not applicable, or modify any of the statements required to be included, so long as the modified statement contains comparable information. Notwithstanding this instruction and General Instruction C.3.(d)(ii), the title, headings, and sub-headings for this tabular presentation may not be modified or substituted with alternate terminology unless otherwise provided.

   (b) Provide cross-references to the location in the Statutory Prospectus where the subject matter is described in greater detail. Cross-references in electronic versions of the Summary Prospectus and/or Statutory Prospectus should link directly to the location in the Statutory Prospectus where the subject matter is discussed in greater detail, or should provide a means of facilitating access to that information through equivalent methods or technologies. The cross-reference should be adjacent to the relevant disclosure, either within the table row, or presented in an additional table column.

   (c) All disclosures provided in response to this Item should be short and succinct, consistent with the limitations of a tabular presentation.

2. *Fees and Expenses.*

(a) *Charges for Early Withdrawals.* Include a statement that if the investor withdraws money from the Contract within [x] years following his or her last premium payment, he or she will be assessed a surrender charge. Include in this statement the maximum surrender charge (as a percentage of [contribution/premium or amount surrendered]), and the maximum number of years that a surrender charge may be assessed since the last premium payment under the Contract. Provide an example of the maximum surrender charge an investor could pay (in dollars) under the Contract assuming a $100,000 investment (*e.g.*, "[i]f you make an early withdrawal, you could pay a surrender charge of up to $9,000 on a $100,000 investment.").

(b) *Transaction Charges.* State that in addition to surrender charges (if applicable), the investor may also be charged for other transactions, and provide a brief narrative description of the types of such charges (*e.g.*, front-end loads, charges for transferring cash value between investment options, charges for wire transfers, etc.).

(c) *Ongoing Fees and Expenses (annual charges).*

(i) Briefly state that in addition to surrender charges and transaction charges, an investment in the Contract is subject to certain ongoing fees and expenses, including fees and expenses covering the cost of insurance under the Contract and the cost of optional benefits available under the Contract, and that such fees and expenses are set based on characteristics of the insured (*e.g.*, age, sex, and rating classification). State that investors should view the policy specifications page of their Contract for rates applicable to their Contract.

(ii) Briefly state that investors will also bear expenses associated with the Portfolio Companies under the Contract, as shown in the following table:

Annual Fee	**Minimum**	**Maximum**
Investment options (Portfolio Company fees and expenses)	[ ]%	[ ]%

(A) If a Registrant offers multiple Portfolio Companies under the Contract, it should disclose the minimum and maximum "Total Annual Portfolio Company Operating Expenses" calculated in accordance with Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A] (before expense reimbursements or fee waiver arrangements). If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the Registrant should include the maximum Platform Charge associated with each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses.

(B) The Minimum Annual Fee means the lowest Portfolio Company Total Annual Operating Expenses. The Maximum Annual Fee means the highest Portfolio Company Total Operating Expenses.

3. *Risks.*

(a) *Risk of Loss.* State that an investor can lose money by investing in the Contract.

(b) *Not a Short-Term Investment.* State that a Contract is not a short-term investment and is not appropriate for an investor who needs ready access to cash, accompanied by a brief explanation.

(c) *Risks Associated with Investment Options.* State that an investment in the Contract is subject to the risk of poor investment performance and can vary depending on the performance of the investment options available under the Contract (*e.g.*, Portfolio Companies), that each investment option (including any fixed account investment option) will have its own unique risks, and that the investor should review these investment options before making an investment decision.

(d) *Insurance Company Risks.* State that an investment in the Contract is subject to the risks related to the Depositor, including that any obligations (including under any fixed account investment options), guarantees, or benefits are subject to the claims-paying ability of the Depositor. Further state that more information about the Depositor, including if applicable its financial strength ratings, is available upon request, and indicate how such requests can be made (*e.g.*, via toll-free telephone number).

Instruction. A Registrant may include the Depositor's financial strength rating(s) and omit the portion of the disclosures regarding the availability of the Depositor's financial strength ratings specified by the last sentence of Instruction 3.(d).

(e) *Contract Lapse.* Briefly state (1) the circumstances under which the Contract may lapse (*e.g.*, insufficient premium payments, poor investment performance, withdrawals, unpaid loans or loan interest), (2) whether there is a cost associated with reinstating a lapsed Contract, and (3) that death benefits will not be paid if the Contract has lapsed.

4. *Restrictions.*

   (a) *Investments.* State whether there are any restrictions that may limit the investments that an investor may choose, as well as any limitations on the transfer of Contract value among Portfolio Companies. If applicable, state that the insurer reserves the right to remove or substitute Portfolio Companies as investment options.

   (b) *Optional Benefits.* State whether there are any restrictions or limitations relating to optional benefits, and/or whether an optional benefit may be modified or terminated by the Registrant. If applicable, state that withdrawals that exceed limits specified by the terms of an optional benefit may affect the availability of the benefit by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate the benefit.

5. *Taxes—Tax Implications*. State that an investor should consult with a tax professional to determine the tax implications of an investment in and payments received under the Contract, and that there is no additional tax benefit to the investor if the Contract is purchased through a tax-qualified plan or individual retirement account (IRA). Explain that withdrawals will be subject to ordinary income tax, and may be subject to tax penalties.

6. *Conflicts of Interest.*

   (a) *Investment Professional Compensation*. State that some investment professionals may receive compensation for selling the Contract to investors, and briefly describe the basis upon which such compensation is typically paid (*e.g.*, commissions, revenue sharing, compensation from affiliates and third parties). State that these investment professionals may have a financial incentive to offer or recommend the Contract over another investment.

   (b) *Exchanges.* State that some investment professionals may have a financial incentive to offer an investor a new contract in place of the one he or she already owns, and that an investor should only exchange his or her Contract if he or she determines, after comparing the features, fees, and risks of both contracts, that it is preferable for him or her to purchase the new contract rather than continue to own the existing Contract.

Instruction. A Registrant may omit these line-items if neither the Registrant nor any of its related companies pay financial intermediaries for the sale of the Contract or related services.

Item 3. Overview of the Contract

Provide a concise description of the Contract, including the following information:

(a) *Purpose.* Briefly describe the purpose(s) of the Contract (*e.g.*, to help the investor accumulate assets through an investment portfolio, to provide or supplement the

investor's retirement income, to provide death and/or other benefits). State for whom the Contract may be appropriate (*e.g.*, by discussing a representative investor's time horizon, liquidity needs, and financial goals).

(b) *Premiums.* Briefly describe the payment of premiums under the Contract.

(1) State whether premiums may vary in timing and amount (*e.g.*, flexible premiums).

(2) State whether restrictions may be imposed on premiums (*e.g.*, by age of insured, or by amount).

(3) Describe how premiums may be allocated. This discussion should include a brief overview of the investment options available under the Contract, as well as any "fixed account" (general account) investment options.

Instructions.

1. Prominently disclose that additional information about each Portfolio Company is provided in an appendix to the prospectus, and provide a cross-reference to the appendix.

2. A detailed explanation of the separate account, sub-accounts, Portfolio Companies, and any "fixed account" (general account) investment options is not necessary and should be avoided.

(4) State that payment of insufficient premiums may result in a lapse of the Contract.

(c) *Contract Features.* Summarize the Contract's primary features, including death benefits, withdrawal options, loan provisions, and any available optional benefits. If applicable, state that the investor will incur an additional fee for selecting a particular benefit.

Item 4. Fee Table

Include the following information:

The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering or making withdrawals from the Contract. Please refer to your Contract specifications page for information about the specific fees you will pay each year based on the options you have elected.

The first table describes the fees and expenses that you will pay at the time that you buy the Contract, surrender or make withdrawals from the Contract, or transfer cash value between investment options.

Transaction Fees

Charge	When Charge is Deducted	Amount Deducted
Maximum Sales Charge Imposed on Premiums (Load)		
Premium Taxes		
Maximum Deferred Sales Charge (Load)		
Other Surrender Fees		
Transfer Fees		

The next table describes the fees and expenses that you will pay periodically during the time that you own the Policy, not including Portfolio Company fees and expenses.

Periodic Charges Other Than Annual Portfolio Company Expenses		
Charge	**When Charge is Deducted**	**Amount Deducted**
Base Contract Charge:		
Cost of Insurance*: *Minimum and Maximum Charge*		
Charge for a Representative Investor		
Annual Maintenance Fee		
Mortality and Expense Risk Fees		
Administrative Expenses		
Optional Benefit Charges:		

* [Footnote: Include disclosure required by Instruction 3(b).]

The next item shows the minimum and maximum total operating expenses charged by the Portfolio Companies that you may pay periodically during the time that you own the Contract. [These amounts also include applicable Platform Charges if you choose to invest in certain Portfolio Companies.] A complete list of Portfolio Companies available under the Contract, including their annual expenses, may be found at the back of this document.

Annual Portfolio Company Expenses	Minimum	Maximum
(expenses that are deducted from Portfolio Company assets, including management fees, distribution [and/or service] (12b-1) fees, and other expenses)	_____%	_____%

Instructions.

1. *General*.

   (a) Round all percentages to the nearest hundredth of one percent.

   (b) Include the narrative explanations in the order indicated. A Registrant may modify a narrative explanation if the explanation contains comparable information to that shown.

   (c) A Registrant may omit captions if the Registrant does not charge or reserve the right to charge the fees or expenses covered by the captions.

   (d) If a Registrant uses one prospectus to offer a Contract in both the group and individual variable life markets, the Registrant may include narrative disclosure in a footnote or following the tables identifying markets where certain fees are either inapplicable or waived or lower fees are charged. In the alternative, a Registrant may present the information for group and individual contracts in another format consistent with General Instruction C.3.(c).

   (e) The "When Charge is Deducted" column must be used to show when a charge is deducted, *e.g.*, upon purchase, surrender or withdrawal, policy anniversary, monthly, or daily.

   (f) Under the "Amount Deducted" column, the Registrant must disclose the maximum guaranteed charge unless a specific instruction directs otherwise. The Registrant should include the basis on which the charge is imposed (*e.g.*, 0.95% of average daily net assets, $5 per exchange, $5 per thousand dollars of face amount). The Registrant may disclose the current charge, in addition to the maximum charge, if the disclosure of the current charge is no more prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge. In addition, the Registrant may include in a footnote to the table a tabular, narrative, or other presentation providing further detail regarding variations in the charge. For

example, if deferred sales charges decline over time, the Registrant may include in a footnote a presentation regarding the scheduled reductions in the deferred sales charges. Charges assessed on the basis of the face amount should be disclosed as the charge per $1000 of face amount.

(g) Provide a separate fee table (or separate column within the table) for each Contract form offered by the prospectus that has different fees.

(h) For a Contract with more than one Class, provide a separate response for each Class.

2. *Transaction Fees*.

(a) "Other Surrender Fees" include any fees charged for surrender or withdrawal, other than sales charges imposed upon surrender or withdrawal.

(b) "Transfer Fees" include any fees charged for any transfer or exchange of cash value from the Registrant to another investment company, from one sub-account of the Registrant to another sub-account or the Depositor's general account, or from the Depositor's general account to the Registrant.

(c) If the Registrant (or any other party pursuant to an agreement with the Registrant) charges any other transaction fee, add another caption describing it and complete the other columns of the table for that fee.

3. *Periodic Charges Other Than Annual Portfolio Company Expenses*.

(a) The Registrant may substitute the term used in the prospectus to refer to the Portfolio Companies for the bracketed portion of the caption provided.

(b) For "Cost of Insurance" and any other charges that depend on investor characteristics, such as age or rating classification, the Registrant should disclose the minimum and maximum charges that may be imposed for a Contract, and the charges that may be paid by a representative investor, using appropriate sub-captions. In a footnote to the table, disclose (i) that the cost of insurance or other charge varies based on individual characteristics; (ii) that the cost of insurance charge or other charge shown in the table may not be representative of the charge that a particular investor will pay; and (iii) how the investor may obtain more information about the particular cost of insurance or other charges that would apply to him or her.

(i) In disclosing cost of insurance or other charges that depend on investor characteristics for a representative investor, the Registrant should assume characteristics (*e.g.*, sex, age, and rating classification) that are fairly representative of actual or expected Contract sales, and describe these characteristics in the sub-caption for the charge (*e.g.*, "charge for a 40-year-

old non-smoking female"). The rating classification used for the representative investor should be the classification with the greatest number of outstanding Contracts (or expected Contracts in the case of a new Contract), unless this rating classification is not fairly representative of actual or expected Contract sales. In this case, the Registrant should use a commonly used rating classification that is fairly representative of actual or expected Contract sales.

(ii) The Registrant may supplement this disclosure of the minimum charges, maximum charges, and charges for a representative investor with additional disclosure immediately following the fee table. For example, the additional disclosure may include an explanation of the factors that affect the cost of insurance or other charge or tables showing the cost of insurance or other charge for a spectrum of representative investors.

(c) "[Annual] Maintenance Fee" includes any Contract, account, or similar fee imposed on a percentage basis and charged to all Investor Accounts on any recurring basis. Any non-recurring Contract, account, or similar fee should be included in the "Transaction Fees" table.

(d) "Mortality and Expense Risk Fees" may be listed separately on two lines in the table.

(e) Administrative Expenses include any Contract, account, or similar fee imposed on all Investor Accounts on a dollar basis (*e.g.*, $50 per year) and charged on any recurring basis.

(f) Optional Benefits expenses include any optional features (*e.g.*, terminal illness or term insurance riders) offered under the Contract for an additional charge.

(g) A Registrant may consolidate any charges that are assessed on a similar basis (*e.g.*, Administrative Expenses and Mortality and Expense Risk Fees).

(h) If the Registrant (or any other party pursuant to an agreement with the Registrant) imposes any other recurring charge other than Annual Portfolio Company Expenses, add another caption describing it and complete the other columns of the table for that charge.

4. *Annual Portfolio Company Expenses*.

(a) If a Registrant offers multiple Portfolio Companies, it should disclose the minimum and maximum "Annual Portfolio Company Expenses" for any Portfolio Company calculated in accordance with Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A] (before expense reimbursements or fee waiver arrangements). If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the

Registrant should include the maximum Platform Charge associated with each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses.

(b) A Registrant may also reflect, in an additional line-item to the range of Annual Portfolio Company Expenses, minimum and maximum Annual Portfolio Company Expenses calculated in accordance with Item 3 of Form N-1A that include expense reimbursements or fee waiver arrangements that are in place and reflected in the Portfolio Company's registration statement pursuant to Item 3 of Form N-1A. If the Registrant provides this disclosure, also disclose the period for which the expense reimbursements or fee waiver arrangement is expected to continue, and, if applicable, that it can be terminated at any time at the option of a Portfolio Company. If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the Registrant should include the current Platform Charge associated with each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses that include expense reimbursements or fee waiver arrangements.

Item 5. Principal Risks of Investing in the Contract

Summarize the principal risks of purchasing a Contract, including the risks of poor investment performance, that Contracts are unsuitable as short-term savings vehicles, the risks of Contract lapse, limitations on access to cash value through withdrawals, and the possibility of adverse tax consequences.

Item 6. General Description of Registrant, Depositor, and Portfolio Companies

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

(a) *Depositor*. Provide the name and address of the Depositor.

(b) *Registrant*. Briefly describe the Registrant. Include a statement indicating that:

(1) income, gains, and losses credited to, or charged against, the Registrant reflect the Registrant's own investment experience and not the investment experience of the Depositor's other assets;

(2) the assets of the Registrant may not be used to pay any liabilities of the Depositor other than those arising from the Contracts; and

(3) the Depositor is obligated to pay all amounts promised to investors under the Contracts.

(c) *Portfolio Companies*. State that information regarding each Portfolio Company, including (i) its name; (ii) its type (*e.g.*, money market fund, bond fund, balanced fund,

etc.) or a brief statement concerning its investment objectives; (iii) its investment adviser and any sub-investment adviser; (iv) current expenses; and (v) performance is available in the appendix to the prospectus, and provide cross-references. State that each Portfolio Company has issued a prospectus that contains more detailed information about the Portfolio Company, and provide instructions regarding how investors may obtain paper or electronic copies.

(d) *Voting*. Concisely discuss the rights of investors to instruct the Depositor on the voting of shares of the Portfolio Companies, including the manner in which votes will be allocated.

Item 7. Charges

(a) *Description*. Briefly describe all current charges deducted from premiums, Investor Accounts, assets of the Registrant, or any other source (*e.g.*, sales loads, premium taxes and other taxes, administrative and transaction charges, risk charges, Contract loan charges, cost of insurance, and optional benefit charges). Indicate whether each charge will be deducted from premium payments, Investor Accounts, the Registrant's assets, the proceeds of withdrawals or surrenders, or some other source. When possible, specify the amount of any charge as a percentage or dollar figure (*e.g.*, 0.95% of average daily net assets, $5 per exchange, $5 per thousand dollars of face amount). For recurring charges, specify the frequency of the deduction (*e.g.*, daily, monthly, annually). Identify the person who receives the amount deducted, briefly explain what is provided in consideration for the charges, and explain the extent to which any charge can be modified. Where it is possible to identify what is provided in consideration for a particular charge (*e.g.*, use of sales load to pay distribution costs, use of cost of insurance charge to pay for insurance coverage), explain what is provided in consideration for that charge separately.

Instructions.

1. Describe the sales loads applicable to the Contract and how sales loads are charged and calculated, including the factors affecting the computation of the amount of the sales load. If the Contract has a front-end sales load, describe the sales load as a percentage of the applicable measure of premium payments (*e.g.*, actual premiums paid, target or guideline premiums). For Contracts with a deferred sales load, describe the sales load as a percentage of the applicable measure of premiums paid (or other basis) that the deferred sales load may represent. Percentages should be shown in a table. Identify any events on which a deferred sales load is deducted (*e.g.*, surrender or withdrawal, increase or decrease in face amount). The description of any deferred sales load should include how the deduction will be allocated among sub-accounts of the Registrant and when, if ever, the sales load will be waived (*e.g.*, if the Contract provides a free withdrawal amount).

2. Identify the factors that determine the applicable cost of insurance rate. Specify whether the mortality charges guaranteed in the contracts differ from the current charges. Identify the factors that affect the amount at risk, including investment

performance, payment of premiums, and charges. Disclose how the cost of insurance charge is calculated based on the cost of insurance rate, amount at risk, and any other applicable factors. If the Depositor intends to use simplified underwriting or other underwriting methods that would cause healthy individuals to pay higher cost of insurance rates than they would pay under a substantially similar policy that is offered by the Depositor using different underwriting methods, state that the cost of insurance rates are higher for healthy individuals when this method of underwriting is used than under the substantially similar policy.

3. If the Contract's charge for premium or other taxes varies according to jurisdiction, identification of the range of current premium or other taxes is sufficient.

4. Identify charges that may be different in amount or method of computation when imposed in connection with, or subsequent to, increases in face amount of a Contract and briefly describe the differences.

(b) *Commissions Paid to Dealers.* State the commissions paid to dealers as a percentage of premiums.

(c) *Portfolio Company Charges*. State that charges are deducted from and expenses paid out of the assets of the Portfolio Companies that are described in the prospectuses for those companies.

(d) *Incidental Insurance Charges*. If incidental insurance benefits (as defined in rules 6e-2 and 6e-3 [17 CFR 270.6e-2, 17 CFR 270.6e-3]) are offered along with the Contract, state that charges also will be incurred for those benefits.

(e) *Operating Expenses.* Describe any type of operating expenses for which the Registrant is responsible. If organizational expenses of the Registrant are to be paid out of its assets, explain how the expenses will be amortized and the period over which the amortization will occur.

Item 8. General Description of Contracts

(a) *Contract Rights.* Identify the person or persons (*e.g.*, the investor, insured, or beneficiary) who have material rights under the Contracts, and the nature of those rights.

Instruction. Disclose all material state variations and intermediary specific variations (*e.g.*, variations resulting from different brokerage channels) to the offering.

(b) *Contract Limitations*. Briefly describe any provisions for and limitations on:

(1) allocation of premiums among sub-accounts of the Registrant;

(2) transfer of Contract value between sub-accounts of the Registrant, including transfer programs (*e.g.*, dollar cost averaging, portfolio rebalancing, asset allocation programs, and automatic transfer programs); and

(3) conversion or exchange of Contracts for another contract, including a fixed or variable annuity or life insurance contract.

Instruction. In discussing conversion or exchange of Contracts, the Registrant should include any time limits on conversion or exchange, the name of the company issuing the other contract and whether that company is affiliated with the issuer of the Contract, and how the cash value of the Contract will be affected by the conversion or exchange.

(c) *General Account.* Describe the obligations under the contract that are funded by the Depositor's general account (*e.g.*, death benefits, living benefits, or other benefits available under the Contract), and state that these amounts are subject to the Depositor's claims-paying ability and financial strength.

(d) *Contract or Registrant Changes*. Briefly describe the changes that can be made in the Contracts or the operations of the Registrant by the Registrant or the Depositor, including:

(1) why a change may be made (*e.g.*, changes in applicable law or interpretations of law);

(2) who, if anyone, must approve any change (*e.g.*, the investor or the Commission); and

(3) who, if anyone, must be notified of any change.

Instruction. Describe only those changes that would be material to a purchaser of the Contracts, such as a reservation of the right to deregister the Registrant under the Investment Company Act or to substitute one Portfolio Company for another. Do not describe possible non-material changes, such as changing the time of day at which contract values are determined.

(e) *Class of Purchasers*. Disclose any limitations on the class or classes of purchasers to whom the Contracts are being offered.

(f) *Frequent Transfers among Sub-accounts of the Registrant.*

(1) Describe the risks, if any, that frequent transfers of Contract value among sub-accounts of the Registrant may present for other investors and other persons (*e.g.*, the insured or beneficiaries) who have material rights under the Contract.

(2) State whether or not the Registrant or Depositor has adopted policies and procedures with respect to frequent transfers of Contract value among sub-accounts of the Registrant.

(3) If neither the Registrant nor the Depositor has adopted any such policies and procedures, provide a statement of the specific basis for the view of the Depositor that

it is appropriate for the Registrant and Depositor not to have such policies and procedures.

(4) If the Registrant or Depositor has any such policies and procedures, describe those policies and procedures, including:

(i) whether or not the Registrant or Depositor discourages frequent transfers of Contract value among sub-accounts of the Registrant;

(ii) whether or not the Registrant or Depositor accommodates frequent transfers of Contract value among sub-accounts of the Registrant; and

(iii) any policies and procedures of the Registrant or Depositor for deterring frequent transfers of Contract value among sub-accounts of the Registrant, including any restrictions imposed by the Registrant or Depositor to prevent or minimize frequent transfers. Describe each of these policies, procedures, and restrictions with specificity. Indicate whether each of these restrictions applies uniformly in all cases or whether the restriction will not be imposed under certain circumstances, including whether each of these restrictions applies to trades that occur through omnibus accounts at intermediaries, such as investment advisers, broker-dealers, transfer agents, and third party administrators. Describe with specificity the circumstances under which any restriction will not be imposed. Include a description of the following restrictions, if applicable:

(A) any restrictions on the volume or number of transfers that may be made within a given time period;

(B) any transfer fee;

(C) any costs or administrative or other fees or charges that are imposed on persons deemed to be engaged in frequent transfers of Contract value among sub-accounts of the Registrant, together with a description of the circumstances under which such costs, fees, or charges will be imposed;

(D) any minimum holding period that is imposed before a transfer may be made from a sub-account into another sub- account of the Registrant;

(E) any restrictions imposed on transfer requests submitted by overnight delivery, electronically, or via facsimile or telephone; and

(F) any right of the Registrant or Depositor to reject, limit, delay, or impose other conditions on transfers or to terminate or otherwise limit Contracts based on a history of frequent transfers among sub-accounts, including the circumstances under which such right will be exercised.

(5) If applicable, include a statement, adjacent to the disclosure required by paragraphs (f)(1) through (f)(4) of this Item, that the Statement of Additional Information includes a description of all arrangements with any person to permit frequent transfers of Contract value among sub-accounts of the Registrant.

Item 9. Premiums

(a) *Purchase Procedures*. Describe the provisions of the Contract that relate to premiums and the procedures for purchasing a Contract, including:

(1) the minimum initial and subsequent premiums required and any limitations on the amount and the frequency of premiums that will be accepted. If there are separate limits for each sub-account, state these limits;

(2) whether required premiums, if any, are payable for the life of the Contract or some other term;

(3) if applicable, under what circumstances premiums may be required in order to avoid lapse and how the amount of the additional premiums will be determined; and

(4) if applicable, under what circumstances premiums in addition to the required premiums will be permitted.

(b) *Premium Amount*. Briefly describe the factors that determine the amount of any required premiums (*e.g.*, face amount, death benefit option, and charges and expenses).

(c) *Premium Due Dates*. Briefly explain the provisions of the Contract that relate to premium due dates and the operation of any grace period, including the effect of the insured's death during the grace period.

(d) *Premium Payment Plans*. Identify the premium payment plans available. Include the available payment frequencies, payment facilities such as employee payroll deduction plans and preauthorized checking arrangements, and any special billing arrangements. Indicate whether the premium payment plan or schedule may be changed.

(e) *Additional Purchase Procedures*. Describe the provisions of the Contract that relate to premiums and the procedures for purchasing a Contract, including:

(1) whether payment of certain levels of premiums will guarantee that the Contract will not lapse regardless of the Contract's cash value;

(2) if applicable, under what circumstances nonpayment of a required premium will not cause the Contract to lapse;

(3) if applicable, whether the level of the Contract's required premiums may change and, if so, how the amount of the change will be determined; and

(4) how premiums are allocated to the investment options, including how such allocation would take place in the absence of instructions from the investor.

(f) *Premium Payment Plans*. Identify the premium payment plans available. Include the available payment frequencies, payment facilities such as employee payroll deduction plans and preauthorized checking arrangements, and any special billing arrangements. Indicate whether the premium payment plan or schedule may be changed.

(g) *Automatic Premium Loans*. If applicable, briefly describe the circumstances under which required premiums may be paid by means of an automatic premium loan.

(h) *Sub-Account Valuation*. Describe the procedures for valuing sub-account assets, including:

(1) an explanation of when the required premiums and additional premiums are credited to the Contract's cash value in the sub-accounts, and the basis (*e.g.*, accumulation unit value) on which premiums are credited;

(2) an explanation, to the extent applicable, that premiums are credited to the Contract's cash value on the basis of the sub- account valuation next determined after receipt of a premium;

Instruction. If, in any case, a delay occurs between the receipt of premiums and the crediting of premiums to the sub-accounts (*e.g.*, a delay during the "free-look" period), describe where the premiums are held in the interim.

(3) an explanation of when valuations of the assets of the sub-accounts are made; and

(4) a statement identifying in a general manner any national holidays when sub-account assets will not be valued and specifying any additional local or regional holidays when sub-account assets will not be valued.

Instruction. In responding to this paragraph, a Registrant may use a list of specific days or any other means that effectively communicates the information (*e.g.*, explaining that sub-account assets will not be valued on the days on which the New York Stock Exchange is closed for trading).

Item 10. Standard Death Benefits

(a) *Standard Death Benefits*. Describe the standard death benefits available under the Contract (*i.e.*, excluding optional, supplemental death benefits available for a separate charge).

Instruction. Include, for each standard death benefit:

(i) when insurance coverage is effective;

(ii) when the death benefit is calculated and payable;

(iii) how the death benefit is calculated;

(iv) who has the right to choose the form of benefit and the procedure for choosing the form of benefit, including when the choice is made and whether the choice is revocable;

(v) the forms the benefit may take and the form of benefit that will be provided if a particular form has not been elected;

(vi) whether there is a minimum death benefit guarantee associated with the Contract; and

(vii) if an investor may increase or decrease the face amount of the death benefit.

(b) *Additional Information About Standard Death Benefits*. If applicable, describe how an investor may change the face amount of the standard death benefit, including the minimum and the maximum amounts, any requirement of additional evidence of insurability, and whether charges, including sales load, are affected.

(c) *Charges and Contract Values*. Explain how the investment performance of the Portfolio Companies, expenses, and deduction of charges affect contract values and standard death benefits.

Item 11. Other Benefits Available Under the Contract

(a) Include the following information:

In addition to the standard death benefit(s) associated with your contract, other standard and/or optional benefits may also be available to you. The following table(s) summarize information about those benefits. Information about the fees associated with each benefit included in the table(s) may be found in the Fee Table.

Name of Benefit	**Purpose**	**Is Benefit Standard or Optional**	**Brief Description of Restrictions/ Limitations**

Instructions.

1. *General.*

   (a) The table required by paragraph (a) of this Item is meant to provide a tabular summary overview of the benefits described in paragraph (b) of this Item (*e.g.*, standard or optional living benefits, etc.).

   (b) If the Contract offers multiple benefits of the same type (*e.g.*, accumulation benefit, withdrawal benefit, long-term care benefit), the Registrant may include multiple tables in response to paragraph (a) of this Item, if doing so might better permit comparisons of different benefits of the same type. Registrants that choose to use a single table should consider whether grouping together multiple benefits of the same type, with appropriate headings, might similarly permit better comparisons of those benefits.

   (c) The Registrant should include appropriate titles, headings, or any other information to promote clarity and facilitate understanding of the table(s) presented in response to paragraph (a) of this Item. For example, if certain optional benefits are only available to certain investors (*e.g.*, investors who invested during specific time periods), the table could include footnotes or headings to identify which optional benefits are affected and to whom those optional benefits are available.

2. *Name of Benefit.* State the name of each benefit included in the table(s).

3. *Purpose*. Briefly describe the purpose of each benefit included in the table(s).

4. *Is Benefit Standard or Optional*. State whether the benefit is standard or optional. If the Registrant includes titles or headings for the table(s) specifying whether the benefit is standard or optional, the Registrant does not need to include the "Is Benefit Standard or Optional" column in the table(s).

5. *Brief Description of Restrictions/Limitations*. Briefly describe the restriction(s) or limitation(s) associated with each benefit. Registrants are encouraged to use short phrases (*e.g.*, "benefit limits investment options available," "withdrawals could terminate benefit") to describe the restriction(s) or limitation(s).

(b) Briefly describe any other benefits (other than standard death benefits, *e.g.*, living benefits, optional supplemental death benefits available for a separate charge, etc.) offered under a Contract, including:

   (1) Whether the benefit is standard or optional;

   (2) The operation of the benefit, including the amount of the benefit and how the benefit amount may vary, the circumstances under which the value of the benefit may

increase or be reduced (including the effect of withdrawals), and how the benefit may be terminated; and

(3) How the benefit amount is calculated and payable and the effect of choosing a specific method of payment on calculation of the benefit.

(c) Briefly describe any limitations, restrictions and risks associated with any benefit (other than standard death benefits) offered under the Contract (*e.g.*, restrictions on which Portfolio Companies may be selected; risk of reduction or termination of benefit resulting from excess withdrawals).

Instruction. In responding to paragraphs (b) and (c) of this Item, provide one or more examples illustrating the operation of each benefit in a clear, concise, and understandable manner.

Item 12. Surrenders and Withdrawals

(a) *Surrender and Withdrawal*. Briefly describe how surrenders and withdrawals can be made from a Contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable. Briefly describe the potential effect of such surrenders and withdrawals.

(b) *Additional Information Regarding Surrender and Withdrawal*. Indicate generally whether and under what circumstances surrenders and withdrawals are available under a Contract, including the minimum and maximum amounts that may be surrendered or withdrawn, any limits on their availability, how the proceeds are calculated, and when the proceeds are payable.

(c) *Effect of Surrender and Withdrawal*. Indicate generally whether and under what circumstances surrenders or withdrawals will affect a Contract's cash value or death benefit and whether any charge(s) will apply.

(d) *Sub-Account Allocation*. Describe how surrenders and withdrawals will be allocated to the investment options, including how such allocation would take place in the absence of instructions from the investor.

Instruction. The Registrant should generally describe the terms and conditions that apply to surrender and withdrawal transactions. Technical information regarding the determination of amounts available to be surrendered or withdrawn should be included in the SAI.

(e) *Revocation Rights*. Briefly describe any revocation rights (*e.g.*, "free-look" provisions), including a description of how the amount refunded is determined, the method for crediting earnings to premiums during the free-look period, and whether investment options are limited during the free-look period.

Item 13. Loans

Briefly describe the loan provisions of the Contract, including any of the following that are applicable.

(a) *Availability of Loans*. State that a portion of the Contract's cash surrender value may be borrowed. State how the amount available for a loan is calculated.

(b) *Limitations*. Describe any limits on availability of loans (*e.g.*, a prohibition on loans during the first Contract year).

(c) *Interest*. Describe how interest accrues on the loan, when it is payable, and how interest is treated if not paid. Explain how interest on the amount in the collateral account is credited to the Contract and allocated among the investment options.

(d) *Effect on Cash Value and Death Benefit*. Describe how loans and loan repayments affect cash value and how they are allocated among the investment options, including, if applicable, how such allocation would take place in the absence of instructions from the investor. Include (i) a brief explanation that amounts borrowed under a Contract do not participate in a Registrant's investment experience and that loans, therefore, can affect the Contract's value and death benefit whether or not the loan is repaid, and (ii) a brief explanation that the cash surrender value and the death proceeds payable will be reduced by the amount of any outstanding Contract loan plus accrued interest.

(e) *Other Effects*. Describe any other effect that a loan could have on the Contract (*e.g.*, the effect of a Contract loan in excess of Contract value).

(f) *Procedures*. Describe the loan procedures, including how and when amounts borrowed are transferred out of the Registrant and how and when amounts repaid are credited to the Registrant.

Item 14. Lapse and Reinstatement

(a) *Lapse*. State when and under what circumstances a Contract will lapse.

(b) *Effect of Lapse*. Describe briefly the factors that will determine the amount of insurance coverage provided under the available lapse options. Describe concisely how the cash value, surrender value, and death benefit will be determined. If these values and benefits will be determined in the same manner as prior to lapse, a statement to that effect is sufficient.

(c) *Reinstatement*. State under what circumstances a Contract may be reinstated. Explain any requirements for reinstatement, including charges to be paid by the investor, outstanding loan repayments, and evidence of insurability.

(d) *Lapse Options*. Describe briefly any lapse options available. Indicate those that will not apply unless they are elected and those that will apply in the absence of an election. Indicate whether the availability of any of the lapse options is limited.

Item 15. Taxes

(a) *Tax Consequences*. Describe the material tax consequences to the investor and beneficiary of buying, holding, exchanging, or exercising rights under the Contract.

Instruction. Discuss the taxation of death benefit proceeds, periodic and non-periodic withdrawals, loans, and any other distribution that may be received under the Contract, as well as the tax benefits accorded the Contract and other material tax consequences. Describe, if applicable, whether the tax consequences vary with different uses of the Contract.

(b) *Effect*. Describe the effect, if any, of taxation on the determination of cash values or sub-account values.

Item 16. Legal Proceedings

Describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, the Registrant's principal underwriter, or the Depositor is a party. Include the name of the court where the case is pending, the date instituted, the principal parties involved, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any proceedings instituted, or known to be contemplated, by a governmental authority.

Instruction. For purposes of this requirement, legal proceedings are material only to the extent that they are likely to have a material adverse effect on the Registrant, the ability of the principal underwriter to perform its contract with the Registrant, or the ability of the Depositor to meet its obligations under the Contracts.

Item 17. Financial Statements

If all of the required financial statements of the Registrant and the Depositor (*see* Item 28 and General Instruction C.3.(b)) are not in the prospectus, state, under a separate caption, where the financial statements may be found. Briefly explain how investors may obtain any financial statements not in the Statement of Additional Information.

Item 18. Portfolio Companies Available Under the Contract

Include as an Appendix under the heading **"Appendix: Portfolio Companies Available Under the Contract"** the following legend, in the format specified below:

The following is a list of Portfolio Companies available under the Contract. More information about the Portfolio Companies is available in the prospectuses for the Portfolio Companies, which may be amended from time to time and can be found online at [___]. You can also request this information at no cost by calling [____] or by sending an email request to [___].

The current expenses and performance information below reflects fees and expenses of the Portfolio Companies, but do not reflect the other fees and expenses that your Contract may charge [, such as Platform Charges]. Expenses would be higher and performance would be lower if these other charges were included. Each Portfolio Company's past performance is not necessarily an indication of future performance.

Type/ Investment Objective	**Portfolio Company and Adviser/ Subadviser**	**Current Expenses**	**Average Annual Total Returns** (as of 12/31/_)		
			1 year	**5 year**	**10 year**
[Insert]	[Names of Portfolio Company and Adviser / Subadviser]	[_]%	[_]%	[_]%	[_]%

Instructions.

1. *General.*

   (a) Only include Portfolio Companies that are investment options under the Contract. Indicate if investments in any of the Portfolio Companies are restricted (*e.g.*, because of a "hard" or "soft" close).

   (b) The introductory legend to the table must provide a website address, other than the address of the Commission's electronic filing system; toll-free telephone number; and email address that investors can use to obtain the prospectuses of the Portfolio Companies and to request other information about the Portfolio Companies. The website address must be specific enough to lead investors directly to the prospectuses of the Portfolio Companies, rather than to the home page or other section of the website on which the materials are posted. The website could be a central site with prominent links to each document.

   (c) The legend may indicate, if applicable, that the prospectuses and other information are available from a financial intermediary (such as an insurance sales agent or broker-dealer) through which the Contract may be purchased or sold.

   (d) Registrants not relying upon rule 498A(j) under the Securities Act [17 CFR 230.498A(j)] with respect to the Portfolio Companies that are investment options under the Contract may, but are not required to, provide the next-to-last sentence of the first paragraph of the introductory legend to the table regarding online availability of the prospectuses.

(e) If applicable, include a statement explaining that updated performance information is available and providing a website address and/or toll-free (or collect) telephone number where the updated information may be obtained.

(f) If the availability of one or more Portfolio Companies as investment options under the Contract varies by benefit offered under the Contract:

(1) The following sentence should be added to the first paragraph of the legend preceding the table: "Depending on the optional benefits you choose, you may not be able to invest in certain Portfolio Companies."; and

(2) Indicate which Portfolio Companies are available (or are restricted) under the benefits offered under the Contract. The Appendix could incorporate a separate table that is structured pursuant to the following example, or could use any other presentation that might promote clarity and facilitate understanding:

[Portfolio Company]	**[Benefit #1]**	**[Benefit #2]**	**[Benefit #3]**	**[Benefit #4]**
Portfolio Company A	☑	☑	☑	☑
Portfolio Company B	☑	☑	☑	
Portfolio Company C	☑	☑		
Portfolio Company D	☑			

2. *Type/Investment Objective*. Briefly describe each Portfolio Company's type (*e.g.*, money market fund, bond fund, balanced fund, etc.), or include a brief statement describing the Portfolio Company's investment objectives.

3. *Portfolio Company and Adviser/Subadviser*. State the name of each Portfolio Company and its adviser/subadviser, as applicable. The adviser's/sub-adviser's name may be omitted if it is incorporated into the name of the Portfolio Company. A Registrant also need not identify a sub-adviser whose sole responsibility for the Portfolio Company is limited to day-to-day management of the Portfolio Company's holdings of cash and cash equivalent instruments, unless the Portfolio Company is a money market fund or other Portfolio Company with a principal investment strategy of regularly holding cash and cash equivalent instruments. If the Portfolio Company has three or more sub-advisers, each of which manages a portion of the Portfolio Company's portfolio, the Registrant need not identify each such sub-adviser, except that the Registrant must identify any sub-adviser that is (or is reasonably expected to be) responsible for the management of a significant portion of the Portfolio Company's net assets. For purposes of this paragraph, a significant portion of a Portfolio Company's net assets generally will be deemed to be 30% or more of the Portfolio Company's net assets.

4. *Current Expenses*. Report "Total Annual Fund Operating Expenses" as calculated pursuant to Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A], reflecting any expense reimbursements or fee waiver arrangements that are in place and reported in the Portfolio Company's registration statement on Form N-1A. If applicable, identify each Portfolio Company subject to an expense reimbursement or fee waiver arrangement and provide a footnote stating that their annual expenses reflect temporary fee reductions.

5. *Platform Charge.* If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, add a column titled "Platform Charge" disclosing the current Platform Charge for each Portfolio Company. If applicable, the Registrant must also provide a footnote indicating the highest level to which any relevant Platform Charge may be increased.

6. *Current Expenses + Platform Charge*. If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, add a column titled "Current Expenses + Platform Charge." The column contemplated by this Instruction must be presented in a manner reasonably calculated to draw investor attention to that column.

7. *Average Annual Total Returns.* For purposes of this Item, "average annual total returns" means the "average annual total return" (before taxes) as calculated pursuant to Item 4(b)(2)(iii) of Form N-1A.

PART B - INFORMATION REQUIRED IN A STATEMENT OF ADDITIONAL INFORMATION

Item 19. Cover Page and Table of Contents

(a) *Front Cover Page.* Include the following information on the outside front cover page of the SAI:

(1) The Registrant's name.

(2) The Depositor's name.

(3) The name of the Contract and the Class or Classes, if any, to which the Contract relates.

(4) A statement or statements:

(i) That the SAI is not a prospectus;

(ii) How the prospectus may be obtained; and

(iii) Whether and from where information is incorporated by reference into the SAI, as permitted by General Instruction D.

Instruction. Any information incorporated by reference into the SAI must be delivered with the SAI.

(5) The date of the SAI and the prospectus to which the SAI relates.

(b) *Table of Contents*. Include under appropriate captions (and subcaptions) a list of the contents of the SAI and, when useful, provide cross-references to related disclosure in the prospectus.

Item 20. General Information and History

(a) *Depositor*. Provide the date and form of organization of the Depositor, the name of the state or other jurisdiction in which the Depositor is organized, and a description of the general nature of the Depositor's business.

Instruction. The description of the Depositor's business should be short and need not list all of the businesses in which the Depositor engages or identify the jurisdictions in which it does business if a general description (*e.g.*, "life insurance" or "reinsurance") is provided.

(b) *Registrant*. Provide the date and form of organization of the Registrant and the Registrant's classification pursuant to section 4 of the Investment Company Act [15 U.S.C. 80a-4] (*i.e.*, a separate account and a unit investment trust).

(c) *History of Depositor and Registrant*. If the Depositor's name was changed during the past five years, state its former name and the approximate date on which it was changed. If, at the request of any state, sales of contracts offered by the Registrant have been suspended at any time, or if sales of contracts offered by the Depositor have been suspended during the past five years, briefly describe the reasons for and results of the suspension. Briefly describe the nature and results of any bankruptcy, receivership, or similar proceeding, or any other material reorganization, readjustment, or succession of the Depositor during the past five years.

(d) *Ownership of Sub-Account Assets*. If 10 percent or more of the assets of any sub-account are not attributable to Contracts or to accumulated deductions or reserves (*e.g.*, initial capital contributed by the Depositor), state what percentage those assets are of the total assets of the Registrant. If the Depositor, or any other person controlling the assets, has any present intention of removing the assets from the sub-account, so state.

(e) *Control of Depositor*. State the name of each person who controls the Depositor and the nature of its business.

Instruction. If the Depositor is controlled by another person that, in turn, is controlled by another person, give the name of each control person and the nature of its business.

Item 21. Non-Principal Risks of Investing in the Contract

Summarize the non-principal risks of purchasing a Contract to the extent not disclosed in the prospectus.

Item 22. Services

(a) *Expenses Paid by Third Parties*. Describe all fees, expenses, and costs of the Registrant that are to be paid by persons other than the Depositor or the Registrant, and identify those persons.

(b) *Service Agreements*. Summarize the substantive provisions of any management-related service contract that may be of interest to a purchaser of the Registrant's securities, under which services are provided to the Registrant, unless the contract is described in response to some other item of the form. Indicate the parties to the contract, and the total dollars paid and by whom for each of the past three years.

Instructions.

1. The term "management-related service contract" includes any contract with the Registrant to keep, prepare, or file accounts, books, records, or other documents required under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include the following:

   (a) Any agreement with the Registrant to act as custodian or agent to administer purchases and redemptions under the Contracts; and

   (b) Any contract with the Registrant for outside legal or auditing services, or contract for personal employment entered into with the Registrant in the ordinary course of business.

2. In summarizing the substantive provisions of any management-related service contract, include the following:

   (a) The name of the person providing the service;

   (b) The direct or indirect relationships, if any, of the person with the Registrant, its Depositor, or its principal underwriter; and

   (c) The nature of the services provided, and the basis of the compensation paid for the services for the Registrant's last three fiscal years.

(c) *Other Service Providers*.

(1) Unless disclosed in response to paragraph (b) or another item of this form, identify and state the principal business address of any person who provides significant administrative or business affairs management services for the Registrant (*e.g.*, an

"Administrator," "Sub-Administrator," "Servicing Agent"), describe the services provided, and the compensation paid for the services.

(2) State the name and principal business address of the Registrant's custodian and independent public accountant and describe generally the services performed by each.

(3) If the Registrant's assets are held by a person other than the Depositor, a commercial bank, trust company, or depository registered with the Commission as custodian, state the nature of the business of each such person.

(4) If an affiliated person of the Registrant or the Depositor, or an affiliated person of such an affiliated person, acts as administrative or servicing agent for the Registrant, describe the services the person performs and the basis for remuneration. State, for the past three years, the total dollars paid for the services, and by whom.

Instruction. No disclosure need be given in response to paragraph (c)(4) of this Item for an administrative or servicing agent who is also the Depositor.

(5) If the Depositor is the principal underwriter of the Contracts, so state.

Item 23. Premiums

(a) *Administrative Procedures*. Discuss generally the Registrant's administrative rules applicable to premium payments, to the extent that they are not discussed in the prospectus.

Instruction. Examples include information regarding any condition applicable to changes in premium payment schedules, any limitations on prepayments of premiums, any relevant rules for classifying payments made other than in response to a bill or in an amount other than the amount billed for, etc.

(b) *Automatic Premium Loans*. If the contract provides an automatic premium loan option, describe the option, including the circumstances under which it will be used to pay a required premium and whether, and how, interest will be charged on the loan. Describe any effect not described in the prospectus that an automatic premium loan could have on the Contract (*e.g.*, how automatic premium loans affect cash value).

Item 24. Additional Information About Operation of Contracts and Registrant

(a) *Incidental Benefits*. To the extent not described in the prospectus, explain the manner in which the purchase or operation of other incidental benefits affects the exercise of rights and the determination of benefits under the Contract such as whether the Contract or any rider provides for a change of insured or for all or a portion of the death benefit to be paid while the insured is still alive.

(b) *Surrender and Withdrawal*. To the extent not described in the prospectus, explain the Contract's surrender and withdrawal provisions.

(c) *Material Contracts Relating to the Registrant*. Disclose any material contract relating to the operation or administration of the Registrant.

(d) Describe any arrangements with any person to permit frequent transfers of Contract value among sub-accounts of the Registrant, including the identity of the persons permitted to engage in frequent transfers pursuant to such arrangements, and any compensation or other consideration received by the Registrant, the Depositor, or any other party pursuant to such arrangements.

Instructions.

1. The consideration required to be disclosed by paragraph (d) of this Item includes any agreement to maintain assets in the Registrant or in other investment companies or accounts managed or sponsored by the Depositor, any investment adviser of a Portfolio Company, or any affiliated person of the Depositor or of any such investment adviser.

2. If the Registrant has an arrangement to permit frequent transfers of Contract value among sub-accounts of the Registrant by a group of individuals, such as the participants in a defined contribution plan that meets the requirements for qualification under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)), the Registrant may identify the group rather than identifying each individual group member.

Item 25. Underwriters

(a) *Identification*. Identify each principal underwriter (other than the Depositor) of the Contracts, and state its principal business address. If the principal underwriter is affiliated with the Registrant, the Depositor, or any affiliated person of the Registrant or the Depositor, identify how they are affiliated (*e.g.*, the principal underwriter is controlled by the Depositor).

(b) *Offering and Commissions*. For each principal underwriter distributing Contracts of the Registrant, state:

(1) whether the offering is continuous; and

(2) the aggregate dollar amount of underwriting commissions paid to, and the amount retained by, the principal underwriter for each of the Registrant's last three fiscal years.

(c) *Other Payments*. With respect to any payments made by the Registrant to an underwriter of or dealer in the Contracts during the Registrant's last fiscal year, disclose the name and address of the underwriter or dealer, the amount paid and basis for determining that amount, the circumstances surrounding the payments, and the consideration received by the Registrant. Do not include information about:

(1) Payments made through deduction from premiums paid at the time of sale of the Contracts; or

(2) Payments made from cash values upon surrender of or withdrawal from the Contracts or from an increase or decrease in the face amount of the Contracts.

Instructions.

1. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

2. Exclude information about bona fide contracts with the Registrant or its Depositor for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant or its Depositor in the ordinary course of business.

3. Information need not be given about any service for which total payments of less than $15,000 were made during each of the Registrant's last three fiscal years.

4. Information need not be given about payments made under any contract to act as administrative or servicing agent.

5. If the payments were made under an arrangement or policy applicable to dealers generally, describe only the arrangement or policy.

Item 26. Additional Information About Charges

(a) *Sales Load*. Describe the method that will be used to determine the sales load on the Contracts offered by the Registrant.

(b) *Special Purchase Plans*. Describe any special purchase plans (*e.g.*, group life insurance plans) or methods that reflect scheduled variations in, or elimination of, any applicable charges (*e.g.*, group discounts, waiver of deferred sales loads for a specified percentage of cash value, investment of proceeds from another Contract, exchange privileges, employee benefit plans, or the terms of a merger, acquisition, or exchange offer made pursuant to a plan of reorganization). Identify each class of individuals or transactions to which the plans or methods apply, including officers, directors, members of the board of managers, or employees of the Depositor, underwriter, Portfolio Companies, or investment adviser to Portfolio Companies, and the amount of the reductions, and state from whom additional information may be obtained. For special purchase plans or methods that reflect variations in, or elimination of, charges other than according to a fixed schedule, describe the basis for the variation or elimination (*e.g.*, the size of the purchaser, a prior existing relationship with the purchaser, the purchaser's assumption of certain administrative functions, or other characteristics that result in differences in costs or services).

(c) *Underwriting Procedures*. Briefly identify underwriting procedures used in connection with the Contract and any effect of different types of underwriting on the charges in the Contract. Specify the basis of the mortality charges guaranteed in the Contracts.

(d) *Increases in Face Amount*. Describe in more detail the charges assessed on increases in face amount, including the procedures used following an increase in face amount to allocate cash values and premiums between the original Contract and incremental Contracts.

Item 27. Lapse and Reinstatement

To the extent that the prospectus does not do so, describe the lapse and reinstatement provisions of the Contract. Include a discussion of any time limits that apply, how the charge to reinstate is determined, and any other conditions that apply to reinstatement. Describe the features of any lapse options not described in the prospectus, including any factors that will determine the amount or duration of the insurance coverage, and the limitations and conditions on availability of each lapse option. Identify which Contract transactions (*e.g.*, loans, withdrawals and surrenders, transfers) are available while the Contract is continued under a lapse option. Indicate when limits on contract transactions are different from those that apply prior to lapse.

Item 28. Financial Statements

(a) *Registrant*. Provide financial statements of the Registrant.

Instruction. Include, in a separate section, the financial statements and schedules required by Regulation S-X [17 CFR 210]. Financial statements of the Registrant may be limited to:

(i) An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

(ii) An audited statement of operations of the most recent fiscal year conforming to the requirements of rule 6-07 of Regulation S-X [17 CFR 210.6-07];

(iii) An audited statement of cash flows for the most recent fiscal year if necessary to comply with generally accepted accounting principles; and

(iv) Audited statements of changes in net assets conforming to the requirements of rule 6-09 of Regulation S-X [17 CFR 210.6- 09] for the two most recent fiscal years.

(b) *Depositor*. Provide financial statements of the Depositor.

Instructions.

1. Include, in a separate section, the financial statements and schedules of the Depositor required by Regulation S-X. If the Depositor would not have to prepare financial

statements in accordance with generally accepted accounting principles except for use in this registration statement or other registration statements filed on Forms N-3, N-4, or N-6, its financial statements may be prepared in accordance with statutory requirements. The Depositor's financial statements must be prepared in accordance with generally accepted accounting principles if the Depositor prepares financial information in accordance with generally accepted accounting principles for use by the Depositor's parent, as defined in rule 1-02(p) of Regulation S-X [17 CFR 210.1-02(p)], in any report under sections 13(a) and 15(d) of the Securities Exchange Act [15 U.S.C. 78m(a) and 78*o*(d)] or any registration statement filed under the Securities Act.

2. All statements and schedules of the Depositor required by Regulation S-X, except for the consolidated balance sheets described in rule 3-01 of Regulation S-X [17 CFR 210.3-01], and any notes to these statements or schedules, may be omitted from Part B and instead included in Part C of the registration statement. If any of this information is omitted from Part B and included in Part C, the consolidated balance sheets included in Part B should be accompanied by a statement that additional financial information about the Depositor is available, without charge, upon request. When a request for the additional financial information is received, the Registrant should send the information within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

3. Notwithstanding rule 3-12 of Regulation S-X [17 CFR 210.3-12], the financial statements of the Depositor need not be more current than as of the end of the most recent fiscal year of the Depositor. In addition, when the anticipated effective date of a registration statement falls within 90 days subsequent to the end of the fiscal year of the Depositor, the registration statement need not include financial statements of the Depositor more current than as of the end of the third fiscal quarter of the most recently completed fiscal year of the Depositor unless the audited financial statements for such fiscal year are available. The exceptions to rule 3-12 of Regulation S-X contained in this Instruction 3 do not apply when:

   (a) The Depositor's financial statements have never been included in an effective registration statement under the Securities Act of a separate account that offers variable annuity contracts or variable life insurance contracts; or

   (b) The balance sheet of the Depositor at the end of either of the two most recent fiscal years included in response to this Item shows a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $2,500,000; or

   (c) The balance sheet of the Depositor at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the Securities Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the Investment Company Act) would show a combined capital surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $2,500,000.

If two fiscal quarters end within the 135 day period, the Depositor may choose either for purposes of this test.

Any interim financial statements required by this Item need not be comparative with financial statements for the same interim period of an earlier year.

Item 29. Illustrations

The Registrant may, but is not required to, include a table of hypothetical illustrations of death benefits, cash surrender values, and cash values in either the prospectus or the SAI. The following standards should be used to prepare any table of hypothetical illustrations that is included in the prospectus or the SAI:

(a) *Narrative Information*. The illustrations should be preceded by a clear and concise explanation, including (i) a description of the expenses reflected in the illustrations; (ii) that the illustrations are based on assumptions about investment returns and investor characteristics; (iii) the circumstances under which actual results for a particular purchaser of the Contract would differ from the illustrations; and (iv) whether personalized illustrations are available and, if available, how they may be obtained.

(b) *Headings*. The headings should contain the following information: sex, age, rating classification (*e.g.*, nonsmoker, smoker, preferred, or standard), premium amount and payment schedule, face amount, and death benefit option.

(c) *Premiums, Ages*. Premium amounts used in the illustrations should be representative of the actual or expected typical premium amount. The typical premium amount may be based on the average or median premium amount or some other reasonable basis that results in a typical premium amount that is fairly representative of actual or expected Contract sales. Ages used in the illustrations should be representative of actual or expected Contract sales.

(d) *Rating Classifications*. Illustrations should be shown for the rating classification with the greatest number of outstanding Contracts (or expected Contracts in the case of a new Contract), unless this rating classification is not fairly representative of actual or expected Contract sales. In this case, illustrations should be shown for a commonly used rating classification that is fairly representative of actual or expected Contract sales.

(e) *Years*. Illustrated values should be provided for Contract years one through ten, for every five years beyond the tenth Contract year, and for the year of Contract maturity.

(f) *Illustrated Values*. Death benefits and cash surrender values should be illustrated at three rates of return and two levels of charges (described in paragraphs (g) and (i)). The Registrant may also illustrate cash values, but cash values must be accompanied by corresponding cash surrender values. All illustrated values should be determined as of the end of the Contract year.

(g) *Rates of Return*. The Registrant should use gross rates of return of 0%, 6%, and one other rate not greater than 12%. Additional gross rates of return no greater than 12% may be used. Explain that the gross rates of return used in the illustrations do not reflect the deductions of the charges and expenses of the Portfolio Companies.

(h) *Portfolio Company Charges*. Portfolio Company management fees and other Portfolio Company charges and expenses should be reflected using the arithmetic average of those charges and expenses incurred during the most recent fiscal year for all of the available Portfolio Companies or any materially greater amount expected to be incurred during the current fiscal year. In determining charges and expenses incurred during the most recent fiscal year or expected to be incurred during the current fiscal year, include amounts that would have been incurred absent expense reimbursements or fee waiver arrangements.

(i) *Other Charges*. Values should be illustrated using both current and guaranteed maximum charges at the 0% rate of return, the 6% rate of return, and one other rate of return no greater than 12%. Illustrated values should accurately reflect all charges deducted under the Contract (*e.g.*, mortality and expense risk, administrative, and cost of insurance) as well as the actual timing of the deduction of those charges (*e.g.*, daily, monthly, or annually). For example, for a Contract with a mortality and expense risk charge that is deducted from sub-account assets at a given annual rate, the illustrated values will be lower if the charge is deducted from assets on a daily basis rather than on a monthly or annual basis.

(j) *Additional Information*. Subject to the requirement set out in General Instruction C.3.(b), additional information may be shown as part of the illustrations, provided that it is consistent with the standards of this Item.

PART C - OTHER INFORMATION

Item 30. Exhibits

Subject to General Instruction D regarding incorporation by reference and rule 483 under the Securities Act [17 CFR 230.483], file the exhibits listed below as part of the registration statement. Letter or number the exhibits in the sequence indicated and file copies rather than originals, unless otherwise required by rule 483. Reflect any exhibit incorporated by reference in the list below and identify the previously filed document containing the incorporated material.

(a) *Board of Directors Resolution*. The resolution of the board of directors of the Depositor authorizing the establishment of the Registrant.

(b) *Custodian Agreements*. All agreements for custody of securities and similar investments of the Registrant, including the schedule of remuneration.

(c) *Underwriting Contracts*. Underwriting or distribution contracts between the Registrant or Depositor and a principal underwriter and agreements between principal underwriters or the Depositor and dealers.

(d) *Contracts*. The form of each Contract, including any riders or endorsements.

(e) *Applications*. The form of application used with any Contract provided in response to (d) above.

(f) *Depositor's Certificate of Incorporation and By-Laws*. The Depositor's current certificate of incorporation or other instrument of organization and by-laws and any related amendment.

(g) *Reinsurance Contracts*. Any contract of reinsurance related to a Contract.

(h) *Participation Agreements*. Any participation agreement or other contract relating to the investment by the Registrant in a Portfolio Company.

(i) *Administrative Contracts*. Any contract relating to the performance of administrative services in connection with administering a Contract.

(j) *Other Material Contracts*. Other material contracts not made in the ordinary course of business to be performed in whole or in part on or after the filing date of the registration statement.

(k) *Legal Opinion*. An opinion and consent of counsel regarding the legality of the securities being registered, stating whether the securities will, when sold, be legally issued and represent binding obligations of the Depositor.

(l) *Actuarial Opinion*. If illustrations are included in the registration statement as permitted by Item 29, an opinion of an actuarial officer of the Depositor as to those illustrations indicating that:

(1) the illustrations of cash surrender values, cash values, death benefits, and/or any other values illustrated are consistent with the provisions of the Contract and the Depositor's administrative procedures;

(2) the rate structure of the Contract has not been designed, and the assumptions for the illustrations (including sex, age, rating classification, and premium amount and payment schedule) have not been selected, so as to make the relationship between premiums and benefits, as shown in the illustrations, appear to be materially more favorable than for any other prospective purchaser with different assumptions; and

(3) the illustrations are based on a commonly used rating classification and premium amounts and ages appropriate for the markets in which the Contract is sold.

(m) *Calculation*. If illustrations are included in the registration statement as permitted by Item 29, one sample calculation for each item illustrated (*e.g.*, cash surrender value, cash value, and death benefits), showing how the illustrated values for the fifth Contract year

have been calculated. Demonstrate how the annual investment returns of the sub-accounts were derived from the hypothetical gross rates of return, how charges against sub-account assets were deducted from the annual investment returns of the sub-accounts, and how the periodic deductions for cost of insurance and other Contract charges were made to arrive at the illustrated values. Describe how the calculation would differ for other years.

(n) *Other Opinions*. Copies of any other opinions, appraisals, or rulings, and consents of their use relied on in preparing the registration statement and required by section 7 of the Securities Act [15 U.S.C. 77g].

(o) *Omitted Financial Statements*. Financial statements omitted from Item 28.

(p) *Initial Capital Agreements*. Any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, Depositor, underwriter, or initial investors and written assurances from the Depositor or initial investors that purchases were made for investment purposes and not with the intention of redeeming or reselling.

(q) *Redeemability Exemption*. Disclosure (if not provided elsewhere in the registration statement) of insurance procedures for which the Registrant and Depositor claim any exemption pursuant to rule 6e-2(b)(12)(ii) or rule 6e-3(b)(12)(iii) under the Investment Company Act.

(r) *Form of Initial Summary Prospectuses*. The form of any Initial Summary Prospectus that the Registrant intends to use on or after the effective date of the registration statement, pursuant to rule 498A under the Securities Act [17 CFR 230.498A].

Instructions.

1. Schedules (or similar attachments) to the exhibits required by this Item are not required to be filed provided that they do not contain information material to an investment or voting decision and that information is not otherwise disclosed in the exhibit or the disclosure document. Each exhibit filed must contain a list briefly identifying the contents of all omitted schedules. Registrants need not prepare a separate list of omitted information if such information is already included within the exhibit in a manner that conveys the subject matter of the omitted schedules and attachments. In addition, the Registrant must provide a copy of any omitted schedule to the Commission or its staff upon request.

2. The Registrant may redact information from exhibits required to be filed by this Item if disclosure of such information would constitute a clearly unwarranted invasion of personal privacy (*e.g.*, disclosure of bank account numbers, social security numbers, home addresses and similar information).

3. The Registrant may redact provisions or terms of exhibits required to be filed by paragraphs (g) and (j) of this Item if those provisions or terms are both (i) not

material and (ii) would likely cause competitive harm to the registrant if publicly disclosed. If it does so, the Registrant should mark the exhibit index to indicate that portions of the exhibit or exhibits have been omitted and include a prominent statement on the first page of the redacted exhibit that certain identified information has been excluded from the exhibit because it is both (i) not material and (ii) would likely cause competitive harm to the registrant if publicly disclosed. The Registrant also must indicate by brackets where the information is omitted from the filed version of the exhibit.

If requested by the Commission or its staff, the Registrant must promptly provide an unredacted copy of the exhibit on a supplemental basis. The Commission staff also may request the Registrant to provide its materiality and competitive harm analyses on a supplemental basis. Upon evaluation of the Registrant's supplemental materials, the Commission or its staff may request the Registrant to amend its filing to include in the exhibit any previously redacted information that is not adequately supported by the registrant's materiality and competitive harm analyses. The Registrant may request confidential treatment of the supplemental material pursuant to rule 83 of the Commission's Organizational Rules [17 CFR 200.83] while it is in the possession of the Commission or its staff. After completing its review of the supplemental information, the Commission or its staff will return or destroy it at the request of the Registrant, if the Registrant complies with the procedures outlined in rule 418 under the Securities Act [17 CFR 230.418].

4. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active link to an exhibit that is filed with the registration statement or, if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR. If the registration statement is amended, each amendment must include active hyperlinks to the exhibits required with the amendment.

5. Registrants are required to provide the Initial Summary Prospectus exhibits, as required by paragraph (r) of this Item, only in connection with the filing of an initial registration statement, or in connection with a pre-effective amendment or a post-effective amendment filed in accordance with paragraph (a) of rule 485 under the Securities Act [17 CFR 230.485(a)]. Registrants should add a legend clearly identifying the document as a form of Summary Prospectus the registrant intends to use on or after the effective date of the registration statement.

Item 31. Directors and Officers of the Depositor

Provide the following information about each director or officer of the Depositor:

(1) Name and Principal Business Address	(2) Positions and Offices with Depositor

Instruction. Registrants are required to provide the above information only for officers or directors who are engaged directly or indirectly in activities relating to the Registrant or the Contracts, and for executive officers including the Depositor's president, secretary, treasurer, and vice presidents who have authority to act as president in his or her absence.

Item 32. Persons Controlled by or Under Common Control with the Depositor or the Registrant

Provide a list or diagram of all persons directly or indirectly controlled by or under common control with the Depositor or the Registrant. For any person controlled by another person, disclose the percentage of voting securities owned by the immediately controlling person or other basis of that person's control. For each company, also provide the state or other sovereign power under the laws of which the company is organized.

Instructions.

1. Include the Registrant and the Depositor in the list or diagram and show the relationship of each company to the Registrant and Depositor and to the other companies named, using cross-references if a company is controlled through direct ownership of its securities by two or more persons.

2. Indicate with appropriate symbols subsidiaries that file separate financial statements, subsidiaries included in consolidated financial statements, or unconsolidated subsidiaries included in group financial statements. Indicate for other subsidiaries why financial statements are not filed.

Item 33. Indemnification

State the general effect of any contract, arrangements, or statute under which any underwriter or affiliated person of the Registrant is insured or indemnified against any liability incurred in his or her official capacity, other than insurance provided by any underwriter or affiliated person for his or her own protection.

Item 34. Principal Underwriters

(a) *Other Activity*. State the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing the Registrant's securities also acts as a principal underwriter, depositor, sponsor, or investment adviser.

(b) *Management*. Provide the information required by the following table for each director, officer, or partner of each principal underwriter named in the response to Item 25:

(1) Name and Principal Business Address	(2) Positions and Offices With Underwriter

Instruction. If a principal underwriter is the Depositor or an affiliate of the Depositor, and is also an insurance company, the above information for officers or directors need only be provided for officers or directors who are engaged directly or indirectly in activities relating to the Registrant or the Contracts, and for executive officers including the Depositor's or its affiliate's president, secretary, treasurer, and vice presidents who have authority to act as president in his or her absence.

(c) *Compensation From the Registrant*. Provide the information required by the following table for all commissions and other compensation received, directly or indirectly, from the Registrant during the Registrant's last fiscal year by each principal underwriter:

(1) Name of Principal Underwriter	(2) Net Underwriting Discounts and Commissions	(3) Compensation on Redemption	(4) Brokerage Commission	(5) Other Compensation

Instructions.

1. Disclose the type of services rendered in consideration for the compensation listed under column (5).

2. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

3. Exclude information about bona fide contracts with the Registrant or its Depositor for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant or its Depositor in the ordinary course of business.

4. Exclude information about any service for which total payments of less than $15,000 were made during each of the Registrant's last three fiscal years.

5. Exclude information about payments made under any agreement whereby another person contracts with the Registrant or its Depositor to perform as custodian or administrative or servicing agent.

Item 35. Location of Accounts and Records

State the name and address of each person maintaining physical possession of each account, book, or other document required to be maintained by section 31(a) of the Investment Company Act [15 U.S.C. 80a-30(a)] and the rules under that section.

Instruction. The Registrant may omit this information to the extent it is provided in its most recent report on Form N-CEN [17 CFR 274.101].

Item 36. Management Services

Provide a summary of the substantive provisions of any management-related service contract not discussed in Part A or B, disclosing the parties to the contract and the total amount paid and by whom for the Registrant's last three fiscal years.

Instructions.

1. The instructions to Item 22(b) also apply to this Item.

2. Exclude information about any service provided for payments totaling less than $15,000 during each of the Registrant's last three fiscal years.

Item 37. Fee Representation

Provide a representation of the Depositor that the fees and charges deducted under the Contracts, in the aggregate, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the Depositor.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933 and the Investment Company Act of 1940, the Registrant (certifies that it meets all of the requirements for effectiveness of this registration statement under rule 485(b) under the Securities Act and) has duly caused this registration statement to be signed on its behalf by the undersigned, duly authorized, in the City of_____, and State of _____, on this___day of_____,_____.

_____
(Registrant)

By _____
(Signature)

_____
(Title)

_____
(Depositor)

By _____
(Name of Officer of Depositor)

_____

(Title)

Instruction:

If the registration statement is being filed only under the Securities Act or under both the Securities Act and the Investment Company Act, it should be signed by both the Registrant and the Depositor. If the registration statement is being filed only under the Investment Company Act, it should be signed only by the Registrant.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

_____	_____	_____
Signature	Title	Date

50. Effective January 1, 2022, Form N-6 (referenced in §§239.17c and 274.11d) is amended by removing paragraph (a)(9) of Item 1.

§274.127e-1 [Removed]

51. Remove §274.127e-1.

§274.127f-1 [Removed]

52. Remove §274.127f-1.

§274.302 [Removed]

53. Remove §274.302.

§274.303 [Removed]

54. Remove §274.303.

By the Commission.

Dated: March 11, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020-05526 Filed: 4/30/2020 8:45 am; Publication Date: 5/1/2020]