

with the Commission upon filing with a national securities association registered under Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o) that has adopted rules providing standards for the investment company advertising practices of its members and has established and implemented procedures to review that advertising.

(j) In lieu of filing under paragraph (b) or (c) of this section, a registrant may file a certification that:

(1) The form of prospectus and Statement of Additional Information that would have been filed under paragraph (b) or (c) of this section would not have differed from that contained in the most recent registration statement or amendment, and

(2) The text of the most recent registration statement or amendment has been filed electronically.

(k) *Summary prospectus filing requirements.* 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.

(l) Except for an investment company advertisement deemed to be a section 10(b) prospectus pursuant to § 230.482, this section shall not apply with respect to prospectuses of a registered closed-end investment company, or a business development company.

[48 FR 37939, Aug. 22, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 230.497, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 230.498 Summary Prospectuses for open-end management investment companies.

(a) *Definitions.* For purposes of this section:

(1) *Class* means a class of shares issued by a Fund that has more than one class that represent interests in the same portfolio of securities under § 270.18f-3 of this chapter or under an order exempting the Fund from sections 18(f), 18(g), and 18(i) of the Invest-

ment Company Act (15 U.S.C. 80a-18(f), 80a-18(g), and 80a-18(i)).

(2) *Exchange-Traded Fund* means a Fund or a Class, the shares of which are traded on a national securities exchange, and that has formed and operates pursuant to an exemptive order granted by the Commission or in reliance on an exemptive rule adopted by the Commission.

(3) *Fund* means an open-end management investment company, or any Series of such a company, that has, or is included in, an effective registration statement on Form N-1A (§§ 239.15A and 274.11A of this chapter) and that has a current prospectus that satisfies the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)).

(4) *Series* means shares offered by a Fund that represent undivided interests in a portfolio of investments and that are preferred over all other series of shares for assets specifically allocated to that series in accordance with § 270.18f-2(a) of this chapter.

(5) *Statement of Additional Information* means the statement of additional information required by Part B of Form N-1A.

(6) *Statutory Prospectus* means a prospectus that satisfies the requirements of section 10(a) of the Act.

(7) *Summary Prospectus* means the summary prospectus described in paragraph (b) of this section.

(b) *General requirements for Summary Prospectus.* This paragraph describes the requirements for a Fund's Summary Prospectus. A 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) *Cover page or beginning of Summary Prospectus.* Include on the cover page of the Summary Prospectus or at the beginning of the Summary Prospectus:

(i) The Fund's name and the Class or Classes, if any, to which the Summary Prospectus relates.

(ii) The exchange ticker symbol of the Fund's shares or, if the Summary Prospectus relates to one or more Classes of the Fund's shares, adjacent

to each such Class, the exchange ticker symbol of such Class of the Fund's shares. If the Fund is an Exchange-Traded Fund, also identify the principal U.S. market or markets on which the Fund shares are traded.

(iii) A statement identifying the document as a "Summary Prospectus."

(iv) The approximate date of the Summary Prospectus's first use.

(v) The following legend:

Before you invest, you may want to review the Fund's prospectus, which contains more information about the Fund and its risks. You can find the Fund's prospectus, reports to shareholders, and other information about the Fund online at [____]. You can also get this information at no cost by calling [____] or by sending an email request to [____].

(A) The legend must provide a website address, other than the address of the Commission's electronic filing system; toll free (or collect) telephone number; and email address that investors can use to obtain the Statutory Prospectus and other information. 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 (e)(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 or bank) through which shares of the Fund 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)(1)(v)(A).

(B) If a Fund incorporates any information by reference into the Summary Prospectus, the legend must identify the type of document (*e.g.*, Statutory Prospectus) from which the information is incorporated and the date of the document. If a Fund 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. A Fund may modify the legend to include a statement to the effect that the Summary Prospectus is intended for use in connection with 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)), a tax-deferred arrangement under section 403(b) or 457 of the Internal Revenue Code (26 U.S.C. 403(b) or 457), or a variable contract as defined in section 817(d) of the Internal Revenue Code (26 U.S.C. 817(d)), as applicable, and is not intended for use by other investors.

(vi) The Summary Prospectus may provide instructions describing how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.

(2) *Contents of the Summary Prospectus.* Except as otherwise provided in this paragraph (b), provide the information required or permitted by Items 2 through 8 of Form N-1A, and only that information, in the order required by the form. A Summary Prospectus may omit the explanation and information required by Instruction 2(c) to Item 4(b)(2) of Form N-1A.

(3) *Incorporation by reference.* (i) Except as provided by paragraph (b)(3)(ii) 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 (b)(3)(ii) of this section need not be sent or given with the Summary Prospectus.

(ii) A Fund may incorporate by reference into a Summary Prospectus any or all of the information contained in the Fund's Statutory Prospectus and Statement of Additional Information, and any information from the Fund's reports to shareholders under § 270.30e-1 that the Fund has incorporated by reference into the Fund's Statutory Prospectus, provided that:

(A) The conditions of paragraphs (b)(1)(v)(B) and (e) of this section are met;

(B) A Fund may not incorporate by reference into a Summary Prospectus information that paragraphs (b)(1) and (2) of this section require to be included in the Summary Prospectus; and

(C) 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.

(iii) For purposes of § 230.159, 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 (b)(3)(ii) of this section.

(4) *Multiple Funds and Classes.* A Summary Prospectus may describe only one Fund, but may describe more than one Class of a Fund.

(c) *Transfer of the 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 Fund security in an offering registered on Form N-1A is satisfied if:

(1) A Summary Prospectus is sent or given no later than the time of the carrying or delivery of the Fund security;

(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;

(3) The Summary Prospectus that is sent or given satisfies the requirements of paragraph (b) of this section at the time of the carrying or delivery of the Fund security; and

(4) The conditions set forth in paragraph (e) of this section are satisfied.

(d) *Sending communications.* A communication relating to an offering registered on Form N-1A sent or given after the effective date of a Fund'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 (c)(2) of this section;

(3) The Summary Prospectus that was sent or given satisfies the requirements of paragraph (b) of this section at the time of such communication; and

(4) The conditions set forth in paragraph (e) of this section are satisfied.

(e) *Availability of Fund's Statutory Prospectus and certain other Fund documents.* (1) The Fund's current Summary Prospectus, Statutory Prospectus, Statement of Additional Information, and most recent annual and semi-annual reports to shareholders under § 270.30e-1 are publicly accessible, free of charge, at the Web site address specified on the cover page or at the beginning of the Summary Prospectus on or before the time that the Summary Prospectus is sent or given and current versions of those documents remain on the Web site through the date that is at least 90 days after:

(i) In the case of reliance on paragraph (c) of this section, the date that the Fund security is carried or delivered; or

(ii) In the case of reliance on paragraph (d) of this section, the date that the communication is sent or given.

(2) The materials that are accessible in accordance with paragraph (e)(1) of this section must be presented on the Web site 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 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 the Summary Prospectus to move directly back and forth between:

(A) Each section of the Summary Prospectus and any section of the Statutory Prospectus and 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 Statement of Additional Information that meet the requirements of paragraph (e)(2)(ii) of this section.

(3) Persons accessing the materials specified in paragraph (e)(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 (e)(2)(i) and (ii) of this section.

(4) The conditions set forth in paragraphs (e)(1), (e)(2), and (e)(3) of this section shall be deemed to be met, notwithstanding the fact that the materials specified in paragraph (e)(1) of this section are not available for a

time in the manner required by paragraphs (e)(1), (e)(2), and (e)(3) of this section, provided that:

(i) The Fund has reasonable procedures in place to ensure that the specified materials are available in the manner required by paragraphs (e)(1), (e)(2), and (e)(3) of this section; and

(ii) The Fund takes prompt action to ensure that the specified documents become available in the manner required by paragraphs (e)(1), (e)(2), and (e)(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 (e)(1), (e)(2), and (e)(3) of this section.

(f) *Other requirements*—(1) *Delivery upon request.* If paragraph (c) or (d) of this section is relied on with respect to a Fund, the Fund (or a financial intermediary through which shares of the Fund may be purchased or sold) 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 Fund's Statutory Prospectus, Statement of Additional Information, and most recent annual and semi-annual reports to shareholders to any person requesting such a copy within three business days after receiving a request for a paper copy. If paragraph (c) or (d) of this section is relied on with respect to a Fund, the Fund (or a financial intermediary through which shares of the Fund may be purchased or sold) must send, at no cost to the requestor and by e-mail, an electronic copy of the Fund's Statutory Prospectus, Statement of Additional Information, and most recent annual and semi-annual reports to shareholders to any person requesting such a copy within three business days after receiving a request for an electronic copy. The requirement to send an electronic copy of a document by e-mail may be satisfied by sending a direct link to the document on the Internet; provided that a current version of the document is directly accessible through the link from the time that the e-mail is sent through the date that is six months after the date that the e-mail is sent and the e-mail 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 (c) or (d) of this section is relied on with respect to a Fund, the Fund's Summary Prospectus shall be given greater prominence than any materials that accompany the Fund's Summary Prospectus, a Notice under § 270.30e-3 of this chapter, with the exception of other Summary Prospectuses, Statutory Prospectuses, or a Notice of Internet Availability of Proxy Materials under § 240.14a-16 of this chapter.

(3) *Convenient for reading and printing.* If paragraph (c) or (d) of this section is relied on with respect to a Fund:

(i) The materials that are accessible in accordance with paragraph (e)(1) of this section must be presented on the Web site 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 (e)(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) *Information in Summary Prospectus must be the same as information in Statutory Prospectus.* If paragraph (c) or (d) of this section is relied on with respect to a Fund, the information provided in response to Items 2 through 8 of Form N-1A in the Fund's Summary Prospectus must be the same as the information provided in response to Items 2 through 8 of Form N-1A in the Fund's Statutory Prospectus except as expressly permitted by paragraph (b)(2) of this section.

(5) *Compliance with paragraph (f) not a condition to reliance on paragraphs (c) and (d).* Compliance with this paragraph (f) is not a condition to the ability to rely on paragraph (c) or (d) of this section with respect to a Fund, and failure to comply with paragraph (f) does not negate the ability to rely on paragraph (c) or (d).

[74 FR 4585, Jan. 26, 2009, as amended at 75 FR 9081, Feb. 26, 2010; 83 FR 29204, June 22, 2018; 85 FR 26094, May 1, 2020]

§ 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