

any Surrender Charge, surrenders will be deemed to be taken first from any applicable Free Withdrawal Amount, next from purchase payments (on a first-in, first-out basis), and finally from contract earnings (in excess of any Free Withdrawal Amount). The Company does not expect that the Surrender Charge will cover sales and distribution expenses incurred in connection with the Contracts.

13. Prior to a Contract's maturity date, all or part of the contract value may be transferred between the subaccounts without penalty, fee, or charge. Although currently there are no restrictions on the frequency of transfers, the Company reserves the right to limit transfers to no more than one in any six-month period.

#### Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the SEC to grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that it 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 1940 Act to do so.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the SEC may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants seek an order under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of a mortality and expenses risk charge from the assets of the Accounts under the Contracts.

4. Applicants state that the terms of the relief requested with respect to any Future Contracts funded by the Accounts are consistent with the standards set forth in Section 6(c) of the 1940 Act. Applicants represent that the Future Contracts to be funded by the Accounts will be materially similar to the Current Contracts. Applicants state that without the requested relief, the Company would have to request and obtain exemptive relief for the Accounts to fund each Future Contract. Applicants assert that these additional requests for exemptive relief would

present no issues under the 1940 Act not already addressed in this application, and that the requested relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the Applicants' need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources.

5. Applicants represent that the 1.25% mortality and expense risk charge for the Contracts is reasonable in relation to the risks assumed by the Company under the Contracts and is within the range of industry practice for comparable annuity contracts, based on a review of the publicly available information regarding products of other companies. The Company represents that it will maintain at its principal offices, and make available upon request to the Commission or its staff, a memorandum detailing the variable annuity products analyzed, and the methodology used in, and the results of, the comparative review.

6. Applicants acknowledge that the Surrender Charge may be insufficient to cover all distribution costs, and that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be offset by distribution expenses not reimbursed by the Surrender Charge. Notwithstanding this, the Company has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit Fund ABD, the Other Accounts,<sup>1</sup> and Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by the Company at its home office, and will be available to the Commission or its staff upon request.

7. The Company also represent that the Accounts will invest only in underlying mutual funds which have undertaken to have a board of directors or a board of trustees, as applicable, a majority of whom are not "interested persons" of such Accounts within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any plan under Rule 12b-1 (under the 1940 Act) to finance distribution expenses.

#### Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of

<sup>1</sup> Applicants represent that they will amend the application during the notice period to include the Other Accounts.

investors and purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-10468 Filed 4-26-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21909; File No. 812-9836]

#### The Travelers Life and Annuity Company, et al.

April 22, 1996.

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

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

**APPLICANTS:** The Travelers Life and Annuity Company ("Company"), The Travelers Fund ABD II for Variable Annuities ("Fund ABD II") and Tower Square Securities, Inc. ("TSSI").

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof.

**SUMMARY OF APPLICATION:** Applicants and any other separate account established by the Company ("Other Accounts," together with Fund ABD, "Accounts") seek an order pursuant to Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Accounts under certain flexible premium deferred variable annuity contracts issued by the Company.

**FILING DATE:** The application was filed on October 27, 1995, and amended and restated on March 28, 1996.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 17, 1996 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549; Applicants, The Travelers Life and Annuity Company, One Tower Square, Hartford, Connecticut 06183, Attention: Kathleen A. McGah, Counsel and Assistant Secretary.

**FOR FURTHER INFORMATION CONTACT:** Edward P. Macdonald, Staff Attorney, or Patrice M. Pitts, Special Counsel, Division of Investment Management, Office of Insurance Products, at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

#### Applicants' Representations

1. The Company, a stock life insurance company organized under the laws of the State of Connecticut in 1973, is a wholly-owned subsidiary of The Travelers Insurance Company, which is an indirect wholly-owned subsidiary of Travelers Group, Inc. The Company currently is licensed to do business in all states except Alabama, Hawaii, Kansas, Maine, New Hampshire, New Jersey, North Carolina, Tennessee, Texas, Wyoming and New York, and currently is seeking licensure in the remaining United States except New York.

2. Fund ABD II was established on October 17, 1995, as a separate account under the laws of the State of Connecticut to fund individual and group flexible premium deferred variable annuity contracts and certificates to be issued by the Company (the "Current Contracts"). Fund ABD II currently is divided into six subaccounts, each of which invests its assets exclusively in the shares of four open-end management investment companies.

3. In the future, the Company may issue through Fund ABD II or the Other Accounts other contracts ("Future Contracts") that are materially similar to the Contracts. (Future Contracts and Current Contracts collectively are referred to as "Contracts.")

4. TSSI, a broker-dealer registered with the SEC under the Securities Exchange Act of 1934, is a member of the National Association of Securities Dealers, Inc. TSSI is an affiliate of the Company and an indirect wholly-owned subsidiary of Travelers Group, Inc. TSSI will be the distributor of the Contracts.

5. The Contracts are designed to provide retirement payments and other benefits for persons covered under plans qualified for federal income tax advantages available under the Internal

Revenue Code of 1986, as amended, and for persons desiring such benefits who do not qualify for such tax advantages. Under group contracts, purchase payments will be made by or on behalf of a participant who is covered under a retirement plan. The Contracts provide for allocation of purchase payments to the subaccount and/or to a fixed account. Upon retirement, annuity payments will be made on a fixed or variable basis. Fixed payments are based on the tables shown in the Contract; however, if a more beneficial payment table is in effect at the time the first payment is being determined, it will be used. Once payments are determined, they will be assured throughout the payout period and are fixed in nature. Variable annuity payments will increase or decrease during the payout period. The first variable payment is based on the tables shown in the Contract, but subsequent payments will increase or decrease depending on the net investment performance of the underlying mutual funds chosen for investment during the annuity period. If the annuitant dies before the maturity date of the Contract, the Company will pay a death benefit. Before annuity or income payments begin, however, Contract owners may transfer all or part of their contract value from one subaccount to another without fees, penalty or charge. There currently are no restrictions on the frequency of transfers, but the Company reserves the right to limit transfers to no more than one in any six month period.

6. The Company will assess an annual contract administrative charge of \$30 for the Contracts. This charge will not be assessed after an annuity payout has begun, at the death of the annuitant or the Contract owner, or if the Contract owner has a contract value greater than \$40,000 on the assessment date. The Company also will assess the subaccount of Fund ABD II a daily asset charge at an effective rate of 0.15% per annum for administrative expenses. These charges cannot be increased during the life of the Contract. These charges represent reimbursement for only the actual administrative costs expected to be incurred over the life of the Contracts. The Company will not profit from these charges.

7. The Company will deduct certain state and local government premium taxes. These deductions may be made when the Contract is purchased, when the Contract is surrendered, when retirement payments begin, or upon payment of a death benefit. Currently these taxes range from 0.5% to 5% and depend on the state in which the

Contract owner resides or the Contract was sold.

8. To compensate itself for assuming mortality and expense risks, the Company will assess the subaccount of Fund ABD II an amount equal on an annual basis to 1.25% of the daily net asset value of the subaccount. Approximately 0.9375% of the daily net asset value of the subaccount is for assumption of the mortality risk, and 0.3125% is for assumption of the expense risk. These charges cannot be increased during the life of the Contracts.

9. The Company assumes certain mortality risks by its contractual obligation to continue to make annuity payments for the life of the annuitant, under annuity options that involve life contingencies. The Company assumes additional mortality and expense risks by its contractual obligation to pay the death benefit if either the annuitant or the Contract owner dies prior to the maturity date. The Company assumes an expense risk because the administrative charges may be insufficient to cover actual administrative expenses. Although the Company does not expect to profit from the mortality and expense risk charge, any profit would be available to the Company for any proper corporate purpose, including payment of distribution expenses.

10. No sales charge is collected or deducted at the time purchase payments are applied under the Contracts. A contingent deferred sales charge ("Surrender Charge") will be assessed upon certain full or partial surrenders. A Surrender Charge applies if all or part of the contract value is surrendered during the first seven years following a purchase payment. The Surrender Charge starts at 6% of a purchase payment in the first and second years following the purchase payment, and reduces to 5% in the third and fourth years, 4% in the fifth year, 3% in the sixth year, and 2% in the seventh year following the payment. There is no charge after eight years following a purchase payment.

11. After the first contract year, Contract owners may surrender up to 10% of their contract value (as of the beginning of the contract year) without incurring a Surrender Charge (the "Free Withdrawal Amount"). The Free Withdrawal Amount applies to partial surrenders of any amount and to full surrenders, except where the contract value is directly transferred to annuity contracts issued by other financial institutions.

12. There is no charge on contract earnings, which equal: (1) The contract value; minus (2) the sum of all purchase

payments received that have not been previously surrendered; minus (3) the Free Withdrawal Amount, if applicable. To determine the amount of any Surrender Charge, surrenders will be deemed to be taken first from any applicable Free Withdrawal Amount, next from purchase payments (on a first-in, first-out basis), and finally from contract earnings (in excess of any Free Withdrawal Amount). The Company does not expect that the Surrender Charge will cover sales and distribution expenses incurred in connection with the Contracts.

13. Prior to a Contract's maturity date, all or part of the contract value may be transferred between the subaccount without penalty, fee, or charge. Although there currently are no restrictions on the frequency of transfers, the Company reserves the right to limit transfers to no more than one in any six-month period.

#### Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the SEC to grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that it 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 1940 Act to do so.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the SEC may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants seek an order under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of a mortality and expenses risk charge from the assets of the Accounts under the Contracts.

4. Applicants state that the terms of the relief requested with respect to any Future Contracts funded by the Accounts are consistent with the standards set forth in Section 6(c) of the 1940 Act. Applicants represent that the Future Contracts to be funded by the Accounts will be materially similar to the Current Contracts. Applicants state that without the requested relief, the Company would have to request and

obtain exemptive relief for the Accounts to fund each Future Contract. Applicants assert that these additional requests for exemptive relief would present no issues under the 1940 Act not already addressed in this application, and that the requested relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the Applicants' need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources.

5. Applicants represent that the 1.25% mortality and expense risk charge for the Contracts is reasonable in relation to the risks assumed by the Company under the Contracts, and is within the range of industry practice for comparable annuity contracts, based on a review of the publicly available information regarding products of other companies. The Company represents that it will maintain at its principal offices, and make available upon request to the Commission or its staff, a memorandum detailing the variable annuity products analyzed, and the methodology used in, and the results of, the comparative review.

6. Applicants acknowledge that the Surrender Charge may be insufficient to cover all distribution costs, and that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be offset by distribution expenses not reimbursed by the Surrender Charge. Notwithstanding this, the Company has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit Fund ABD II, the Other Accounts,<sup>1</sup> and Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by the Company at its home office and will be available to the Commission or its staff upon request.

7. The Company also represents that the Accounts will invest only in underlying mutual funds which have undertaken to have a board of directors or a board of trustees, as applicable, a majority of whom are not "interested persons" of such Accounts within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any plan under Rule 12b-1 (under the 1940 Act) to finance distribution expenses.

<sup>1</sup> Applicants represent that they will amend the application during the notice period to include the Other Accounts.

#### Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-37138; File No. SR-Amex-96-14]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Exchange Board of Governors

April 23, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 18, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Articles II, III, and XII of the Exchange Constitution relating to the Board of Governors ("Board"), including the appointment of a second Vice-Chairman, the inclusion of the second highest ranking Exchange executive officer on the Board, and the eligibility of Governors for nomination to a third term. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the