SECURITIES AND EXCHANGE COMMISSION

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

[Release Nos. 33–10569; 34–84508; IC–33286; 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: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing rule and form amendments that are intended to help investors make informed investment decisions regarding variable annuity and variable life insurance contracts. The proposal would 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. The proposed new rule would permit a person to satisfy its prospectus delivery obligations under the Securities Act of 1933 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 proposed rule also would 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. In addition, we are proposing amendments to 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. We are further proposing to 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. We are also proposing certain technical and conforming amendments to our rules and forms, including amendments to rules relating to variable life insurance contracts, as well as rescission of certain related rules and forms. Lastly, we are seeking comments regarding parallel amendments to rules governing mutual fund summary prospectuses and registration forms applicable to other types of registered investment companies.

DATES: Comments should be submitted on or before February 15, 2019.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. S7–23–18 on the subject line.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–23–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's website (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information you wish to make available publicly. Investors wishing to provide comments regarding the proposed summary prospectus may wish to submit our Feedback Flier, available at Appendix C.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Daniel K. Chang, James Maclean, Amy Miller, Senior Counsels; Amanda Hollander Wagner, Branch Chief; Michael C. Pawluk, Senior Special Counsel, Investment Company Regulation Office, at (202) 551–6792; Keith Carpenter or Michael Kosoff, Senior Special Counsels, Disclosure and Review 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 proposing new rule 498A [proposed rule 17 CFR 230.498A] under the Securities Act. The Commission is also proposing amendments to the following rules:

Commission reference	CFR citation (17 CFR)
Regulation S–T [17 CFR 232.10 through 232.903]:	
Rule 11	§ 232.11.
Rule 405	§ 232.405.
Securities Act of 1933 (''Securities Act''): [1]	
Rule 159A	§ 230.159A.
Rule 421	§ 230.421.
Rule 431	§ 230.431.
Rule 482	§ 230.482.
Rule 485	§ 230.485.
Rule 497	§ 230.497.
Rule 498	§ 230.498.
Securities Exchange Act of 1934 (''Exchange Act''): [2]	
Rule 14a–16	§ 240.14a–16.
Investment Company Act of 1940 (''Investment Company Act''): [3]	
Rule 0–1	§ 270.0–1.

Commission reference	CFR citation (17 CFR)
Rule 6c–7	§ 270.6c–7.
Rule 6c–8	§ 270.6c–8.
Rule 6e–2	§ 270.6e–2.
Rule 6e–3(T)	§ 270.6e–3(T).
Rule 11a–2	§ 270.11a–2.
Rule 14a–2	§ 270.14a–2.
Rule 26a–1	§ 270.26a–1.
Rule 27c–1	§ 270.27c–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 proposing to rescind:

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 and Background

To meet life insurance needs and other financial goals, investors may consider variable annuity and variable life insurance contracts (together, ''variable contracts'' or ''contracts'') as a way of combining insurance guarantees with the potential for long-term investment appreciation.[4] Variable contracts are generally more complex than other retail investment products, such as mutual funds, in a variety of ways. These investment products combine both investment and insurance features. They frequently offer a menu of optional benefits that an investor may select to customize the contract to meet his or her individual needs. In addition, most have two-level fee structures, where fees are assessed at both the contract level by the issuer (including any additional charges for optional benefits selected by the investor) and at the underlying investment option level. Further 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.[5] Special tax rules also apply to variable products, with both tax advantages and potential

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

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

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

[4] For an overview of variable annuities and variable life insurance contracts, *see infra* section I.A.

[5] 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.

adverse tax impacts in certain circumstances.[6]

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 and terminology associated with these products can be difficult for investors to understand. Moreover, variable contract prospectuses are often quite lengthy (frequently more than a 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.

In addition, variable contract investors generally allocate their purchase payments to a range of investment options. For most variable contracts, these investment options typically are mutual funds, which are separately registered and have their own prospectuses.[7] Because insurers issuing variable contracts typically bundle prospectuses for the underlying portfolio companies together with the variable contract prospectus, the disclosures that investors receive at the time of the initial purchase and on an annual basis thereafter can be voluminous.[8]

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. To improve the current disclosure framework and update the manner in which variable contract investors receive and review prospectuses and related information, we are proposing new rule 498A under the 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 would continue to have access to the contract statutory prospectus and other information about the contract online (and could receive paper or electronic copies upon request), which would continue to provide more-detailed information about the contract.

Specifically, the approach under the proposed 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. In proposing new rule 498A, we are considering approaches 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.

A. Overview of Variable Annuities and Variable Life Insurance Products

Variable contracts are contracts between an investor and an insurance company that provide investors with exposure to the securities markets while also offering certain insurance protections, such as protection against market losses, protection against outliving their assets, or assurances that their beneficiaries will receive a certain amount upon death.[9] Unlike traditional annuities and life insurance contracts, variable contracts have an investment component that allows investors the possibility of increasing their potential benefits.[10] Variable contracts also offer tax benefits such as tax-deferral on investment earnings until distribution. This combination of insurance guarantees and tax-deferred investment may be appealing to investors.

When an investor purchases a variable contract, he or she makes a purchase payment (in either a lump sum or a series of payments), and in return, the insurance company promises to pay a stream of periodic income payments, either immediately or at some future date. 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 to portfolio companies and, 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.

Similar to variable annuities, variable life insurance contracts offer a death benefit to the investor, as well as the ability to accumulate cash value.[11] Also

[6] 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.

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

[8] For example, variable annuity contracts offer an average of 59 investment options, with some contracts offering more than 250 investment options. *See* Insured Retirement Institute, *IRI Fact Book 2018* (''IRI Fact Book''), at 170. Furthermore, variable life insurance contracts offer an average of 64 investment options, with some contracts offering more than 300 investment options. These variable life figures are based on June 2018 data obtained from Morningstar Direct.

[9] The average contract value for individual variable annuities is approximately $106,187. *See* IRI Fact Book, *supra* note 8, at 170. 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.

[10] Variable contracts generally are treated as annuity or insurance contracts under state insurance laws and securities under the federal securities laws. Although section 3(a)(8) of the Securities Act exempts from the Act any insurance or endowment policy or annuity contract issued by a corporation subject to the supervision of the insurance commissioner of any State or Territory of the United States or the District of Columbia, we have determined, and the courts have held, that variable annuities are securities under the federal securities laws and are not, therefore, entitled to this exemption. *See, e.g., SEC* v. *Variable Annuity Life Ins. Co. of Am.,* 359 U.S. 65 (1959) (variable annuity contracts are securities, and not insurance policies or annuity contracts within the meaning of the Act's exemption because the issuer of a variable annuity contract has no element of fixed return and does not assume any investment risk, which is inherent in the concepts of insurance and annuity contracts); *see also* Adoption of Rule 3c–4 Under the Investment Company Act of 1940, Investment Company Act Release No. 7644, 1 SEC Docket 17 (Jan. 31, 1973) (because the contract holder participates directly in the investment experience of the separate account and bears an investment risk, a variable life insurance contract is a security, not entitled to the exemption set forth in section 3(a)(8) of the Securities Act).

[11] Unlike other types of life insurance, variable life insurance exposes the investor to greater market risk (the cash value can decrease), but also offers

like variable annuities, a variable life insurance contract permits the investor to allocate insurance premiums to a variety of portfolio companies, and may also offer a fixed account investment option. Because an investor will generally allocate the insurance premiums to portfolio companies, the cash value (and in some cases, the death benefit [12]) will vary with the performance of these investments.

Investors bear a number of ongoing fees, expenses, and other charges when investing in a variable contract, including mortality and expense risk charges,[13] administrative fees, fees for optional benefits selected by the investor, and portfolio company fees and expenses.[14] Investors may also bear certain transaction-based charges, including surrender charges.[15] Variable life insurance contracts also impose an additional insurance charge to cover the cost of the death benefit.[16]

Variable contracts commonly offer optional benefit features as riders to the contract with their own terms and conditions. Riders commonly provide enhanced death benefits, as well as ''living benefits'' that may be designed to provide protection against investment losses or longevity risk, or to cover financial losses that result from illness, incapacity, or injury. These optional riders have become increasingly popular with variable contract investors.[17] Typically, there is a separate charge for each rider.

B. Prospectus Disclosure and Delivery

1. Requirements for Variable Contract Prospectus Disclosure and Delivery

The prospectus delivery requirements for variable contracts arise from the legal structure of these products. The ''separate account'' [18] established by the sponsoring insurance company is the legal entity that registers its securities. The separate account is an account that is owned by the insurance company.[19] Separate accounts are typically registered as investment companies under the Investment Company Act [20] and also register their securities under the Securities Act by filing a registration statement with the Commission.

Separate accounts may be organized either as management companies [21] or unit investment trusts (''UITs'').[22] Variable annuity separate accounts that are management companies file registration statements on Form N–3,[23] while those that are UITs file registration statements on Form N–4. Most variable annuity contracts sold today are offered by Form N–4 registrants.[24] Variable life separate accounts, which also are typically organized as UITs, file registration statements on Form N–6.[25]

Form N–4 (variable annuity) and N–6 (variable life) registrants are sometimes referred to as ''two-tier'' investment company structures. The top tier, which is the separate account established by the insurer and registered with the Commission as a UIT, is itself divided into ''subaccounts,'' each of which invests in the shares of an underlying portfolio company (*e.g.,* a mutual fund or exchange-traded fund (''ETF'')) that serves as an investment option under the variable contract. In this structure, the insurer's separate account, not the variable contract investor, is the legal owner of the underlying fund shares.[26]

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 prospectus that meets the requirements of section 10(a) of the Act.[27] For purposes of section 5 of the Securities Act, each additional purchase payment under a variable contract is considered a ''sale'' requiring delivery of a current prospectus.[28]

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the potential for long-term returns that can grow the cash value. An investor may access the cash value of his or her contract by taking out loans (or withdrawals), which may be subject to surrender charges and are taxable under certain circumstances. Taking a loan or withdrawal reduces the policy's cash value and death benefit, and may require additional premium payments to keep the policy in force.

[12] The death benefit can vary based on optional benefit features that the contract investor selects. *See infra* paragraph accompanying note 17.

[13] 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 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* IRI Fact Book, *supra* note 8, at 55.

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

[15] *See supra* note 5.

[16] These additional insurance charges are determined at the time of 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 13.

[17] *See, e.g.,* IRI Fact Book, *supra* note 8, at 83 (''Just under $2 trillion of VA assets were held by insurance companies as of the fourth quarter of 2017, with an estimated $800 billion having a living benefit.''); Gallup Survey, *supra* note 9, 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.'').

[18] *See* section 2(a)(37) of the Investment Company Act (defining ''separate account'' to mean an account established and maintained by an insurance company pursuant to state law under which income, gains and losses from assets allocated to that account are credited against the account without regard to other income, gains or losses of the insurance company). In addition to directing all or part of their purchase payments to the investment options (typically mutual funds) available under the separate account, investors may also direct their purchase payments to a fixed account that pays a fixed, or minimum, rate of interest. The fixed account is part of the insurance company's general account, which, unlike the separate account, is subject to the insurance company's claims-paying ability and creditor reach.

[19] The assets of the separate account are segregated from the other assets of the insurance company (such as the insurance company's general account) and are therefore insulated from the claims of the insurance company's creditors. *See* rule 26a–2 under the Investment Company Act (providing exemptions from certain provisions of the Act to permit the insurance company that sponsors a separate account to hold the assets of the separate account).

[20] In general, an insurance company's separate account is an investment company under the Investment Company Act. *See Prudential Ins. Co.* v. *SEC,* 326 F.2d 383, 388 (3d Cir. 1964) (concluding that the insurer's separate account, which was a completely segregated account devoted to investing in securities, the cash for which was derived from payments made by the purchaser of the variable annuity contract, and the proceeds from which were held for the sole benefit of the annuitant, was separable from the insurance company and should be deemed the ''investment company'' for purposes of the Act). Not all variable contract separate accounts are investment companies; exclusions may apply to certain separate accounts that rely, for example, on sections 3(c)(1), (7), or (11) of the Investment Company Act.

[21] *See* section 4(3) of the Investment Company Act (defining ''management company'' to mean any investment company other than a face-amount certificate company or a unit investment trust).

[22] *See* section 4(2) of the Investment Company Act (defining ''unit investment trust'' to include an investment company that is organized under a trust indenture, does not have a board of directors, and only issues redeemable securities, each of which represents an undivided interest in a unit of specified securities).

[23] Form N–3 filers register as management investment companies because the active management of the investment portfolio occurs at the separate account level. During the early years of variable product history, this was the predominant type of separate account. However, by 2017, only five variable annuity separate accounts were registered as management investment companies on Form N–3.

[24] In 2017, 435 variable annuity separate accounts registered as UITs on Form N–4.

[25] In 2017, 238 variable life insurance separate accounts registered as UITs on Form N–6.

[26] Variable contract investors do not hold legal title to the assets of the insurance company's separate account. *See supra* note 19. However, certain legal rights, such as voting rights, generally pass through to variable contract investors.

[27] *See* section 10(a) of the Securities Act (generally requiring a prospectus relating to a security to contain the information contained in the registration statement). For purposes of this release, a prospectus meeting the requirements of a section 10(a) prospectus is referred to as a ''statutory prospectus.''

[28] *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)]

Continued

Variable contract issuers generally maintain current prospectuses for their products through the filing of annual post-effective amendments to their registration statement and, as necessary, supplementing or ''stickering'' the contract prospectus or statement of additional information (''SAI'').[29] Rather than bearing the expense of sending a prospectus with each confirmation of an investor's purchase of additional shares, which often occurs on a periodic basis (*e.g.,* monthly), most registrants instead send copies of the new prospectus to all investors each time it is updated. It is our understanding that this practice is similar to that followed by most mutual funds.

We understand that an insurer or the financial intermediary distributing the variable contact will typically deliver the variable contract prospectus upon issuance of the contract, in order to comply with the requirements of section 5(b)(2).[30] However, we also understand that many insurers make it a practice to provide the variable contract prospectus to potential investors, often as part of the application package.

The Commission has interpreted section 5(b)(2) of the Securities Act to require delivery of a portfolio company prospectus to an investor in a variable contract who has allocated his or her purchase payments to that portfolio company.[31] We understand that today most investors receive summary prospectuses (as opposed to statutory prospectuses) for the underlying portfolio companies at the same time they receive the statutory prospectus for the variable contract. Since variable contracts generally offer exchange privileges permitting an investor to reallocate all or a portion of his or her investment from one underlying portfolio company to another, many insurance companies deliver prospectuses for all underlying portfolio companies to simplify the administrative task of tracking whether it delivered the appropriate current prospectus. Other insurers have invested in systems that enable the insurer to customize the delivery of underlying portfolio company prospectuses such that investors only receive prospectuses for the portfolio companies to which they have allocated purchase payments.

Although paper is the default format for delivery of contract prospectuses, portfolio company prospectuses, and certain other required disclosures, we understand that most insurers offer investors the option to elect electronic delivery of these documents. 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.[32] Issuers relying on this guidance have typically satisfied the ''evidence of delivery'' requirement by obtaining informed consent to electronic delivery. Investors that have elected electronic delivery of materials associated with their variable contract typically receive an email that contains a link to the website where the materials are available.

2. Evolution of Layered Disclosure and Delivery of Information to Investors

Our proposal builds on our experience with both layered disclosure (under the mutual fund summary prospectus)[33] and integrated disclosure (enhanced over a decade ago with securities offering reform for corporate issuers).[34] It also draws on more than twenty years of experience with the use of the internet as a medium to provide information to investors.[35]

Through each of these sets of reforms, ''omitting prospectuses'' as permitted by section 10(b) of the Securities Act have become a central feature of various parts of our securities offering and disclosure regime.[36] In particular, our proposed approach for satisfying prospectus

(''Forms N–3 and N–4 Adopting Release'') at n.14 and accompanying text.

[29] In addition to updating the registration statement for the variable contract annually to include updated financial statements, variable contract issuers also make amendments to the contract registration statement (generally as part of this annual update process), as necessary to reflect material or other changes to the information disclosed. *See* section 10(a)(3) of the Securities Act (requiring, among other things, that a prospectus used more than nine months after the effective date of a registration statement be updated so that the information contained therein shall not be more than 16 months old). *But see infra* section II.C (discussing circumstances in which certain variable contract issuers provide alternative disclosures instead of the contract statutory prospectus, as described in certain staff no-action letters). *See also* section 11 of the Securities Act (providing a civil remedy for a registration statement that contains ''an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading.''); rule 408 under the Securities Act [17 CFR 230.408(a)] (requiring registrants to include, in addition to the information expressly required to be included in a registration statement, such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.).

Additionally, portfolio companies may supplement or ''sticker'' their prospectus or SAI. *See generally* rule 497 under the Securities Act.

[30] 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.

[31] *See* Forms N–3 and N–4 Adopting Release, *supra* note 28, at n.49 and accompanying text (''Of course, delivery of a prospectus of an underlying company in which a contractowner actually invests will be required pursuant to section 5(b)(2) under the 1933 Act (15 U.S.C. 77e(b)(2)).'').

[32] *See* Use of Electronic Media for Delivery Purposes, Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)] (''1995 Release''); 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''); Use of Electronic Media, Investment Company Act Release No. 24426 (Apr. 28, 2000) [65 FR 25843 (May 4, 2000)] (''2000 Release'').

[33] 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).

[34] 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, S. 2155, 115th Cong. (2017–2018)), and to business development companies (*see* section 3 of the Small Business Credit Availability Act, S. 2324, 115th Cong. (2017–2018)).

[35] *See, e.g.,* 1995 Release, *supra* note 32 (providing Commission views on the use of electronic media to deliver information to investors, with a focus on electronic delivery of prospectuses, annual reports, and proxy solicitation materials); 1996 Release, *supra* note 32 (providing Commission views on electronic delivery of required information by broker-dealers, transfer agents, and investment advisers); 2000 Release, *supra* note 32 (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 34 (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).

[36] *See infra* note 93 and accompanying text (discussing omitting prospectuses as permitted by section 10(b) of the Securities Act).

delivery obligations for variable contract prospectuses is generally modeled on the Commission's mutual fund summary prospectus framework, with some modifications that reflect the unique structure, features, and risks of variable contracts. Likewise, our proposed approach for satisfying portfolio company prospectus delivery requirements incorporates aspects of the ''access equals delivery'' framework we adopted in 2005, in instances where certain information has already been provided to investors,[37] as well as certain website posting requirements from the mutual fund summary prospectus rule.

Our proposal also draws on the Commission's investor testing efforts, outreach, and other empirical research concerning investors' preferences. This included information about summary content and layered disclosure approaches as well as methods of delivery for required disclosures and use of the internet for financial and other purposes generally.[38] Most recently, the Commission released a request for comment on many of these same issues.[39] Certain comments that the Commission has received on its recent Form CRS Relationship Summary proposal[40] also reflect support for a disclosure regime that leverages the benefits of layered disclosure.[41]

Moreover, certain observations by the staff of the Commission's Office of Investor Education and Advocacy as part of its 2012 Financial Literacy Study show that investors generally favor a layered approach to disclosure and, wherever possible, the use of a summary containing key information about an investment product or service.[42] Investors may have a preference for certain efficiencies afforded by more concise information, as research shows the introduction of a shorter and simplified summary prospectus may allow investors to spend less time and effort to arrive at the same portfolio decision they would have come to after reading the statutory prospectus.[43] For these same reasons, we believe that variable contract investors would benefit from the summary disclosures and layered approach contemplated by our proposal, especially given the fact that variable contracts are typically more complex than other types of investment products, in part due to the two-tier structure that most use.

Based upon the foregoing, we believe that a summary prospectus framework for variable contracts would benefit investors. The mutual fund industry has widely adopted the use of summary prospectuses.[44] We believe our proposed prospectus delivery approach would be similarly widely adopted by issuers of variable contracts.[45]

C. Rulemaking Proposal Overview

We are proposing a new disclosure framework that, among other things, would permit the use of summary prospectuses for variable contracts, with additional information available to investors online. To help investors make an informed investment decision, this proposal 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 access to more detailed information available online, or delivered in paper or electronic format on request. We anticipate that the proposed framework would improve investor understanding of variable contracts.

The proposed rule 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.[46] Like the Commission's mutual fund summary prospectus rule, the summary prospectus that the proposed rule contemplates is meant to highlight key information of variable contracts that we believe would help an

[37] Securities Offering Reform contemplated delivery of a preliminary prospectus to investors purchasing during an initial public offering, while our proposal would require delivery of variable contract summary prospectuses, which would accompany or precede delivery of the variable contract security and which would contain certain key information about portfolio companies. *See, e.g.,* Securities Offering Reform, *supra* note 34; *infra* notes 120 and 192 and accompanying text (outlining certain portfolio company information which would be disclosed in variable contract summary prospectuses).

[38] For example, in 2007, 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. The consultant's report concerning the focus group testing and related transcripts are in the comment file for this rule (*available at https://www.sec.gov/comments/s7-08-15/s70815-1.pdf*). The consultant's report concerning the telephone survey is available at *http://www.sec.gov/pdf/disclosuredocs.pdf* (approximately 60% of investors believed mutual fund prospectuses contained too much information and 56% of investors who received mutual fund prospectuses but rarely, very rarely, or never read them indicated that was because the prospectuses were too complicated or hard to understand, or too long and too wordy).

In addition, in 2011, the Commission engaged a consultant to conduct investor testing regarding shareholder reports. The consultant's report concerning that testing (''Investor Testing of Mutual Fund Shareholder Reports'') is in the comment file for this rule (*available at https://www.sec.gov/comments/s7-08-15/s70815-3.pdf*). Separately, in 2012, Commission staff prepared a study of investor financial literacy pursuant to section 917 of the Dodd-Frank Act. *See* SEC Staff, Study Regarding Financial Literacy Among Investors (Aug. 2012) (''2012 Financial Literacy Study''). Materials relating to this study, including the staff's report, are available at *http://www.investor.gov/publications-research-studies/sec-research.*

[39] *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''). The comment file for this request for comment is available at *https://www.sec.gov/comments/s7-12-18/s71218.htm.* Multiple comment letters that the Commission has received to date on this request for comment reflect a preference for shorter summary disclosures, with additional information available online or upon request. *See, e.g.,* Comment Letter of Carol Palmer, File No. S7–12–18 (June 5, 2018); Comment Letter of Perry Balke, File No. S7–12–18 (June 5, 2018); Comment Letter of Sara Karlidag, File No. S7–12–18 (June 6, 2018); Comment Letter of Harold Thomas, File No. S7–12–18 (June 8, 2018); Comment Letter of Carla Rojas, File No. S7–12–18 (June 9, 2018).

[40] *See* Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures in Retail Communications and Restrictions on the Use of Certain Names or Titles, Investment Advisers Act Release No. 4888 (Apr. 18, 2018) [83 FR 21416 (May 9, 2018)]. The comment file for this proposal is available at *https://www.sec.gov/comments/s7-08-18/s70818.htm.*

[41] *See, e.g.,* Comment Letter of the Insured Retirement Institute, File No. S7–08–18 (Aug. 7, 2018); Comment Letter of Massachusetts Mutual Life Insurance Company, File No. S7–08–18 (Aug. 7, 2018).

[42] *See* 2012 Financial Literacy Study, *supra* note 38, at v-xix. The key information that investors found useful and relevant before purchasing an investment product includes information on fees and expenses, investment performance, principal risks, and investment objectives. With respect to the presentation of disclosure, the 2012 Financial Literacy Study indicates that investors preferred disclosures being ''written in clear, concise, understandable language, using bullet points, tables, charts, and/or graphs.'' *See id.* at iv.

[43] *See* John Beshears et al., *How Does Simplified Disclosure Affect Individuals' Mutual Funds Choices?,* Explorations in the Economics of Aging, 75, 76 (David A. Wise ed., 2011) (''Beshears Paper''), *available at https://scholar.harvard.edu/laibson/publications/how-does-simplified-disclosure-affect-individuals-mutual-fund-choices.*

[44] We estimate that as of December 31, 2017, approximately 95% 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 2017 (10,686) and the Investment Company Institute's estimated number of mutual funds and ETFs as of 12/31/2017 (11,253). *See* Investment Company Institute, 2018 Investment Company Fact Book, at 52, *available at https://www.ici.org/pdf/2018_factbook.pdf.*

[45] *See infra* section III.C (stating that we expect a vast majority of insurers will choose to use summary prospectuses).

[46] However, the proposed 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 particular 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).

investor make an informed investment decision.[47]

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 would serve as the cornerstone of a layered disclosure framework that would alert investors to the availability of more detailed information in the statutory prospectus and in other locations, and would be tailored to the unique aspects of these products. As a result, investors would 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.*[48] Proposed new rule 498A would permit 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 would 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 would 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 would be provided in both the initial summary prospectus and updating summary prospectus.
- *Availability of variable contract statutory prospectus and other materials.*[49] The proposed rule would require 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 or hyperlinked in the cover of the summary prospectus. An investor who receives a contract summary prospectus would be able to 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.*[50] The proposed rule would provide 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.[51] Investors would also be able to request and receive those disclosures in paper or electronically at no cost. This new option for satisfying portfolio company prospectus delivery requirements would only be available for portfolio companies available as investment options through variable contracts that use contract summary prospectuses.
- *Discontinued Variable Contracts.*[52] In proposing the new variable contract summary prospectus disclosure framework, we acknowledge the industry practice of providing alternative disclosures under the specific circumstances described in certain staff no-action letters. In light of this proposal, we believe that it is useful to consider the appropriate disclosure framework for the types of contracts that were the subject of the staff no-action letters.
- *Form amendments.*[53] We are also proposing to amend 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.[54] The proposed 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.*[55] Registrants would be required to use the Inline XBRL format for the submission of certain variable contract information. This requirement is intended to harness technology to provide a mechanism for allowing investors, their investment professionals, data aggregators, and other data users to efficiently analyze and compare the available information about variable contracts, as required by their particular needs and circumstances.
- *Other Amendments.*[56] We are proposing certain technical and conforming amendments to our rules to reflect the proposed new regime for variable contract summary prospectuses. We are also proposing certain technical amendments to rules relating to variable life insurance contracts, as well as rescission of certain rules and forms.

Table 1 summarizes the various requirements—under the current prospectus delivery regime, and under the proposed 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[57]	Optional proposed 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.
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.

[47] 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.'').

[48] *See infra* section II.A.

[49] *See infra* section II.A.4.

[50] *See infra* section II.B.

[51] This option would not apply to Form N–3 registrants, which do not have underlying portfolio companies due to a single-tier investment company structure.

[52] *See infra* section II.C.

[53] *See infra* section II.D.

[54] 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* Forms N–3 and N–4 Adopting Release, *supra* note 28; 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'').

[55] *See infra* section II.E.

[56] *See infra* section II.F.

TABLE 1—INFORMATION AVAILABLE TO VARIABLE CONTRACT INVESTORS—Continued

	Current prospectus delivery regime [57]	Optional proposed summary prospectus regime
Portfolio Company Prospectuses.	Delivered to all investors	Delivered to investors, or, if the new option to satisfy portfolio company prospectus delivery is relied-upon,[58] required to be available online and delivered (in paper or electronic format) upon request.[59]

Under proposed rule 498A, use of the summary prospectus to satisfy a registrant's section 5(b)(2) obligation would be voluntary. We have designed the proposal to permit, but not require, registrants to use a summary prospectus coupled with the internet availability of variable contract disclosures to make the delivery process more convenient and efficient. While we believe the summary prospectus regime will benefit investors, we are proposing that the approach be optional in light of the novel nature of this disclosure approach for variable contracts (including its use of layered disclosure), and because of the diversity of variable contracts (and corresponding diversity of disclosure for variable contracts).

We believe that optionality not only would give market participants time to adjust to the new layered disclosure approach, but also give the Commission and its staff the opportunity to assess the benefits to investors and insurers. While approximately 95% of mutual funds currently use a summary prospectus,[60] it took nearly eight years after the adoption of the mutual fund summary prospectus framework for the industry to reach that threshold.[61]

Given the current widespread use of summary prospectuses by mutual funds, we believe investors and other market participants have generally become comfortable with the use of a summary prospectus. However, the proposed variable contract summary prospectus regime would 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). Therefore, we intend to review the use of the summary prospectus by investors in variable contracts that voluntarily adopt the summary prospectus and then reconsider whether use of the summary prospectus for variable contracts should be mandated in the future.[62]

We believe that the diversity of variable contracts (and the corresponding diversity regarding variable contracts' approach to prospectus disclosure) also supports permitting, but not requiring, insurers to use the variable contract summary prospectus regime. We have observed that some variable contracts are fairly basic, offering few (or no) optional benefits and few investment options. Because these contracts have fairly straightforward disclosure documents, 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.[63] An optional approach would also preserve flexibility for registrants that may not wish to undertake the costs of the transition to a summary prospectus regime.

II. Discussion

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

We are proposing new rule 498A, which would provide 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. In addition, the new rule would require 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 electronic format upon request.

1. Initial Summary Prospectus

a. Overview

The proposed rule would require a person relying on the rule to send or give an initial summary prospectus in connection with sales of variable contracts to new investors.[64] We have designed the initial summary prospectus to use a layered disclosure approach that would 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. 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. In addition, these considerations are important because, unlike with other investment products, typically variable contract investors have a state-mandated ''free look'' opportunity to return the contract for a full refund of premium within a limited number of days following contract issuance.[65]

[57] 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.C.

[58] *See infra* section II.B.2.

[59] Additionally, summary information about portfolio companies would be 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).

[60] *See supra* note 44.

[61] Estimates are based on EDGAR filings.

[62] *See* 2009 Summary Prospectus Adopting Release, *supra* note 33, at 66–67 (similarly noting the Commission's intent to review the use of the mutual fund summary prospectus by investors in funds that voluntarily adopt the summary prospectus).

[63] *See infra* section III.C.1.

[64] Proposed 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.3.

[65] State insurance law requirements typically require that variable contracts have free look provisions that permit investors to return the contract for a refund within a stated number of days of receiving it (usually between ten and twenty days). The amount of the refund may differ between variable annuity contracts and variable life

Continued

One 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. During the sales process, potential investors typically receive informational materials provided by the insurer, such as marketing brochures, investment option guides, and other explanatory materials that focus on key features of the particular contract or variable contracts generally. They may also receive disclosures required under state law, such as a ''Buyer's Guide'' that generally describes how variable contracts work.[66] Each investor also typically completes an application, along with certain assessment forms, in order to determine whether a variable contract may be appropriate for the investor.[67]

Once the application is approved, the investor receives the contract, which sets forth in detail the investor-specific contract terms and is accompanied by the contract statutory prospectus. In addition to receiving an updated contract statutory prospectus and the prospectuses of the portfolio companies at least annually,[68] investors also receive other information during the lifecycle of a variable contract. This includes, for example, information required under federal law (such as purchase and sale confirmations, and annual and semi-annual reports for the portfolio companies to which the investor has allocated contract value). This also includes notices that insurers may choose to send to investors alerting them to key events (such as required minimum distributions, withdrawals, annuitization, ability to exercise an optional benefit, and loan confirmations).[69] We have designed the initial summary prospectus to complement current disclosure practices by not unnecessarily duplicating other disclosures, and by highlighting aspects of the contract that may not be described in detail elsewhere.

b. Scope of Disclosure To Be Included in Initial Summary Prospectus

The proposed rule requires that the initial summary prospectus may only describe a single contract that the registrant currently offers for sale.[70] We understand that industry practice is to combine multiple contract prospectuses into a single registration statement on Form N–3, N–4, or N–6 when those prospectuses describe variable contracts that are ''essentially identical.'' [71] We also understand that certain contract prospectuses 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, can hinder investors from distinguishing between contract features and options that apply to them and those that do not. Therefore, the proposed rule limits the initial summary prospectus to describing only a single contract that the registrant offers under the statutory prospectus to which the initial summary prospectus relates. While the initial summary prospectus could only describe one contract, the proposed rule nonetheless would permit it to describe more than one class of a currently-offered contract.[72]

Although the content requirements for the initial summary prospectus cross-reference items of Forms N–3, N–4, and N–6, we anticipate that the proposed rule's scope provisions may cause registrants to vary certain disclosures that appear in the statutory prospectus when the same disclosure topics appear in the initial summary prospectus. This may occur even if both disclosures respond to the same form item requirement.[73] For example, a registrant that describes several currently- and previously-offered optional benefits in response to Item 11 of Form N–4 in its statutory prospectus would not be permitted to describe optional benefits that it no longer currently offers in its initial summary prospectus.

We request comment generally on the proposed scope requirements for the initial summary prospectus, and specifically on the following issues:

- Should the initial summary prospectus be limited to describing a single contract that the registrant currently offers for sale? Would this reduce the initial summary prospectus' complexity and minimize confusion to investors? Would this requirement be burdensome in any way for registrants to interpret, administer, or manage operationally, and if so, how? Should the proposed rule instead frame this requirement of one summary prospectus-per-contract in another manner, for clarity or for any other reason?
- Should we allow an initial summary prospectus to describe multiple contracts if the registrant currently offers multiple contracts through the related registration statement? Would the answer change if the multiple contracts were offered on a single prospectus versus multiple separate prospectuses? Would this make the initial summary prospectus substantially longer or confusing to investors, and would it decrease the likelihood that investors would read an initial summary prospectus?
- Should we restrict the number of contract classes that may be included in an initial summary prospectus?

c. Preparation of the Initial Summary Prospectus

The following chart outlines the information that the proposed rule would require 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

insurance contracts and also may vary among the states.

See also NAIC, *Annuity Disclosure Model Regulations* (2nd Quarter, 2015) (''2015 NAIC Annuity Disclosure Model Regulations''), *available at http://www.naic.org/store/free/MDL-245.pdf* (''Where the Buyer's Guide and disclosure document are not provided at or before the time of application, a free look period of no less than fifteen (15) days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided by state law or regulation.''); NAIC, *Life Insurance Disclosure Model Regulations,* (3rd Quarter, 2018), *available at http://www.naic.org/store/free/MDL-580.pdf* (''[I]f the policy for which application is made contains an unconditional refund provision of at least ten (10) days, the Buyer's Guide may be delivered with the policy or prior to delivery of the policy.'').

[66] Some states have adopted model regulations that require insurers to provide certain disclosure documents to annuity investors either at or before the time of application. For example, the ''Buyer's Guide'' describes in plain English how variable contracts work, what certain technical terms mean, tax implications, and fees. *See* NAIC, Buyer's Guide for Deferred Annuities Variable (2013), *available at http://www.naic.org/documents/prod_serv_consumer_anb_lv_2013.pdf;* NAIC, Life Insurance Buyer's Guide, (2007), *available at http://naic.org/documents/consumer_guide_life.pdf.*

[67] *See, e.g.,* FINRA Rule 2330 (Members' Responsibilities Regarding Deferred Variable Annuities) (establishing sales practice standards, including suitability standards, regarding recommended purchases and exchanges of variable annuities).

[68] *See supra* note 31 and accompanying text; *see also infra* section II.C (discussing circumstances under which certain variable contract issuers provide alternative disclosures instead of the contract statutory prospectus, as described in certain staff no-action letters).

[69] Additionally, to the extent that a variable contract investor meets periodically with a sales agent, the sales agent may also provide additional supplemental information about the contract or the portfolio companies.

[70] Proposed rule 498A(b)(1).

[71] *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); *see also infra* section II.D.1 (discussing our proposed form instructions that would incorporate this existing staff guidance).

[72] Proposed rule 498A(b)(1). Similarly, a mutual fund summary prospectus ''may describe only one Fund, but may describe more than one Class of a Fund.'' *See* rule 498(b)(4).

[73] *See infra* section II.A.7.c. (discussing potential section 11 liability considerations to the extent that the language in the summary prospectus is not identical in substance to the same sections of the statutory prospectus).

summary prospectus, the proposed rule references particular disclosure items from Forms N–3, N–4, and N–6 (as proposed to be amended).[74] The information would be required to appear in the same order, and under the relevant corresponding headings, as the proposed rule specifies.[75] We propose a standardized presentation to require certain disclosure items that we believe would be most relevant to investors (such as the proposed contract overview section and proposed table that includes key information about the contract), to appear at the beginning of the initial summary prospectus, with supplemental information appearing further in. The required presentation could also facilitate comparison of different variable contracts.[76]

TABLE 2—OUTLINE OF THE INITIAL SUMMARY PROSPECTUS

Heading in initial summary prospectus	Proposed item of Form N-3	Proposed item of Form N-4	Proposed item of Form N-6
Cover Page:			
Identifying Information.			
Legends.			
EDGAR Contract Identifier.			
Table of Contents (optional).			
Content:			
Overview of the [Variable Annuity/Life Insurance] Contract	2	2	2.
Important Information You Should Consider About the [Contract]	3	3	3.
Standard Death Benefit	11(a)	10(a)	10(a).
Other Benefits Available Under the Contract	12(a)	11(a)	11(a).
Buying the Contract	13(a)	12(a)	9(a)–9(e).
How Your Contract Can Lapse			14.
Surrendering Your Contract or Making Withdrawals: Accessing the Money in Your Contract.	14(a)	13(a)	12(a).
Additional Information About Fees	4	4	4.
Appendix: Portfolio Companies Available Under the Contract	19 or 20[77]	18	18.

i. Cover Page and Table of Contents

Identifying Information. Under the proposed rule, the following information would be required to appear on the front cover page or the beginning of the initial summary prospectus:

- The depositor's name;
- the registrant'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.[78]

Legends. The cover page or beginning of the initial summary prospectus would also be required to include the following legends:

This Summary Prospectus summarizes key features of the [name of Contract]. You should read this Summary Prospectus carefully, particularly the section titled Important Information You Should Consider About the [Contract].

Before you invest, you should review the prospectus for the [name of Contract], which contains more information about the [Contract], including its features, benefits, and risks. You can find the 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 [____].[79]

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 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*.[80]

These proposed legends are designed to provide identifying information about the variable contract to which the initial

[74] To the extent we have proposed amendments to Forms N–3, N–4, and N–6 that would facilitate the proposed summary prospectus content requirements, as well as amend the content requirements for the statutory prospectus, we generally discuss these amendments in more detail in section II.D below. However, in order to better explain the initial summary prospectus, we have elected to discuss new or amended items that we propose to include in the statutory prospectus, to the extent they would also appear in the initial summary prospectus, in this section II.A.1.

[75] Proposed rule 498A(b)(5).

[76] We understand that many investors purchase variable contracts through an intermediary and often do 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 160 and accompanying text. Having a more comparable 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.E, we are also proposing to require the use of Inline XBRL format for the submission of certain required disclosures in the variable contract statutory prospectus. The structured data format would allow investors, financial intermediaries, third-party analysts, and others to more efficiently analyze and compare these products.

[77] Registrants on Form N–3 could omit the appendix specified by proposed Item 19 of Form N–3, and instead provide the more detailed disclosures about the investment options offered under the contract required by proposed Item 20 of Form N–3. *See infra* note 517 and accompanying text.

[78] Proposed rule 498A(b)(2)(i) through (v).

[79] The legend would be 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 information, request other information about the variable contract, and to make investor inquiries. Proposed rule 498A(b)(2)(vi)(B).

The website address would be required to 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 proposed requirement, documents available on the website address would be required to be publicly accessible and free of charge. *See* proposed rule 498A(h)(1); *see also infra* section II.A.4.

[80] Proposed rule 498A(b)(2)(vi).

summary prospectus relates, as well as certain general information that would be applicable to all variable contracts.[81] While the proposed legend describing how to obtain further information about the contract generally parallels the legend on the cover page of mutual fund summary prospectuses,[82] we have proposed several additional legends that we believe are appropriate in the context of variable contracts. These additional legends notify investors that: (1) The initial summary prospectus is a summary that should be read carefully (and that investors should particularly focus on the ''Important Information You Should Consider About the [Contract]'' section of the summary prospectus); (2) they may cancel the variable contract within a limited amount of time after receiving it (that is, alerting investors to the existence of the free look period); [83] and (3) additional general information about certain investment products, including variable contracts, is available at *Investor.gov.*[84]

If any information is incorporated by reference into the initial summary prospectus, the proposed rule would require that the legend include certain disclosures related to that information.[85] These requirements are described below in section II.A.6. The cover page would also be required to include a legend indicating 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.[86]

EDGAR Contract Identifier. We are also proposing to require that the contract's EDGAR contract identifier be included 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).[87] 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.

Table of Contents. The proposed rule would permit an initial summary prospectus to include a table of contents.[88] 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 prospectus delivered electronically.[89]

We request comment generally on the proposed requirements for the cover page and table of contents of the initial summary prospectus, and specifically on the following issues:

- Should we include any additional information or eliminate any of the information that we have proposed to include in these parts of the initial summary prospectus? For example, for prospectuses filed on Form S–11, which is used for registration under the Securities Act of securities of certain real estate companies, the cover page must include a prominent cross-reference to the risk factors section of the prospectus, including the page number where it appears, as well as certain disclosures, if applicable, regarding limitations on transferability of the securities being registered and the absence of a market for securities of the same class as those being registered.[90] Would it be helpful for the cover page of the initial summary prospectus to contain similar disclosures relevant to variable contracts? For example, in addition to stating that investors should particularly focus on the ''Important Information You Should Consider About the [Contract]'' section of the initial summary prospectus, should the cover page include disclosures regarding surrender charges or other items relating to the contract, a cross-reference to the risk factors section or other sections of the statutory prospectus, or other disclosures?
- Are the proposed legends sufficient to notify investors of the availability and significance of the contract statutory prospectus and other information about the variable contract and how to obtain this information? Should the legends include greater detail about the information that is available?
- Will the proposed legends adequately inform investors of the various means for obtaining additional information about a variable contract? Are the proposed requirements for the website address where additional information is available adequate to ensure that the website and the additional information will be easy to locate?
- Would the proposed legend on the cover page or beginning of the initial summary prospectus with information on the free look period help alert investors that they may cancel their contracts without fees or penalties within a limited time after the sale? Should this legend be more prominently displayed (*e.g.,* larger font size, boxed, or bolded) relative to the other legends?
- As proposed, should registrants be permitted to modify the required legends, provided the modified legends provide comparable information?
- Should the legends include a reference to the *Investor.gov* website? Why or why not? If so, what specific information about variable contracts would be most helpful to investors for the staff to provide on this website?
- Should the proposed 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 instead require that another identifier be provided? If so, what identifier should be listed, and why?
- Should registrants be permitted to include a table of contents in the initial summary prospectus? Instead, should a table of contents be required? Does rule 481(c) under the Securities Act provide appropriate requirements for a table of contents included in an initial summary prospectus?

ii. Content of the Initial Summary Prospectus

Proposed rule 498A specifies the content and order thereof required in an initial summary prospectus.[91] An initial summary prospectus must contain the information required by the proposed rule, and only that information, in the order specified by the rule.[92] 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

[81] A registrant would be able to modify the proposed legends so long as the modified statements contain comparable information. Proposed rule 498A(b)(2)(vi)(A).

[82] *See* rule 498(b)(1)(v).

[83] Many investors may not be familiar with the free look period, and the proposed legend is intended to alert them of its existence and explain where they may obtain additional information about its operation. This is particularly important because the free look period may be the only time the investor may cancel the contract without paying significant surrender fees or tax penalties.

[84] 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 investment 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; 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.*

[85] Proposed rule 498A(b)(2)(vi)(C).

[86] Proposed rule 498A(b)(2)(vii); *cf.* rule 481(b)(1) under the Securities Act.

[87] Proposed rule 498A(b)(3). An EDGAR contract identifier is issued by the Commission, is ten characters in length (nine numbers preceded by a ''C''), and uniquely, and persistently, identifies each contract. These identifiers are available to the public. Information filed with the Commission containing these identifiers is searchable by the public and our staff using the contract identifiers and also using the contract names without the need to reference the registrant issuing the contract. *See* Rulemaking for EDGAR System, Investment Company Act Release No. 26990 (July 18, 2005) [70 FR 43558 (July 27, 2005)] at text following n.29.

[88] Proposed rule 498A(b)(4).

[89] Rule 481(c).

[90] *See* Item 1 of Form S–11 (requiring certain disclosures and also referencing Item 501 of Regulation S–K); *see also* Item 501 of Regulation S–K [17 CFR 229.501].

[91] Proposed rule 498A(b)(5).

[92] *Id.*

Investment Company Act for the purposes of section 5(b)(1) of the Securities Act.[93] To aid market participants in understanding the types of disclosures we propose to require, Appendix A to this release contains a hypothetical initial summary prospectus for a variable annuity separate account with a registration statement filed on Form N–4. This hypothetical initial summary prospectus is provided solely for illustrative purposes and is not intended to imply that it would reflect a ''typical'' initial summary prospectus.

(a) Overview of the Contract

The initial summary prospectus would begin with a section including certain basic and introductory information about the contract and its benefits, under the heading ''Overview of the [Variable Annuity/Life Insurance] Contract.'' [94] This section would appear at the beginning of the initial summary prospectus because it is designed to provide basic information about how the variable contract functions. We believe that investors of different levels of financial sophistication may benefit from receiving this information early in the initial summary prospectus. This would provide a contextual baseline to help inform investors' understanding of disclosure about more detailed aspects of the variable contract that are described later in the initial summary prospectus.

Specifically, this section would be required to include a concise description of the following:

Purpose of Contract. The proposed requirement to briefly describe the purpose(s) of the contract in general terms [95] 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 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.

Phases of Contract (for Variable Annuity Contracts). The proposed requirement to include a brief description of the accumulation (savings) phase and annuity (income) phases of the contract [96] is meant to provide basic information about how the variable annuity contract functions, which in turn would 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 would highlight the effect of annuitization on the ability to make withdrawals and the continuation of contract benefits.

This discussion would require a brief overview of the investment options available under the contract (that is, portfolio companies and any general or fixed account option).[97] The registrant also would be required to 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 detailed information about investment options as required by proposed Item 20 of Form N–3),[98] and provide a cross-reference or link to the relevant appendix.[99] Finally, the registrant would be required to 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.[100]

Premiums (for Variable Life Insurance Contracts). Instead of requiring a description of the phases of the contract as with variable annuities, Form N–6 would require the ''Overview'' section to briefly describe the payment of premiums under the variable life insurance contract. This description of premiums would 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 would 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.[101]

Unlike variable annuities, variable life insurance requires the investor to make continuous 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, 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 would include a summary of the contract's primary features, including death benefits, withdrawal options, loan provisions, and any available optional benefits.[102] If applicable, the registrant would be required to state that the investor will incur an additional fee for selecting a particular benefit.[103] Because registrants would discuss many of these subjects in other sections of the initial summary prospectus in greater detail (and would discuss each of these subjects in more detail in the contract statutory prospectus), this paragraph is intended to be summary in nature.

We request comment generally on the ''Overview'' section that we propose would appear in the initial summary prospectus, and specifically on the following issues:

[93] Proposed rule 498A(b); *see also infra* section II.A.3.

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 33, at n.70.

[94] *See* proposed rule 498A(b)(5)(i); *see also* proposed Item 2 of Forms N–3, N–4, and N–6; *infra* section II.D.2.b.

[95] *See* proposed rule 498A(b)(5)(i); *see also* proposed Item 2(a) of Forms N–3, N–4, and N–6.

[96] *See* proposed rule 498A(b)(5)(i); *see also* proposed Item 2(b) of Forms N–3 and N–4.

[97] However, a detailed explanation of the separate account, sub-accounts, and portfolio companies is not required. *See* Instruction 2 to proposed Item 2(b)(1) of Forms N–3 and N–4.

The registrant thus would not list the names of each portfolio company available under the contract, as this would be duplicative of information available in the appendix that would accompany the summary prospectus. *See infra* section II.A.1.c.ii(*i*).

[98] *See infra* note 517 and accompanying text.

[99] *See* proposed rule 498A(b)(5)(i); *see also* Instruction 1 to proposed Item 2(b)(1) of Forms N–3 and N–4.

[100] *See* proposed rule 498A(b)(5)(i); *see also* proposed Item 2(b)(2) of Forms N–3 and N–4.

[101] *See* proposed rule 498A(b)(5)(i); *see also* proposed Item 2(b) of Form N–6. The proposed instructions to this requirement would 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 relevant appendix. *See* proposed rule 498A(b)(5)(i); *see also* Instruction 1 to proposed Item 2(b)(3) of Form N–6.

[102] *See* proposed rule 498A(b)(5)(i); *see also* proposed Item 2(c) of Forms N–3, N–4, and N–6.

[103] *Id.*

• Are the requirements of the proposed section clear and appropriate in light of the goals of the initial summary prospectus, and would the information disclosed to investors be helpful to investors in light of these goals? Is this the most useful information for the beginning of the initial summary prospectus? Would it provide investors with context to better understand the remainder of the initial summary prospectus? Why or why not? Would the information provided in the proposed section be unnecessarily duplicative with other information that would appear in the initial summary prospectus?

• Should we impose word or page limits on the proposed section? If so, what should the word or page limits be (*e.g.,* no more than one page)?

• Are there additional disclosure topics that should be required to be included in the proposed ''Overview'' section? Instead, should we provide flexibility to registrants in preparing this section as to topics, etc.?

(b) Key Information

The initial summary prospectus would next include a table (the ''Key Information Table'') that would 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.[104] Specifically, it would 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.[105]

The Key Information Table includes a number of prescribed disclosures and is designed to complement the ''Overview'' section. We have proposed 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 proposing 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 would be easier to read and better convey the importance of the information to investors.[106] This presentation may also facilitate comparisons of certain disclosure topics among variable contract prospectuses.

We propose requiring that a registrant provide the Key Information Table under the heading ''Important Information You Should Consider About the [Contract].'' [107] There would be specified headings for each of the five topic areas that the table would include, and under each heading would be two columns. The left column would list the required disclosure line-items for each of the five topic areas, and the right column would provide a brief description for each corresponding line-item, according to the respective instructions for each proposed line-item.[108]

(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,[109] that information is frequently presented over a span of two or more pages when a prospectus is printed on paper. We believe that investors may benefit from a shorter, more tailored discussion in the Key Information Table that is intended to convey the importance of a contract's fee and expense structure. As discussed below, we are proposing to require that the initial summary prospectus also include the Fee Table from the statutory prospectus.[110] This framework would allow an investor to determine the level of fee information that best suits his or her informational needs.

Surrender Charges. We believe that it is important that investors understand that if they make a withdrawal in the first several years of 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.[111]

The proposed Key Information Table would require certain information intended to alert investors about the potential impact of surrender charges imposed on early withdrawals. The first line-item in the proposed table, ''Surrender Charge (charges for early withdrawals),'' would require 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. This statement would 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.[112]

In addition, we are proposing to require 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.'').[113] We

[104] *See* proposed rule 498A(b)(5)(ii); proposed Item 3 of Forms N–3, N–4, and N–6.

[105] In determining these proposed topic areas, 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 667 (regarding investor complaints); 2012 Financial Literacy Study, *supra* note 39. 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'').

[106] 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, and Michael Pagano, *The Effects of Summary Information on Consumer Perceptions of Mutual Fund Characteristics,* The Journal of Consumer 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'').

[107] Immediately following this heading would be the statement: ''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.''

[108] The table also could include a third column, which would include cross-references to the locations in the statutory prospectus where the subject matter that each line-item requires is described in greater detail, or would otherwise cross-reference that information. *See infra* note 162 and accompanying text.

[109] *See* Item 3 of current Forms N–3, N–4, and N–6 (''Fee Table'').

[110] *See infra* section II.A.1.c.ii(h).

[111] 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.

[112] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(a) to proposed Item 3 of Forms N–3, N–4, and N–6. The maximum surrender charge would be expressed as a percentage of the contribution or premium or the amount surrendered, whichever is applicable.

[113] We propose to use $100,000 as the basis for the surrender charge example because the value of the average variable annuity contract has recently exceeded $100,000. *See* IRI Fact Book, *supra* note

believe that for purposes of the Key Information Table, 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.[114]

Transaction Charges. The second line-item in the ''Fees and Expenses'' section of the proposed table, ''Transaction Charges (charges for certain transactions),'' would require a statement that, in addition to surrender charges, the investor may also be charged for other transactions. This statement would be required to include 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.).[115] We are not proposing to require registrants to disclose the amount of each transaction charge in the Key Information Table because we understand the costs associated with most transaction charges to be relatively small, as a percentage of average account size (unlike surrender charges). Moreover, the Fee Table would require more detailed information about each of these charges (including the amount of each charge).[116] The line-item for Transaction Charges in the Key Information Table is designed to provide a simple narrative description to alert investors that surrender charges are not the only transaction charges they could pay.

Ongoing Fees and Expenses. The third line-item in the ''Fees and Expenses'' section, ''Ongoing Fees and Expenses (annual expenses),'' is designed to alert investors that they also will bear recurring fees on an annual basis.[117] In Form N–3 and N–4, the disclosure in this line-item would begin with the legend ''The table below describes the fees and expenses that you may pay *each year,* depending on the options you choose.''[118]

Form N–4 registrants would disclose, in a tabular presentation in the order specified, the minimum and maximum annual fees for: (1) Base contract expenses;[119] (2) investment options (*e.g.,* portfolio company fees and expenses);[120] and (3) optional benefits.[121] Since Form N–3 registrants have a single-tier structure and consolidate fees and expenses for investment options into base contract expenses, Form N–3 registrants would disclose the same information as Form N–4 registrants except fees for base contract expenses and investment options would be consolidated into a single entry labeled ''annual contract expenses.''[122] The minimum annual fee column would show the lowest available current fee for each annual fee category (*i.e.,* the least expensive contract class, the lowest total annual portfolio company operating expense, lowest annual contract expenses, and the least expensive optional benefit available for an additional charge).[123] The maximum annual fee column would show the highest fees for these categories. Additionally, a legend preceding the minimum and maximum annual fee table would refer investors to their contract specifications page for information about the specific fees they would pay each year based on the options elected.[124]

This presentation would 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.[125] For example, like the proposed ''Ongoing Fees and Expenses'' line-item in the Key Information Table, the Fee Table would also include information about the contract's base contract fee, portfolio company fees and expenses, and optional benefits.[126] However, the Fee Table would be required to include a separate response for each contract form that the prospectus offers that has different fees, and also a separate response for each contract class.[127] In order to condense this information, the parallel disclosure in the Key Information Table would be presented as fee ranges.

We have also designed an example in Forms N–3 and N–4 to provide a high-level cost illustration that would 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 propose to require a two-column tabular presentation in the order specified reflecting the lowest and highest current annual cost estimates for the variable contract.[128] The following legend would 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

8, at 170. Using this figure would result in cost estimates that more closely mirror the actual experience of many variable contract investors. *See infra* note 130 and accompanying text.

[114] Registrants would continue to disclose the surrender fee in the Fee Table as a line-item in the ''Transaction Expenses'' table. They also would continue to reflect the consequence of any surrender fee in the ''Example'' to the Fee Table that would show the investor's contract costs if he or she were to surrender the contract after 1 year, 3 years, 5 years, and 10 years. *See* Item 3 of Forms N–3, N–4, and N–6.

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

[116] *See* proposed Item 4 of Forms N–3, N–4, and N–6 (requiring disclosure of transaction expenses).

[117] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c) to proposed Item 3 of Forms N–3, N–4, and N–6.

[118] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(i)(A) to proposed Item 3 of Forms N–3 and N–4.

[119] Minimum and maximum annual fees for base contract expenses would not be required on Form N–6 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 we do not expect would be helpful, and may be confusing, to investors.

[120] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(i)(D) to proposed Item 3 of Form N–4. Registrants would 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 18 ([Portfolio Companies] Available Under the Contract) of Form N–4.

[121] The disclosure would 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 % of net asset value). *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(i)(C) to proposed Item 3 of Form N–4 (% of net asset value).

[122] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(i)(B) to proposed Item 3 of Form N–3.

[123] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(i) to proposed Item 3 of Form N–3; Instruction 2(c)(i) to proposed Item 3 of Form N–4.

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 we know that some registrants do not charge extra for certain optional benefits, we want to alert investors to the costs associated with optional benefits that are available for an additional charge. Accordingly, the disclosure should reflect the minimum cost associated with an optional benefit that has a fee.

[124] Instruction 2(c)(i)(A) to proposed Item 3 of Forms N–3 and N–4. Many states require a contract specifications page that contains information about the premiums, 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.*

[125] 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 106.

[126] *See* proposed Item 4 of Forms N–3 and N–4.

[127] *See* Instructions 6 and 7 to proposed Item 4 of Forms N–3 and N–4.

[128] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(ii) to proposed Item 3 of Forms N–3 and N–4.

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.'' [129]

The lowest and highest annual dollar costs in this table would be based on certain prescribed assumptions (*i.e.,* a $100,000 investment) [130] with no additional contributions, transfers, or withdrawals, no sales charges, and a 5% annual return over a hypothetical 10-year period.[131] The lowest annual cost estimate would be based on the least expensive combination of contract classes and portfolio company charges, excluding optional benefits, and the highest annual cost estimate would reflect the most expensive combination of these items.[132] Excluding optional benefits from the lowest annual cost estimate, and including them in the highest annual cost estimate, would illustrate the cost impact of adding optional benefits to a contract.[133] With this information, the investor would be able to roughly estimate further costs,[134] and could obtain additional information about costs in the statutory prospectus if needed. [135]

In Form N–6, we have proposed that registrants provide disclosure in the ''Ongoing Fees and Expenses'' section of the table that primarily uses a narrative presentation, rather than the approach taken in Forms N–3 and N–4, due to the fact that maximum expenses could potentially exceed 100% of contract value based on the underwriting of the variable life insurance contract and therefore potentially be misleading to investors. This section of the table would require: (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 minimum and maximum annual fees for the investment options in a tabular presentation.[136]

(ii) Risks

The proposed Key Information Table also would include 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 would appear in the proposed 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 would include four line-items under the heading ''Risks,'' each of which would include disclosure about a risk that we believe investors should be alerted to: (1) Risk of 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.[137] Each of these line-items would include succinct descriptions of the respective risk.

The first line-item is intended to convey the concept that although variable contracts have elements of insurance, unlike most traditional forms of insurance, these products are subject to the risk of investment loss.[138] 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.

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 cash, particularly in view of the impact of surrender charges and/or tax penalties for early withdrawals.[139] 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).[140]

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

[129] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(ii)(A) to proposed Item 3 of Forms N–3 and N–4.

[130] While the example in the Fee Table in current Forms N–3 and N–4 uses $10,000 as the basis for calculating assumptions relating to the costs of investing in a contract, we propose to use $100,000 as the basis for the cost assumption in the ''Key Information'' table because the value of the average variable annuity contract has recently exceeded $100,000. *See* IRI Fact Book, *supra* note 8, at 170. Using this figure would result in costs estimates that more closely mirror the actual experience of many variable contract investors. For that reason, we are also proposing to amend the Forms to use $100,000 as the base assumption for similar examples used in the Forms, as discussed below.

[131] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(ii)(C)(a) to proposed 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 propose to base the cost estimate on the average cost of a contract over a 10-year period to level-set the calculation. *See* Instruction 2(c)(ii)(C)(a) to proposed Item 3 of Forms N–3 and N–4.

[132] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 2(c)(ii)(C)(a) to proposed Item 3 of Forms N–3 and N–4. Instruction 2(c)(ii)(C)(e) to proposed Item 3 of Forms N–3 and N–4 would 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.

[133] While the example in the Fee Table would include a similar cost estimate, it would reflect the most expensive combination of portfolio company operating 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* proposed Item 4 of Forms N–3 and N–4.

[134] 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.

[135] We would 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.

[136] Instruction 2(c) to proposed Item 3 of Form N–6.

[137] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 3 to proposed Item 3 of Forms N–3, N–4, and N–6.

[138] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 3(a) to proposed Item 3 of Forms N–3, N–4, and N–6 (''State that a contractowner can lose money by investing in the Contract.'').

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

[140] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 3(c) to proposed Item 3 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 risk of poor investment performance and can vary depending on the performance of the investment options available under the Contract (*e.g.,* Portfolio Companies and any fixed account investment options), that each investment option will have its own unique risks, and that the contractowner should review a Portfolio Company's prospectus 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.

solvency of the insurance company.[141] As part of these disclosures, the registrant would be required to state, if applicable, that additional information about the insurance company, including its financial strength ratings, may be obtained from the registrant.[142] In lieu of providing this statement, a registrant could include the insurance company's financial strength rating(s).[143]

A fifth line-item, which would 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).[144] 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.

Because the registrant may provide additional details about these and other risks in the statutory prospectus, we are also proposing a new requirement in Forms N–3 and N–4 that, like the current parallel requirement in Form N–6, would require the registrant to summarize the principal risks of purchasing a contract in a consolidated risk section within the statutory prospectus.[145] Registrants would have the flexibility to discuss any principal risks, and would not be limited to the risk topics, or the level of disclosure, when responding to this requirement.

(iii) Restrictions

The proposed Key Information Table also would require 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 have designed this section of the table to include separate line-items for each of these topics under the heading ''Restrictions.''[146] 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 ''Investment Options'' line-item would require registrants to disclose whether there are any restrictions that may limit the investment options that an investor may choose and/or limitations on the 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.[147] The ''Optional Benefits'' line-item would require 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.[148]

We are proposing to include 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. We are not proposing to require a description of the specific restrictions and limitations associated with each of the available investment options and optional benefits. Doing so would likely add significant length to the table. Instead, this information will be provided in other parts of the initial summary prospectus, as well as the statutory prospectus.[149]

(iv) Taxes

Because variable contracts are subject to a special tax regime, with both tax advantages and potential tax impacts in certain circumstances, we are proposing to require that the Key Information Table include tax-related disclosures. The ''Tax Implications'' line-item of the table, which would appear under the heading ''Taxes,'' would require 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.[150] A registrant also would be required to 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.[151]

The tax disclosure in the proposed Key Information Table is meant to alert investors to tax implications of their investment in a location and using a presentation we believe investors are most likely to see and understand. Similar to the other line-items in the proposed Key Information Table, additional detail about the tax implications of an investment in a variable contract would also be available in the statutory prospectus.[152]

[141] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 3(d) to proposed Item 3 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, guarantees, or benefits are subject to the claims-paying ability of the Depositor.'').

[142] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 3(d) to proposed Item 3 of Forms N–3, N–4, and N–6 (*e.g.,* from Form N–4, ''If applicable, further state that more information about the Depositor, including its financial strength ratings, is available upon request from the Registrant'').

[143] *See* Instruction to Instruction 3(d) to proposed Item 3 of Forms N–3, N–4, and N–6.

[144] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 3(e) to proposed Item 3 of 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.'').

[145] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 1(c) to proposed Item 3; proposed Item 5 of 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.

[146] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 4 to proposed Item 3 of Forms N–3, N–4, and N–6. We recognize that there may be overlap between the proposed line-items for ''Investment Options'' and ''Optional Benefits,'' since many optional benefits limit the investment options available to investors.

[147] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 4(a) to proposed Item 3 of Forms N–3, N–4, and N–6 (''State whether there are any restrictions that may limit the investment options that a contractowner 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'').

[148] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 4(b) to proposed Item 3 of 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 may affect the availability of optional benefits by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate a benefit.'').

[149] *See, e.g.,* proposed rule 498A(b)(5)(iv), proposed Item 12(a) of Form N–3, and proposed Item 11(a) of 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, would be required to include a brief description of restrictions/limitations associated with each benefit); *see also* proposed rule 498A(b)(5)(ix), proposed Item 19 of Form N–3, and proposed Item 18 of 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 would be required to include a separate table indicating which portfolio companies are available under each of the benefits offered under the contract).

[150] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 5 to proposed Item 3 of Forms N–3, N–4, and N–6.

[151] *Id.*

[152] *See, e.g.,* proposed Item 16 of Form N–3, proposed Item 15 of Forms N–4 and N–6.

(v) Conflicts of Interest

The proposed Key Information Table would also include, if applicable,[153] 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 would require registrants to disclose, if applicable, that an investment professional may be paid for selling the contract to investors.[154] A registrant would be required to describe the basis upon which such compensation is typically paid (*e.g.,* commissions, revenue sharing, compensation from affiliates and third parties).[155] A registrant providing the required disclosure would be required to further 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 compensated (or compensated less).[156] This proposed requirement reflects analogous disclosure that appears in mutual fund summary prospectuses [157] 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 would require 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.[158] A registrant would further be required to 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.[159] When a contract owner purchases a new annuity contract to replace an existing one, the new contract is referred to as a replacement contract.[160] 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.

(vi) General Instructions

In addition to the proposed instructions specific to each line-item in the Key Information Table, the table would be subject to a set of general instructions. To streamline the disclosure and encourage registrants to use plain-English, investor-friendly principles when drafting the disclosures, the proposed general instructions would require registrants to disclose the required information in the tabular presentation reflected in the form, in the order specified. However, registrants would be permitted to exclude any disclosures that are not applicable or modify any of the statements that would be required to appear in the table so long as the modified statement contains comparable information.[161]

The proposed general instructions would also require registrants to provide cross-references or links to the location in the statutory prospectus where the subject matter required by the line-item is described in greater detail.[162] The cross-reference or link would not necessarily need to be a page number or page range; instead, a registrant could cross-reference or link a particular section or sub-section, or heading or sub-heading, in the statutory prospectus. As discussed below, we are separately proposing that any cross-reference that is included in an electronic version of a summary prospectus must be an active hyperlink.[163]

We believe that providing cross-references and links would help investors who seek additional information quickly find more detailed information that may be important to them. We recognize that certain line-items in the Key Information Table may more readily lend themselves to the inclusion of a single cross-reference or link because the information may be found in one location in the statutory prospectus.[164] On the other hand, other line-items may aggregate information that appears in multiple locations in the statutory prospectus, and therefore a registrant would need to include multiple cross-references or links as appropriate.[165]

Finally, in keeping with our goal of providing a brief tabular presentation of key facts that can be easily digested by investors, the proposed instructions provide that all disclosures in the Key Information Table should be short and succinct, consistent with the limitations of a tabular presentation.[166]

(vii) Requests for Comment on Key Information Table

We request comment generally on the Key Information Table that we propose would appear in the initial summary prospectus, and specifically on the following issues. We request specific comment about the table as it would appear in the updating summary prospectus and the statutory prospectus later in this release.

- Should we require the proposed Key Information Table to be included in the initial summary prospectus? Would this table provide a succinct summary of the contract's key terms and benefits and most significant risks, in a presentation that would improve readability and increase readership?
- Would the topics of the line-items that we propose to include in the Key Information Table be appropriate or useful for investors making an initial purchase of a variable contract? If not, why not? Should we require the table to include additional or different topics? Should we limit the topics and related disclosures to those that are required, or should we permit registrants to include additional topics at their discretion? Could this open the door to lengthy disclosure that might undermine the goal of a succinct presentation?
- Is the proposed tabular presentation useful and likely to facilitate investor

[153] 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 proposed Item 3 of Forms N–3, N–4, and N–6.

[154] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 6(a) to proposed Item 3 of Forms N–3, N–4, and N–6.

[155] *Id.*

[156] *Id.*

[157] *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).

[158] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 6(b) to proposed Item 3 of Forms N–3, N–4, and N–6.

[159] *Id.*

[160] 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.

[161] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 1(a) to proposed Item 3 of Forms N–3, N–4, and N–6.

[162] *See* proposed rule 498A(b)(5)(ii); *see also* General Instruction 1(b) to proposed Item 3 of Forms N–3, N–4, and N–6. The proposed 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.

[163] *See* proposed rule 498A(a)(i)(4); *see also infra* section II.A.5.

[164] For example, a more detailed description of the contract's fees and expenses would appear in the Fee Table section of the contract statutory prospectus. *See infra* section II.D.2.d.

[165] For example, it may not always be possible to provide a single cross-reference for the ''Restrictions'' line-items as they may be discussed in multiple sections of the statutory prospectus. *See supra* note 149.

[166] *See* proposed rule 498A(b)(5)(ii); *see also* Instruction 1(c) to proposed Item 3 of Forms N–3, N–4, and N–6.

understanding of key information about variable contracts? Would another presentation be better? If so, why, and what would a better alternate presentation be? Would the two-column presentation be effective for investors reading an electronic version of the initial summary prospectus? Should the form of presentation be required, or should it be left to the discretion of registrants? Would a standardized presentation facilitate comparison of different variable contracts?

• Should we require cross-references to the location (section or sub-section, or heading or sub-heading) in the statutory prospectus where the information provided in response to each line-item of the Key Information Table is discussed in greater detail? Instead of cross-referencing to the relevant location in the statutory prospectus, should we instead require the cross-reference to include a specific page number in the statutory prospectus where an investor could find the information? Would it confuse investors who receive the summary prospectus to see cross-references to the statutory prospectus? If so, should the table in the summary prospectus not include cross-references, or should we consider some other approach?

• If we require cross-references, should electronic versions of the summary prospectus be required to link directly to the relevant location in the statutory prospectus, as would be required by proposed rule 498A? If not, why not? Would requiring a cross-reference (or link) pose any particular technical, legal, or other challenges for registrants? If so, what would these challenges be, and how could we modify the proposed rule or provide guidance to mitigate these challenges? Instead of hyperlinks, are there other technological tools that would better help an investor find information that is cross-referenced in the Key Information Table, such as QR codes or similar technological tools? [167]

• Is the level of detail of the disclosure that we propose in each line-item of the Key Information Table appropriate, and does it strike the right balance between providing enough information to alert an investor to the most salient facts (including fees, expenses, and risks) of the variable annuity contract, but not too much, or too detailed information? If not, how should we modify the table?

• Should we impose a word or page limit on the proposed Key Information Table (*e.g.,* no more than two or three pages)? If so, what should the word limit or page limit be?

• Would the disclosure that a registrant would provide in response to the proposed ''Fees and Expenses'' line-items convey the appropriate amount of information to investors and concisely alert investors to the most important fees and expenses associated with the variable annuity contract? Are there any additional charges that should be included in these line-items? For example, we understand that in some instances an investment professional may charge fees for providing additional services that are directly deducted from the value of the investor's contract and which may be treated as a withdrawal from the contract, reduce the contract's benefits, and be subject to surrender charges. How common are such arrangements, and what disclosures, if any, would be appropriate to be included in the Key Information Table or elsewhere, such as in the fee table?

• Would the ''Surrender Charge'' line-item, as proposed, convey sufficient information for investors to understand the dollar amount that they could pay as a surrender charge if they make withdrawals in the first several years of their contract, and if not, how should we modify this line-item?

• Would the Minimum and Maximum Annual Fee and Lowest and Highest Cost tables convey information in a way that investors are likely to easily understand? Would these tables assist investors in understanding the costs of their investment and helping them compare the costs of investing in the variable annuity with the costs of investing in another product? Are the assumptions underpinning those tables appropriate? If not, why not? Are there any revisions that we should consider? Is $100,000 an appropriate figure to use as the basis for the cost example in the proposed table? Should we require that registrants use a different figure instead? If so, why? Should we require additional information to accompany the tables? For example, should the legend accompanying the tables inform investors that it is possible that the total fees associated with the contract may exceed the accumulated gains from the investment options selected by the investor? Should the Lowest and Highest Cost table include additional information such the hypothetical value of the contract (*e.g.,* in year 1 and year 10), the expenses incurred per year, and the value of the contract (*e.g.,* in year 1 and year 10) after expenses?

• Should we require registrants creating an electronic version of the initial summary prospectus to provide an interactive calculator for investors to determine how fees and expenses would affect their specific investments? If so, should the calculator include transaction charges?

• Should variable life insurance contracts also be required to show the lowest and highest possible combination of charges in the Form N–6 Key Information Table? Cost of insurance is often an important component of expenses for variable life insurance contracts (unlike variable annuities), and can vary significantly from one insured person to another depending on various demographic characteristics (*e.g.,* age, gender, health, smoking status). If the lowest and highest possible combinations of charges are shown, how should variations in cost of insurance be reflected?

• Would the disclosure that a registrant would provide in response to the proposed ''Risks'' line-items adequately convey an overview of the risks of investing in a variable contract? Are there other risks that we should require a registrant to disclose in the proposed Key Information Table? Should we revise or remove any of the proposed ''Risks'' line-items? For example, is it appropriate to allow registrants to include the insurance company's financial strength rating(s) in the line-item regarding the claims-paying ability of the insurance company? Should we revise the instructions associated with these proposed line-items to require different disclosures? Should we require a line-item for ''Other Principal Risks'' to provide registrants an opportunity to disclose risks related to investing in the contract that they would not otherwise be required to disclose in the Key Information Table? Should we instead provide flexibility by permitting registrants to disclose other risks at their discretion? Why or why not?

• Would the disclosure that a registrant would provide in response to the proposed ''Restrictions'' line-items appropriately convey the appropriate amount of information about certain restrictions that various contract options may entail, in light of the goals of the proposed Key Information Table? Should a registrant be required to disclose information about restrictions in the Key Information Table other than those associated with the contract's investment options and optional benefits? If so, what? Instead, should we provide flexibility by permitting registrants to disclose other restrictions at their discretion?

• Is the disclosure that a registrant would be required to provide in response to the proposed ''Tax Implications'' line-item appropriate, in light of the goals of the proposed Key Information Table? Should a registrant be required to emphasize more prominently that withdrawals will be subject to ordinary income tax, and not the capital gains rates? Should the line-item require disclosure of the specific tax penalties and requirements that variable contract investors may incur (*e.g.,* penalties for withdrawal before age 59½, or that purchases through a tax-qualified plan may be subject to required minimum distribution each year beginning at age 70½)?

• Are the disclosures that a registrant would be required to provide in response to the proposed ''Investment Professional Compensation'' line-items appropriate, in light of the goals of the proposed Key Information Table? Would these disclosures adequately apprise investors of the potential conflicts that arise when their investment professional is compensated for recommending an investment into a new or an exchange from an existing variable contract, and are these disclosures appropriately balanced? Should we revise these proposed disclosure requirements, and if so, how? Is it appropriate that these line-items appear under the heading ''Conflicts of Interest''? Is there another way that the summary prospectus could highlight the implications for investors of exchanges?

• Do the instructions associated with each of the proposed line-items clearly explain what a registrant would be required to disclose? In keeping with the structured format of a tabular presentation, we sought to promote concise disclosure by largely directing registrants to state, rather than to explain, certain information in response to the required line-items. Should the

[167] A QR code is a two-dimensional barcode capable of encoding information such as a website address, text information, or contact information. For example, when included on print materials, these codes can be read using the camera on a smartphone to take the user directly to a specific website address.

instructions prescribe specific language or should registrants have flexibility in drafting their responses? Are there any particular instructions that we should include or modify in any way, for clarity or for any other reason?

(c) Standard Death Benefit

The initial summary prospectus would be required to briefly describe the standard death benefit that the contract provides, under the heading ''Standard Death Benefit.'' [168] It would briefly describe the operation of the benefit.[169] Including this disclosure in the initial summary prospectus would highlight to investors important information about this benefit, such as information about the potential limitations on the standard death benefit and the possibility of its termination, that they might not otherwise receive through marketing materials and similar channels during the sales process.

Under the proposed registration form amendments, a registrant would include in the statutory prospectus these disclosures, as well as additional disclosures relating to when the death benefit is calculated and payable or the forms the benefit may take.[170] While this additional information provides detail that may help an investor who wants to understand the mechanics of how the standard death benefit operates later in the contract lifecycle, we are not requiring that it be included in the initial summary prospectus because we believe it would not be as critical to a basic initial understanding of the benefit, including any risks and limitations.

We request comment generally on the disclosure on the standard death benefit that we propose would appear in the initial summary prospectus, and specifically on the following issues:

- Are the proposed disclosure requirements in the initial summary prospectus under the ''Standard Death Benefit'' heading clear and appropriate in light of the goals of the initial summary prospectus?
- Would this disclosure be useful to investors in connection with an initial purchase of a variable contract? Should this proposed content requirement include any additional, or any different, disclosure about the standard death benefit? For example, would including one or more of the other disclosures required to be included in the statutory prospectus better assist investors in gaining a basic initial understanding of the standard death benefit?

(d) Other Benefits Available Under the Contract

Following the discussion of the standard death benefit, the initial summary prospectus would be required to summarize additional standard or optional benefits available to the investor under the variable contract. We understand that insurers commonly consider these types of benefits to be primary features of variable contracts.[171] These benefits are also often key differentiators between competing products, and we propose requiring specific disclosures in both the statutory prospectus and the initial summary prospectus. This information would appear in tabular form, under the heading ''Other Benefits Available Under the Contract.'' [172] This summary table would include information about any optional death benefits, as well as any optional or standard living benefits, that the contract offers.

Specifically, the summary table would 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.[173] The table items include key factors investors may wish to consider when assessing these benefits. We also have designed the proposed table to include information that investors may be less likely to receive through other channels, such as concise disclosure about the restrictions and limitations associated with these benefits. The terms of optional benefits can be complex. Providing the required information in a uniform tabular presentation is designed to make these important disclosures easier for investors to read, understand, and compare.

Under the proposed form amendments, a registrant would include in the statutory prospectus the summary table, as well as additional disclosures in narrative form relating to optional benefits, such as further additional description of each benefit, and descriptions of benefits' limitations, restrictions and risks, and one or more examples illustrating the operation of each benefit.[174] We believe that requiring the initial summary prospectus to include only the summary table and not the additional narrative disclosures is appropriate for the scope of the initial summary prospectus.[175] Consistent with the layered disclosure approach, investors who want more information about optional benefits may refer to the more extensive narrative disclosures in the contract statutory prospectus.

We are also proposing instructions to allow registrants that offer 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.[176] Registrants may also include appropriate titles, headings, or other information that might promote clarity and facilitate understanding of the table(s).[177] For example, if certain optional benefits are only available to certain investors, or are mutually exclusive, the table could include footnotes or headings to identify which optional benefits are affected and to whom they are available.[178] 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.

We request comment generally on the disclosure relating to other benefits available under the contract that we propose would appear in the initial summary prospectus, and specifically on the following issues:

- Are the proposed initial summary prospectus disclosure requirements

[168] 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.

[169] *Id.* For a discussion of the proposed disclosure requirements, *see infra* section II.D.2.j.

[170] *See* proposed Items 11(b) and (c) of Form N–3; proposed Items 10(b) and (c) of Form N–4; proposed Item 10(b) of Form N–6.

[171] *See supra* paragraph accompanying note 17 (regarding the prevalence of optional benefits).

[172] *See* proposed rule 498A(b)(5)(iv); *see also* proposed Item 12(a) of Form N–3; proposed Item 11(a) of Form N–4; proposed Item 11(a) of Form N–6.

[173] 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 proposed Item 12(a) of Form N–3; Instruction 6 to proposed Item 11(a) of Form N–4; Instruction 6 to proposed Item 11(a) of Form N–6.

[174] *See* proposed Item 12(b) and (c) of Form N–3 and Instruction to proposed Item 12(b) and (c); proposed Item 11(b) and (c) of Form N–4 and Instruction to proposed Item 11(b) and (c); proposed Item 11(b) and (c) of Form N–6 and Instruction to proposed Item 11(b) and (c).

[175] Registrants may, but would not be required to, provide in the initial summary prospectus cross-references or links to these additional narrative disclosures in the contract statutory prospectus.

[176] *See* Instruction 1(b) to proposed Item 12(a) of Form N–3; Instruction 1(b) to proposed Item 11(a) of Form N–4; Instruction 1(b) to proposed Item 11(a) of Form N–6.

[177] *See* Instruction 1(c) to proposed Item 12(a) of Form N–3; Instruction 1(c) to proposed Item 11(a) of Form N–4; Instruction 1(c) to proposed Item 11(a) of Form N–6.

[178] *Id.*

under the heading ''Other Benefits Available Under the Contract'' clear and appropriate in light of the goals of the initial summary prospectus?

• Are the proposed disclosure items in that table useful and appropriate for consideration by investors in connection with the initial purchase of a variable contract, or should we revise, supplement, or replace those items? Should the proposed summary table include any additional, or any different, disclosure about the standard death benefit or any other benefit? For example, should it include one or more of the other disclosures required to be included in the statutory prospectus? Or should we require that registrants add links or cross-references to these other disclosures? For the associated fee of each optional benefit, should the summary table permit a range of fees?

• Would investors find the proposed tabular presentation useful? Alternatively, would a different tabular presentation, a narrative presentation, or no presentation requirement for disclosure about any optional death benefits, as well as any optional or standard living benefits, be preferable?

• Are the proposed instructions clear, or should we modify them in any way? For example, should we require specific standardized disclosures in situations where certain optional benefits are only available to certain investors (*e.g.,* an additional column indicating any restrictions related to investors who invested during specific time periods), as opposed to permitting registrants to address this issue as they see fit?

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

The initial summary prospectus would be required to 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.[179] For variable annuity contracts, this would 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.[180] For variable life insurance contracts this would include a description of the purchase procedures (including, among other things, the minimum initial and subsequent premium payments required, any limitations on the amount of such premium payments, and how to avoid contract lapse), premium amount, premium payment plans, premium due dates, and automatic premium loans.[181]

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.[182] Additional information on purchases and premiums would appear in the statutory prospectus. For example, the statutory prospectus would also include information on the manner in which purchase or premium payments are credited, and the identity of each principal underwriter.[183]

We request comment generally on the disclosure on contract purchases that we propose would appear in the initial summary prospectus, and specifically on the following issues:

• Are the proposed disclosure requirements in the initial summary prospectus under the headings ''Buying the Contract'' (for variable annuity contracts) and ''Premiums'' (for variable life insurance contracts) clear and appropriate in light of the goals of the initial summary prospectus?

• Would this disclosure be useful to investors in connection with an initial purchase of a variable contract? Should this requirement include any additional, or any different, disclosure about purchases of variable contracts? For example, should it include one or more of the other disclosures required to be included in the statutory prospectus (*e.g.,* in the case of variable annuity contracts, explanations of the manner in which purchase payments are credited and how accumulation unit value is determined, or in the case of variable life insurance contracts, sub-account valuation and determination of risk classification)?

(f) Contract Lapse (for Variable Life Insurance Contracts)

The initial summary prospectus for a variable life insurance contract would be required to include certain information about the possibility of contract lapse, under the heading ''How Your Contract Can Lapse.'' [184] Specifically, the initial summary prospectus would 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,[185] understanding the risk of contract lapse is important when deciding to invest in a variable life insurance contract. This disclosure would include the same information on contract lapse that would appear in the contract statutory prospectus.

We request comment generally on the disclosure on contract lapse that we propose would appear in the initial summary prospectus, and specifically on the following issues:

• Are the proposed requirements in the initial summary prospectus under the heading ''How Your Contract Can Lapse'' clear and appropriate in light of the goals of the initial summary prospectus?

• Would this disclosure be useful to investors in connection with an initial purchase of a variable life insurance contract? Should this proposed content requirement include any additional, or any different, disclosure about the possibility of contract lapse?

(g) Surrenders or Withdrawals

The initial summary prospectus would be required to include certain information about contract surrenders or withdrawals, under the heading ''Surrendering Your Contract or Making Withdrawals: Accessing the Money in Your Contract.'' [186] This would include

[179] *See* proposed rule 498A(b)(5)(v); *see also* Item 11(a)(i) and (ii) of current Form N–3; proposed Item 13(a) of Form N–3; Item 10(a)(i) and (ii) of current Form N–4; proposed Item 12(a) of Form N–4. Although we have proposed renumbering certain provisions of this item, we have not proposed any substantive changes to this item in Forms N–3 and N–4.

[180] *Id.*

[181] *See* proposed rule 498A(b)(5)(v); *see also* Item 7(a) through (e) of current Form N–6; proposed Item 9(a) through (e) of Form N–6. We have not proposed any changes to this item in Form N–6.

Sub-accounts refer to the investment options, such as portfolio companies, available under the contract.

[182] This section of the summary prospectus for variable contracts is similar to the disclosure on purchasing fund shares that appears in mutual fund summary prospectuses. *See* rule 498(b)(2); Item 6 of Form N–1A.

[183] *See* proposed Item 13(b) through (f) of Form N–3; proposed Item 12(b) through (e) of Form N–4.

[184] *See* proposed rule 498A(b)(5)(vi); *see also* Item 11 of current Form N–6; proposed Item 14 of Form N–6. We have not proposed any changes to this item in Form N–6.

[185] 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.

[186] *See* proposed rule 498A(b)(5)(vii); *see also* Item 12 of current Form N–3; proposed Item 14(a) of Form N–3; Item 11 of current Form N–4; proposed Item 13(a) of Form N–4; Item 9 of current Form N–6; proposed Item 12(a) of Form N–6. We have proposed certain changes to this item in Forms N–3 and N–4 to harmonize the requirements with

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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. 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. Additional information on surrenders and withdrawals would appear in the statutory prospectus. For example, the statutory prospectus would also include more detailed information on partial surrenders and withdrawals, sub-account allocation, involuntary redemptions, and revocation rights (free look period).[187]

We request comment generally on the disclosure on surrenders and withdrawals that we propose would appear in the initial summary prospectus, and specifically on the following issues:

- Are the proposed requirements in the initial summary prospectus under the heading ''Surrendering Your Contract or Making Withdrawals: Accessing the Money in Your Contract'' clear and appropriate in light of the goals of the initial summary prospectus?
- Would this disclosure be useful to investors in connection with an initial purchase of a variable contract? Should this proposed content requirement include any additional, or any different, disclosure about making contract surrenders and withdrawals? For example, should it include one or more of the other disclosures required to be included in the statutory prospectus (*e.g.,* information on partial surrenders and withdrawals and revocation rights)?

(h) Additional Information About Fees

The proposed rule would require the initial summary prospectus to include the full Fee Table (including, for variable annuity contracts, the expense example), that would appear in the statutory prospectus, under the heading ''Additional Information About Fees.'' [188] The Fee Table provides detailed information on the 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.[189] We are proposing certain amendments to the Fee Table for each type of variable contract as discussed below in section II.D.2.d.

We are proposing to include 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.[190]

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. We do not believe that the proposed summary prospectus framework will affect the current practice of using rate sheets.[191]

We request comment generally on the Fee Table that we propose would appear in the initial summary prospectus, and specifically on the following issues:

- Are the proposed requirements in the initial summary prospectus under the heading ''Additional Information About Fees'' clear and appropriate in light of the goals of the initial summary prospectus?
- Would this disclosure be useful to investors in connection with an initial purchase of a variable contract? Would including the full Fee Table be consistent with the goal of providing a succinct summary of the contract's key terms and benefits and most significant risks, in a presentation that would improve readability and increase readership? Are there any particular line-items of the Fee Table, for either variable annuities or variable life insurance that could be omitted? Would only including summary information of the type that we propose to appear in the Key Information Table, either with or without a cross-reference or link to the full Fee Table, be more useful or appropriate for investors? Alternatively, would including only the full Fee Table, and not also the summary fee information in the Key Information Table, be more useful or appropriate for investors?
- Would registrants who elect to use the initial summary prospectus continue to prepare rate sheets? Would there be any additional burdens preparing rate sheets in this context? Should the staff guidance be modified in any way to accommodate the summary prospectus framework?

(i) Appendix: Portfolio Companies/ Investment Options Available Under the Contract

Finally, an initial summary prospectus would be required 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 companies or investment options offered under the contract.[192]

The appendix would 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

those of Form N–6. We have not proposed any changes to this item in Form N–6.

This proposed requirement is similar to the requirement for mutual fund summary prospectuses to include disclosure on procedures for redeeming shares. *See* rule 498(b)(2); Item 6 of Form N–1A.

[187] *See* proposed Item 14(b) through (f) of Form N–3; proposed Item 13(b) through (f) of Form N–4; proposed Item 12(b) through (e) of Form N–6.

[188] *See* proposed rule 498A(b)(5)(viii); *see also* Item 3 of Forms N–3, N–4, and N–6; proposed Item 4 of Forms N–3, N–4, and N–6.

The initial summary prospectus fee information would 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.

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

[190] *See supra* section II.A.1.c.ii(b).

[191] 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 works and the rate sheet itself should be affixed to the front of the document. The current rates should also be readily available on the website as part of the documents required to be posted online under proposed rule 498A and, as a best practice, separately on the website.

[192] *See* proposed rule 498A(b)(5)(ix); *see also* proposed Item 19 of Form N–3; proposed Item 18 of Form N–4; proposed Item 18 of Form N–6. Although these proposed Items would be new to Forms N–3, N–4, and N–6, each form currently requires disclosure of similar information.

expenses).[193] Registrants would be instructed to only include portfolio companies that are currently offered under the contract.[194] Additionally, if the availability of one or more portfolio companies varies by benefit offered under the contract, registrants would be required to include as another appendix a separate table indicating which portfolio companies were available under each of those benefits.[195]

A legend would precede the table. The first paragraph of the legend would state: ''The following is a list of [Investment Options/Portfolio Companies] currently available under the [Contract], which is subject to change as discussed in the [Statutory Prospectus for the Contract].'' [196] For registrants on Forms N–4 and N–6, the legend would also 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.[197] For registrants on Form N–3, the legend would 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.[198] The legend also 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.[199]

The second paragraph of the legend for variable contracts registered on Forms N–4 and N–6 would read as follows:

> 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.[200]

In contrast, because insurance charges are already reflected in the performance of the investment options for contracts registered on Form N–3, the second paragraph of the legend for variable annuities registered on Form N–3 would state:

> The 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. [201]

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.[202]

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, we are proposing an optional delivery method, which would permit satisfaction of any portfolio company prospectus delivery obligations if the portfolio company summary and statutory prospectuses are posted at the website address specified on the variable contract summary prospectus.[203] 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.

Alternatively, for variable contracts registered on Form N–3, registrants could omit the required appendix and instead provide more detailed disclosures for the investment options offered under the contract that would be required by proposed Item 20 of Form N–3.[204] Proposed Item 20 would require narrative disclosure for each investment option regarding its investment objectives and principal investment strategies, 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.[205]

We request comment generally on the appendix that we propose would appear in the initial summary prospectus, and specifically on the following issues:

- Are the requirements of the proposed appendix, and the associated proposed instructions, clear and appropriate in light of the goals of the initial summary prospectus? Should we modify them in any way?
- Would the information included in the appendix and its proposed tabular presentation be useful to investors in connection with the initial purchase of a variable contract? Would other or additional information, or a different presentation, be more useful to investors?
- Are the particular disclosure items that we have proposed for inclusion in the appendix useful and appropriate for consideration by investors, or should we revise, supplement, or replace those items? Alternatively, or in addition, should we require any other disclosures contemplated by rule 482 (*e.g.,* a legend providing certain statements about the performance data and certain information about sales loads or performance fees)? [206]

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[193] *See* Instructions 2–5 to proposed Item 19 of Form N–3; Instructions 2–5 to proposed Item 18 of Form N–4; Instructions 2–5 to proposed Item 18 of Form N–6.

For purposes of this discussion, we use the term ''portfolio company'' throughout, even though the appendix for Form N–3 registrants would use the term ''investment option.''

[194] *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.

[195] *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.

[196] *See* proposed Item 19 of Form N–3; proposed Item 18 of Form N–4; proposed Item 18 of Form N–6; proposed rule 498A(b)(5)(ix).

[197] For registrants on Forms N–4 and N–6, the legend would read as follows:

''Before you invest, you should review the prospectuses for the [Portfolio Companies]. These prospectuses contain more information about the [Portfolio Companies] and their risks and may be amended from time to time. You can find the prospectuses and other information about the [Portfolio Companies] online at [____]. You can request this information at no cost by calling [____] or by sending an email request to [____].''

See Instruction 1(b) to proposed Item 18 of Forms N–4 and N–6. Registrants on Forms N–4 and N–6 not relying upon rule 498A(j) with respect to the portfolio companies that are offered under the contract may, but would not be 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.

[198] For registrants on Form N–3, the legend would read as follows:

''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].''

See proposed rule 498A(b)(5)(ix).

[199] *See* Instruction 1(b) to proposed Item 18 of Forms N–4 and N–6; proposed rule 498A(b)(5)(ix).

[200] *See* proposed Item 18 of Form N–4; proposed Item 18 of Form N–6.

[201] *See* proposed Item 19 of Form N–3.

[202] 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).

[203] *See infra* section II.B.

[204] *See* proposed rule 498A(b)(5)(ix).

[205] *See* text following note 525 (discussing proposed Item 20 of Form N–3); *see also* Item 4(b)(2) of Form N–1A.

[206] *See* rule 482(b)(3) (requiring, among other things: (1) A legend disclosing that the performance data quoted represents past performance; that past performance does not guarantee future results; that the investment return and principal value of an investment will fluctuate so that an investor's shares, when redeemed, may be worth more or less

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• The proposed instructions would provide that if the availability of one or more portfolio companies varies by benefit offered under the contract, registrants must include as another appendix a separate table indicating which portfolio companies were available under each of those benefits. Should this information be provided in a separate table? Why or why not? Are there ways to present this information in a more streamlined and comprehensible manner for investors? If so, how?

• Under our proposal, an initial summary prospectus for a contract registered on Form N–3 could omit the appendix and instead include the more detailed disclosures about the investment options offered under the contract that would be required by proposed Item 20 of Form N–3. Alternatively, in order to increase comparability between initial summary prospectuses, should the appendix be required to be included in all initial summary prospectuses for contracts registered on Form N–3? Conversely, should the initial summary prospectus be required to contain the more detailed disclosures that would be required by proposed Item 20 of Form N–3?

d. General Requests for Comment on the Initial Summary Prospectus

In addition to the specific requests for comment above on the proposed scope and content requirements of the initial summary prospectus, we also request comment generally on the initial summary prospectus, and specifically on the following issues:

• Is an initial summary prospectus an appropriate vehicle to highlight the importance of key terms, benefits, and risks of a variable contract? What are the key considerations for an initial investment in the contract? Does the proposed initial summary prospectus capture key considerations that a typical contract investor would find salient? Should an initial summary prospectus include additional information an investor would need in order to make an informed investment decision, and if so, what would this information be? Would this defeat our goal of providing investors a succinct summary?

• Should we exclude any of the proposed initial summary prospectus disclosure? Should we require any additional information to appear in the initial summary prospectus, such as from the contract's statutory prospectus, SAI, or Part C (''Other Information'') of the registration statement?

• We are proposing to require an initial summary prospectus to contain the information required by the proposed rule, and only that information, in a specified order to facilitate comparability (similar to the mutual fund summary prospectus model). Should all items in the initial summary prospectus be presented in the same order, under the headings that the proposed rule specifies? Would this promote comparability across products, and is comparability as feasible for variable products as it is mutual funds? Why or why not? If the items are not listed in the same order, could investors or investment professionals still easily compare different variable contracts? Is the proposed order appropriate, or should we consider a different order? Should the rule require ordered navigation links for electronic versions of the summary prospectus?

• Should we, as proposed, limit the information to be included in the initial summary prospectus, or should we allow registrants to include other information that is not specifically called for? We recognize that variable contracts are complex investment products, and some may have product features that are not contemplated by the current disclosure items. Should we permit registrants to disclose information not specifically required by the proposed rule to provide sufficient flexibility for the disclosure of future product developments or otherwise enhance disclosures to investors? Would that undermine the goal of comparability, or contribute to investor confusion? Are there other ways we could provide this flexibility?

• Should we impose any page or word limits on the initial summary prospectus (*e.g.,* 10 pages or 2,500 words)? If so, what should the page or word limits be (*e.g.,* how many pages or words, and should these limits apply to the whole initial summary prospectus or include or exclude certain sections of it)? Would page or word limits disadvantage certain types of registrants (*e.g.,* variable contracts that offer a relatively high number of optional benefits) over others, or unduly limit investors' ability to receive important disclosure information? Are there other ways we could encourage concise and investor-friendly disclosure?

• Is the information that we propose to require in the body or appendix of the initial summary prospectus appropriate? Should we include any additional information or eliminate any of the information that we have proposed to include? Should any information in the body (*e.g.,* the ''Additional Information About Fees'' section) be moved from the body to an appendix or vice versa?

• Would investors be more likely to read an initial summary prospectus if we required the use of certain design elements—such as larger font sizes or greater use of white space, colors, or visuals—or provided additional guidance on such design elements? If so, what should this disclosure requirement be? Would any of the proposed content requirements particularly benefit from the use of such design elements?

• Should registrants creating electronic versions of the initial summary prospectus be required to include active hyperlinks for website addresses referenced in the electronic version, as would be required under our proposal? What concerns would be raised, if any, if those website addresses were third-party websites? Should registrants creating electronic versions of the initial summary prospectus be required to include active hyperlinks for any cross-references, as would be required under our proposal?

• Should registrants creating electronic versions of the initial summary prospectus be allowed to use alternatives to any tabular presentations, such as the table(s) included in Appendix: Portfolio Companies/Investment Options Available Under the Contract, provided the information is presented in an easy to read and comparable manner? If so, should there be additional conditions on the use of these alternatives? What should those conditions be?

• Should we offer registrants greater flexibility to design summary prospectuses that can be viewed on mobile devices, are interactive, have audio or video features, or otherwise make use of technology and research about effective disclosure methods? If so, how can we allow flexibility while ensuring that investors receive the information they need to make their investment decisions?

• To what extent is the information proposed to be required in the initial summary prospectus duplicative of information provided in other point-of-sale disclosure documents (including those required under other regulatory regimes)?

• Would the initial summary prospectus, as proposed, appropriately complement current disclosure practices by not unnecessarily duplicating disclosure topics investors receive through other channels, and

than their original cost; that current performance may be lower or higher than the performance data quoted; and (2) if a sales load or any other nonrecurring fee is charged, the maximum amount of the load or fee, and if the sales load or fee is not reflected, a statement that the performance data does not reflect the deduction of the sales load or fee, and that, if reflected, the load or fee would reduce the performance quoted).

highlighting key risks that investors may not learn about through other channels?

• Are there any aspects of the initial summary prospectus that should be made to conform to parallel provisions in the updating summary prospectus or potential changes to those proposed parallel provisions? Conversely, are there any potential changes to the proposed updating summary prospectus that should not be made to the proposed initial summary prospectus?

• Is the hypothetical initial summary prospectus in Appendix A useful and illustrative of the proposed requirements? Does it appropriately show the level of detail that firms might provide, and are any of the design elements that the hypothetical initial summary prospectus uses particularly effective (or if they could be made more effective, how so)?

2. Updating Summary Prospectus

a. Overview

Today, variable contract investors are typically sent a copy of the updated current contract statutory prospectus each year.[207] Proposed rule 498A would permit a person to satisfy contract prospectus delivery obligations with respect to existing investors by sending or giving an updating summary prospectus in lieu of the statutory prospectus.[208]

We are not proposing that registrants send an updated 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. 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 to 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, the updating summary prospectus would include certain of the information required in the initial summary prospectus that we consider most relevant to investors when making additional investment decisions or otherwise monitoring their contract.

Finally, 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.[209] 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.

b. Scope of Disclosure To Be Included in Updating Summary Prospectus

The proposed rule would permit the updating summary prospectus to describe one or more contracts covered in the statutory prospectus to which the updating summary prospectus relates.[210] This scope is different than the initial summary prospectus, which the proposed rule would limit to only describing a single contract that the registrant currently offers for sale.[211] Similar to the initial summary prospectus, however, the proposed rule also would permit an updating summary prospectus to describe more than one class of a contract.[212]

Given the limited subset of information provided in the updating summary prospectus, we believe permitting registrants to combine multiple contracts would not cause investor confusion in the same way that combining disclosure about multiple contracts in the initial summary prospectus might. 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, would not be overly lengthy, and would not prevent investors from reading or understanding the applicable disclosures.[213] Finally, combining multiple contracts could make the updating summary prospectus significantly more efficient for registrants to produce and distribute.[214]

We request comment generally on the proposed scope requirements for the updating summary prospectus, and specifically on the following issues:

• Is it appropriate to permit the updating summary prospectus to include multiple contracts under the statutory prospectus to which the updating summary prospectus relates? Would this approach promote operational efficiency? What other benefits would this approach entail? What drawbacks would this approach entail? Would this approach discourage investors from reading the updating summary prospectus? Would it confuse investors, and if so, should the proposed rule incorporate any additional provisions (or should we issue guidance) to help mitigate potential confusion? Would it prevent investors from reading or understanding the disclosures, and if so, what additional rule provisions or guidance could help mitigate this? Would the proposed disclosure requirement make clear to an investor whether a particular disclosure about year-over-year changes applies to that investor's contract? Should we require that an updating summary prospectus that includes disclosure about multiple contracts be formatted or presented in a certain way to help promote clarity to investors regarding whether a particular disclosure in the document concerns an investor's particular contract? Are there any other additions to the updating summary prospectus that would help promote clarity to investors on this point?

• Alternatively, what would be the benefits of requiring registrants to create a separate updating summary prospectus for each contract, similar to the requirement for the initial summary prospectus? Would this alternate approach be operationally burdensome, and if so, why? Would it enhance investor understanding? Would it reduce investor confusion?

• Should we restrict the number of contract classes that may be described in an updating summary prospectus? Why or why not?

c. Preparation of the Updating Summary Prospectus

The following chart outlines the information that would be required in an updating summary prospectus under proposed rule 498A. Along with specifying required cover page

[207] As discussed above, investors generally must be provided with a prospectus when they make additional purchase payments or reallocate variable contract value. *See supra* notes 27 through 29 and accompanying text. We are proposing to provide that an updating summary prospectus that complies with the rule 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.

[208] Proposed rule 498A(c).

[209] Proposed rule 498A(c)(1).

[210] Proposed rule 498A(c)(2).

[211] *See supra* section II.A.1.b.

[212] Proposed 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).

[213] A registrant generally should indicate in this section, to the extent appropriate, whether certain described contract changes are only applicable to certain contracts in the statutory prospectus.

[214] Multiple updating summary prospectuses (with very similar sounding names) could also make it difficult for investors to locate their specific updating summary prospectus on the insurer's website.

disclosures, the proposed rule references particular disclosure items from Forms N–3, N–4, and N–6 (as proposed to be amended). The information would be required to appear in the same order, and under the relevant corresponding headings, as the proposed rule specifies.[215]

TABLE 3—OUTLINE OF THE UPDATING SUMMARY PROSPECTUS

Heading in updating Summary prospectus	Proposed item of Form N–3	Proposed item of Form N–4	Proposed item of 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]	3	3	3
Appendix: Portfolio Companies Available Under the Contract	19 or 20[216]	18	18

i. Cover Page and Table of Contents

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

- The depositor's name;
- the registrant'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.[217]

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

You should read this Summary Prospectus carefully, particularly the section titled Important Information You Should Consider About the [Contract].

An updated prospectus for the [name of Contract] is currently available online, which contains more information about the [Contract], including its features, benefits, and risks. You can find the 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 [____].[218]

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.*[219]

Like the cover page or beginning of the initial summary prospectus, the cover page or beginning of the updating summary prospectus would be required to include identifying information about the variable contract, as well as a legend including certain general information that would be applicable to all variable contracts. The portions of the proposed 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 would appear on the cover page or beginning of the initial summary prospectus.[220] As with the initial summary prospectus, a registrant could modify this required legend so long as the modified legend includes comparable information.[221] Similar to the initial summary prospectus, if a registrant incorporates any information by reference into the updating summary prospectus, the proposed rule would require the registrant to include in the legend certain information about the document(s) from which the information was incorporated.[222] Like the initial summary prospectus, the cover page for the updating summary prospectus would also be required to include a legend indicating that the Securities and Exchange Commission has not approved or disapproved of the contract or the summary prospectus.[223]

We do not believe that the free look period legend that would appear on the cover page or beginning of the initial summary prospectus would be appropriate in the context of the updating summary prospectus, because the free look period is not applicable to additional investments after the initial purchase.

EDGAR Contract Identifier. We are also proposing to require 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).[224]

Table of Contents. The proposed rule would permit an updating summary prospectus, like the initial summary prospectus, to include a table of contents.[225] 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.[226]

We request comment generally on the proposed requirements for the cover page of the updating summary prospectus, and specifically on the following issues:

- Is the information that we propose to require on the cover page or beginning of the updating summary prospectus appropriate? Should we include any additional information or eliminate any of the information that we have proposed to include in these parts of the updating summary prospectus?
- Is the proposed legend sufficient to notify investors of the availability and significance of the contract statutory prospectus and other information about the variable contract and how to obtain this information? For example, should the legend

[215] Proposed rule 498A(c)(6).

[216] Registrants on Form N–3 could omit the appendix specified by proposed Item 19 of Form N–3, and instead provide the more detailed disclosures about the investment options offered under the contract required by proposed Item 20 of Form N–3. *See infra* note 517 and accompanying text.

[217] Proposed rule 498A(c)(3)(i) through (v).

[218] *See supra* note 79 (discussing requirements of the registrant's internet address and contact information).

[219] Proposed rule 498A(c)(3)(vi).

[220] Proposed rule 498A(b)(2)(vi); *see also supra* note 79. The legend in the updating summary prospectus would note that ''an updated prospectus'' is available online, whereas the initial summary prospectus would note that it summarizes key features of the contract.

[221] Proposed rule 498A(c)(3)(vi); *see also* proposed rule 498A(b)(2)(vi)(A).

[222] *See infra* section II.A.6.

[223] Proposed rule 498A(c)(3)(vii); *see also supra* note 86.

[224] Proposed rule 498A(c)(4). As in the case of the initial summary prospectus, this requirement is intended to enable Commission staff and others to more easily link the updating summary prospectus with other filings associated with the contract.

[225] Proposed rule 498A(c)(5).

[226] Rule 481(c).

include greater detail about the information that is available?

- Does the proposed legend adequately inform investors of the various means for obtaining additional information about a variable contract? For example, are the proposed requirements for the website address where additional information is available adequate to ensure that the website and the additional information will be easy to locate?
- As proposed, should we permit registrants to modify the required legend, provided the modified legend includes comparable information?
- Should the requirement in proposed rule 498A to include the EDGAR contract identifier for each contract covered by the updating summary prospectus on the bottom of the back cover page or last page of the updating summary prospectus be revised to list another identifier? If so, what identifier should be listed, and why?
- Should registrants be permitted to include a table of contents in the updating summary prospectus? Instead, should a table of contents be required for any updating summary prospectus? Does rule 481(c) under the Securities Act provide appropriate requirements for a table of contents included in an updating summary prospectus?

ii. Content of the Updating Summary Prospectus

Proposed rule 498A specifies the content and order thereof required in an updating summary prospectus.[227] An updating summary prospectus must contain the information required by the proposed rule in the specific order detailed in section II.A.2.c. 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 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.[228] To aid market participants in understanding the types of disclosures we propose to require, Appendix B to this release contains a hypothetical updating summary prospectus for a variable annuity separate account with a registration statement filed on Form N–4. This hypothetical updating summary prospectus is provided solely for illustrative purposes and is not intended to imply that it reflects a ''typical'' updating summary prospectus.

(a) Description of Changes to the Contract

The updating summary prospectus would be required to include a concise description of any change with respect to the contract made after the most recent updating summary prospectus or statutory prospectus was sent or given to investors that has affected the availability of portfolio companies (or investment options under a variable annuity registered on Form N–3) under the contract,[229] or the statutory prospectus disclosure relating to the Fee Table,[230] the standard death benefit,[231] and the other benefits available under the contract.[232] 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.[233]

These contract changes would be described under the heading ''Updated Information About Your [Contract].'' [234] This legend would 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.[235]

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 year-over-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.

We would require the disclosure of changes with respect to these particular disclosure topics (Fee Table, the standard death benefit, other benefits available under the contract, and portfolio companies available under the contract) because these are the areas where we understand contract-related changes are most likely to occur, and that may be of most interest to investors. 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. 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.

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 and how it will affect them.[236] For example, this could include stating that a 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'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.

We request comment generally on the brief description of certain contract-related changes that we propose would appear in the updating summary prospectus, and specifically on the following issues:

- Would this proposed disclosure requirement be useful to investors? Would understanding the information that would appear in an updating summary prospectus in response to the proposed requirement be

[227] Proposed rule 498A(c)(6).

[228] *See supra* note 93.

[229] Proposed rule 498A(c)(6)(i). A change that has affected availability of portfolio companies (or investment options) would include changes in the portfolio companies (or investment options) offered under the contract or available in connection with any optional benefit. *See also* proposed Item 19 of Form N–3, and proposed Item 18 of Forms N–4 and N–6.

[230] Proposed rule 498A(c)(6)(i); *see also* proposed Item 4 of Forms N–3, N–4, and N–6.

[231] Proposed rule 498A(c)(6)(i); *see also* proposed Item 11 of Forms N–3; proposed Item 10 of Forms N–4 and N–6.

[232] Proposed rule 498A(c)(6)(i); *see also* proposed Item 12 of Forms N–3; proposed Item 11 of Forms N–4 and N–6.

[233] Proposed 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 proposed rule would require.

[234] Proposed rule 498A(c)(6)(i).

[235] Proposed rule 498A(c)(6)(i)(A).

[236] Proposed rule 498A(c)(6)(i)(B).

relevant and helpful to an investor who is considering whether to continue making additional purchase payments, or reallocate contract value? Would disclosure of changes to multiple contracts confuse the reader or discourage reading the document, and if so, what additional rule provisions or guidance could help mitigate this?

• Is the scope of changes that a registrant may discuss in the updating summary prospectus appropriate? Are there other topics that should be described in the updating summary prospectus (*e.g.,* changes that affect the contract's risks or potential conflicts of interest)? Should the proposed rule instead require a registrant to provide a concise description of ''significant changes,'' ''material changes,'' or some other standard instead of prescribing specific disclosure topics? Is there a better way of identifying these specific disclosure topics, and if so, what would this be?

• Is it appropriate to allow registrants to discuss any other changes that have been made to the contract during the same time period in this section? Should registrants also be allowed to discuss matters that do not directly involve the contract (*e.g.,* upcoming tax law changes or merger and acquisition activity involving the registrant)? Why or why not?

• Is the proposed requirement that a registrant include a ''concise description'' of each change clear and appropriate? Would registrants understand what level of disclosure they should include? Would any additional clarification in the rule text or Commission guidance be helpful?

(b) Key Information

The updating summary prospectus also would be required to include the same Key Information Table that would appear in the initial summary prospectus.[237] As discussed above, this table would streamline certain important concepts about the variable contract in a presentation that is designed to be easy to read and navigate.[238]

Because investors may make additional investments in the variable contract, we propose to require 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.

Besides the brief description of contract-related changes and portfolio company/investment option appendix discussed below, an updating summary prospectus would include only this Key Information Table as summary disclosure about the contract's key information, and would not also include the additional disclosure that the initial summary prospectus would 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 of the contracts, or use a different presentation approach that consistently discloses the required information for each contract in the required order. For example, if the only Key Information Table disclosure that would vary by contract were 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.

We request comment generally on including the Key Information Table in the updating summary prospectus, and specifically on the following issues:

• Should we require including the proposed Key Information Table in the updating summary prospectus? Would this table provide a succinct summary of the contract's key information for investors who make ongoing purchase payments, or who reallocate contract value? If not, why not?

• Is the location of the proposed Key Information Table within the updating summary prospectus appropriate? If not, where should it be located?

• Should the table include, as proposed, the same line-items as the Key Information Table that would appear in the initial summary prospectus? Instead should we require a modified version of the table in the updating summary prospectus, and if so, how should we modify the table? For example, is it appropriate or necessary for the table that appears in the updating summary prospectus to include a line-item on investment professional compensation? Is it important to require the disclosure 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?

• Should the presentation of the proposed table in the updating summary prospectus differ from the proposed presentation for the initial updating prospectus? If so, why, and what would be a better alternate presentation?

• Should we mirror the approach taken with the initial summary prospectus where cross-references in the Key Information Table for electronic versions of the updating summary prospectus would link directly to the location in the statutory prospectus where the subject matter is discussed in greater detail? If so, why? What would be a better approach?

• Are there any particular instructions for the Key Information Table that we should modify for the updating summary prospectus?

(c) Appendix: Portfolio Companies Available Under the Contract

Finally, the updating summary prospectus would be required to include an appendix, under the heading ''Appendix: [Portfolio Companies/ Investment Options] Available Under the [Contract],'' that provides summary information about the portfolio companies offered under the contract.[239] This requirement for the appendix would be identical to the requirement for the appendix in the initial summary prospectus.[240] Like the proposed requirement for the initial summary prospectus appendix, Form N–3 registrants could omit this appendix and instead provide the more detailed disclosures about the investment options offered under the contract that would be required by proposed Item 20 of Form N–3.[241]

Because the selection of portfolio companies or investment options will directly affect the performance, and

[237] Proposed rule 498A(c)(6)(iii). This disclosure would be the same information required by Item 3 of Forms N–3, N–4, and N–6.

[238] *See supra* section II.A.1.c.ii.*(b).*

[239] Proposed rule 498A(c)(6)(iv). This information on portfolio companies or investment options would be the same information required by proposed Item 19 of Form N–3 and proposed Item 18 of Forms N–4 and N–6.

[240] Paralleling a similar requirement for the initial summary prospectus, if the appendix includes the information required by Item 19 of Form N–3, the appendix would 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* proposed Item 19 of Form N–3; proposed rule 498A(c)(6)(iv).

[241] *See* proposed rule 498A(c)(6)(iv); *see also* text following note 525 (discussing proposed Item 20 of Form N–3).

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.

We request comment generally on the appendix that we propose to require in the updating summary prospectus, and specifically on the following issues:

- Are the requirements of the proposed appendix clear and appropriate in light of the goals of the updating summary prospectus?
- Would the information that would be included in this appendix be useful to an investor who is considering whether to continue making additional purchase payments, or reallocate contract value? Would other or additional information be more useful to investors? For example, should the appendix identify portfolio companies that have been added, or portfolio companies that have been removed or closed to additional investment, during the period covered by the update?
- Should we, as proposed, permit a Form N–3 registrant to omit the appendix and instead include the more detailed disclosures about the investment options offered under the contract that would be required by proposed Item 20 of Form N–3? Are the considerations regarding the inclusion of the appendix in a Form N–3 registrant's updating summary prospectus the same or different as in the context of the initial summary prospectus?

d. General Requests for Comment on the Updating Summary Prospectus

In addition to the specific requests for comment above on the proposed content requirements and scope of the updating summary prospectus, we also request comment generally on the updating summary prospectus, and specifically on the following issues:

- Should we consider any alternative approaches to the proposed framework of two distinct summary prospectuses (the initial summary prospectus and the updating summary prospectus)? For example, should all variable contract investors receive a summary prospectus with identical content? As another example, should the proposed rule provide that only initial contract purchasers would receive a summary prospectus, and afterwards, investors who make additional purchase payments, or who reallocate contract value, would receive no summary prospectus (or receive only a notice that the statutory prospectus is available online)?
- Should we permit the use of an updating summary prospectus if a registrant does not use an initial summary prospectus for each currently offered contract described under the contract statutory prospectus to which the updating summary prospectus relates?
- Does the information in the proposed updating summary prospectus capture the information that is most likely to change from year to year, and that is most important for investors when considering whether to make additional purchase payments, or reallocate contract value? Should any of the information that we propose to require in the updating summary prospectus not be required? Should we require disclosure of any additional information (such as additional information that we propose to include in the initial summary prospectus) in the updating summary prospectus?
- Should we consider changing the proposed order in which the disclosure items would appear in the updating summary prospectus?
- Should we impose any page or word limits on the updating summary prospectus (*e.g.,* 10 pages or 2,500 words)? If so, what should the page or word limits be (*e.g.,* how many pages or words, and should these limits be on the whole updating summary prospectus or certain sections of it)? Are there other ways we could encourage concise and investor-friendly disclosure?
- Is the information that we propose to require in the body and appendix of the updating summary prospectus appropriate? Should we include any additional content requirements or modify or eliminate any of the content requirements? Should any information in the body be moved to an appendix, or vice versa?
- Would investors be more likely to read an updating summary prospectus if we required the use of certain design elements—such as larger font sizes or greater use of white space, colors, or visuals—or provided additional guidance on such design elements? Would any of the proposed content requirements particularly benefit from the use of such design elements?
- Would the updating summary prospectus, as proposed, appropriately complement current disclosure practices by not unnecessarily duplicating disclosure topics investors receive through other channels, and highlighting key risks that investors may not learn about through other channels?
- Should registrants creating electronic versions of the updating summary prospectus be required to include active hyperlinks for website addresses referenced in the electronic version, as would be required under our proposal? What concerns would be raised, if any, if those website addresses were third-party websites? Should registrants creating electronic versions of the initial summary prospectus be required to include active hyperlinks for any cross-references, as would be required under our proposal?
- Should we offer registrants greater flexibility to design summary prospectuses that can be viewed on mobile devices, are interactive, have audio or video features, or otherwise make use of technology and research about effective disclosure methods? If so, how can we allow such flexibility while still ensuring that investors receive the information they need to make their investment decisions?
- Are there any aspects of the updating summary prospectus that should be made to conform to parallel provisions in the initial summary prospectus or potential changes to those proposed parallel provisions? Conversely, are there any potential changes to the proposed initial summary prospectus that should not be made to the proposed updating summary prospectus?
- Is the hypothetical updating summary prospectus in Appendix B useful and illustrative of the proposed requirements? Does it appropriately show the level of detail that firms might provide?

3. 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.[242] Proposed rule 498A would provide 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. As under rule 498, use of the summary prospectus to satisfy a registrant's section 5(b) obligation would be voluntary.[243]

First, a person relying on the proposed rule would 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.[244] This summary prospectus would 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.[245]

Second, the summary prospectus could not be bound together with any other materials, except that we are permitting portfolio company summary and statutory prospectuses to be bound together with the contract summary

[242] 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 supra* note 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.

[243] *See supra* notes 60 through 63 and accompanying text.

[244] *See supra* note 242 (discussing the prohibition against carrying or delivering a security without otherwise accompanying it or preceding it with a statutory prospectus).

[245] Proposed rule 498A(f)(1); *see also supra* note 207 and accompanying text.

prospectus,[246] subject to certain conditions.[247] Third, the summary prospectus also would be required to meet the proposed rule's content requirements for an initial summary prospectus or updating summary prospectus (as appropriate).[248] 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 proposed rule specifies.[249] Failure to comply with any of these requirements would prevent a person from relying upon the proposed rule 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 would result.[250]

The proposed rule also would provide 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) would not be deemed a prospectus under section 2(a)(10) of the Securities Act 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

(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 proposed rule specifies.[251]

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.[252] This provision of the proposed rule, which is modeled on a corresponding provision of rule 498,[253] 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.[254]

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 would appear in the summary prospectus also would 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, would have the benefit of improved disclosures in the statutory prospectus.

We request comment generally on the proposal to permit a new option for prospectus delivery for variable contracts, and specifically on the following issues (in addition, we are requesting comment on certain parallel provisions of rule 498):

- Should we permit a person to satisfy its prospectus delivery obligations under the Securities Act with respect to variable contracts in the manner provided in the proposed rule? Would this approach provide investors with material information about the variable contract while providing adequate protections?
- Are there other delivery approaches that would be more effective than the proposed approach? For example, should we permit a person to satisfy its prospectus delivery obligations by filing a statutory prospectus with the Commission and by posting it online without using a summary prospectus?
- Is the proposed approach appropriate given the current demographics of variable contract investors? For example, does the proposed approach adequately protect investors who have no internet access or limited internet access or who prefer not to receive information about their variable contract investments over the internet? As another example, given the high percentage of investors who use an investment professional when purchasing a variable contract (and who might learn about the contract through discussions with investment professionals), is there another approach that would be more effective? Should we make any other changes with respect to prospectus delivery obligations? Does the proposed approach appropriately balance the objectives of the proposed summary prospectus framework with protecting investors who have no or limited access to the internet?
- Should investors have the ability to opt out of the rule permanently and thereafter receive a paper copy of any statutory prospectus? How could this be implemented in practice? For example, how would a registrant that had no prior relationship with an investor be apprised of the investor's decision to opt out?
- The proposed rule would not permit the summary prospectus to be bound together with any materials other than prospectuses for the portfolio companies that are available under the contract. This approach is modeled on rule 498(c). Do registrants currently rely on rule 498(c) to bind the variable contract's statutory prospectus with the prospectuses or summary prospectuses for the underlying portfolio companies? Since reliance on the proposed rule would be optional, should we continue to permit binding to be consistent with rule 498(c)? Since we anticipate that most registrants will rely on the optional delivery method for portfolio company prospectuses as described in section II.B below, should the rule permit a variable contract summary prospectus to be bound with prospectuses and summary prospectuses of portfolio companies, or is such a provision unnecessary?
- Under proposed rule 498A, use of the summary prospectus would be voluntary. Should we make use of the summary prospectus regime mandatory for all variable contract registrants? If so, why? Would inconsistent use of the summary prospectus create confusion, or make comparison of variable contract products more difficult for investors? Would a mandatory approach adequately protect investors who have no or limited internet access or who prefer not to receive information about their investments over the internet? Should we first adopt the voluntary summary prospectus regime and consider whether the summary prospectus should be mandated in the future, and if so, what methods or approaches should we consider? What would be registrants' primary considerations in determining whether to adopt the proposed voluntary summary prospectus regime? Would registrants be more likely to adopt the regime if the portions of the statutory prospectus that are also summary prospectus disclosures were segregated and placed at the beginning of the statutory prospectus?
- If we were to adopt a summary prospectus framework for variable contracts,

[246] Proposed rule 498A(f)(2).

[247] Proposed rule 498A(f)(2)(i) and (ii). The rule would permit binding these materials 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.

[248] Proposed rule 498A(f)(3).

[249] Proposed rule 498A(f)(4) (in addition, a Form N–3 registrant would also be required to post its most recent annual and semi-annual reports to shareholders to the website); *see also infra* section II.A.4.

[250] As discussed below, the proposed 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 proposed rule, but would not result in a violation of section 5(b)(2). *See infra* note 298 and accompanying text.

[251] Proposed rule 498A(g).

[252] Section 2(a)(10) of the Securities Act [15 U.S.C. 77b(a)(10)(a)] provides 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.

[253] *See* rule 498(d).

[254] *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)].

how should we evaluate the effectiveness of the new framework? What methods or approaches should we use to evaluate the rule, and what areas of the new framework should we focus on in any such review?

• Should registrants that elect to rely on rule 498A be required to send current investors a notice explaining the new delivery approach before sending the first updating summary prospectus? Would investors benefit from receiving such a notice? If so, should investors receive a separate notice about the transition, or should different methods of notifying investors be permitted? For example, should registrants be permitted to add the notice as an insert or legend to other documents they are already sending investors?

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

The proposed rule would permit investors who receive a succinct, user-friendly initial or updating summary prospectus to access 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.[255] In our experience, layered disclosure for mutual funds has benefitted both investors and registrants, and we are proposing 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.[256]

a. Required Online Contract Documents

Under the proposal, 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 contract documents''), would be required to be available online. This approach operationalizes the layered disclosure framework that undergirds the proposed rule, 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, 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 their own shareholder reports, but instead transmit the portfolio companies' annual and semi-annual shareholder reports to the investors in their trust accounts.

As with similar provisions in the mutual fund summary prospectus rule, these required online contract documents would be 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 proposed rule provides the summary prospectus to investors.[257] Moreover, a current version of each of the required online contract documents would be required to 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 proposed rule to satisfy its section 5(b)(2) prospectus delivery obligations; or

• If a person is relying on the proposed rule to send communications that will not be deemed to be prospectuses, the time that the person sends or gives the communication to investors.[258]

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 proposed rule. This is the timeframe for the availability of online information under the mutual fund summary prospectus rule, and we are proposing that it be the same in the proposed rule 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 proposed timeframe appropriately balances the costs of maintaining information online with investors' interests in having the flexibility to access this online information after receiving the summary prospectus (for example, if they would like to review a topic presented therein in more detail in the statutory prospectus that is available online, after they have had the opportunity to read and digest the summary prospectus).

b. Formatting Requirements for Required Online Contract Documents

The proposed rule would direct that the required online contract documents be presented in a manner that is human-readable and capable of being printed on paper in human-readable format.[259] This formatting requirement is a condition to 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.[260] The ''human-readable'' presentation requirement is designed to impose a minimum standard of usability comparable to that of a paper document, although we understand that the electronic version could include additional features that might enhance the usability of the electronic version relative to the paper version.[261] For example, regarding usability, all portions of the document should be human-readable such that when an investor views the document on an internet browser, the text does not get cut off based on the screen size.

In addition, the proposed rule would mandate that the online materials be presented in a format that is convenient for both reading online and printing on paper.[262] The failure to comply with these ''convenient for reading and printing'' formatting requirements would not, however, be a condition of reliance on the rule, because whether a particular format is convenient for

[255] *See* rule 498(c)(4), (d)(4), (e), and (f).

[256] *See* 2012 Financial Literacy Study, *supra* note 39, at iv, xix.

[257] Proposed rule 498A(h)(1); *see also* rule 498(e)(1).

[258] Proposed rule 498A(h)(1).

[259] Proposed rule 498A(h)(2)(i).

[260] Rule 498(e)(2)(i).

[261] 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 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 33, at 85; *see also infra* note 274 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, pop-up explanations) that would present further opportunities to promote investor understanding).

[262] Proposed rule 498A(i)(3); *see also* rule 498(f)(3) (parallel provision in the rule governing the use of mutual fund summary prospectuses).

reading online and printing depends on a number of factors and must be decided on a case-by-case basis.[263] In order to provide certainty to market participants, we are therefore not proposing that this requirement be a condition of reliance on the rule, and thus the failure to comply with this requirement would 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.[264] Such a failure could, however, constitute a violation of Commission rules.

c. Linking Within and Between Documents

The proposed 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.[265] The proposed requirements, which are substantively identical to parallel provisions in the rule governing mutual fund summary prospectuses,[266] are designed to promote the usability of the information that appears in these documents.

The first linking requirement would 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, by a single mouse click or mobile-device tap.[267] The second linking requirement would 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.[268] 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 in the statutory prospectus or SAI, in which case two mouse clicks or mobile-device taps would be required.[269]

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.[270] We recognize, however, 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 proposed rule would require a summary prospectus to define any ''special terms'' elected by the registrant, using any presentation that clearly conveys their meaning to investors.[271] This requirement reflects the proposed instructions in Forms N–3, N–4, and N–6 (as well as current, similar instructions in these forms to define ''special terms'' in a glossary or index).[272] The registrant would determine which terms would constitute special terms. We generally believe that a special term is a term with which a new contract investor typically may not be familiar, and that would be important for the investor to understand key features of the contract.

We believe the proposed requirement for special terms in the contract summary prospectus, like the current and proposed requirements for special terms in the contract statutory prospectus, is appropriate in the context of variable contracts, as variable contract disclosure documents tend to include industry-specific language in order to describe the sometimes complex features of these products.[273] Glossaries or other means of defining these terms could help a retail investor better understand these products' terms and features, as discussed further below.

In order to leverage technology to help investors understand the variable contract, the proposed rule includes provisions that are meant to enhance investors' understanding of special terms when they view the summary prospectus online. Specifically, the proposed rule would require that investors either be able to view the definition of each special term used in an online summary prospectus upon command,[274] 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.[275] 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 disclosure and help investors who access the document online grasp the complexities of variable contract features. Registrants may wish

[263] *See* 2009 Summary Prospectus Adopting Release, *supra* note 33, 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).

[264] Proposed rule 498A(i)(4); *see also* rule 498(f)(5) (parallel provision in the rule governing the use of mutual fund summary prospectuses).

[265] Proposed rule 498A(h)(2)(ii) and (iii).

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

In this release, the term ''substantively identical'' is meant to refer to sets of provisions that do not include the same words verbatim, but where the only differences between the provisions are those that do not affect the substance of the requirement at issue. For example, parallel provisions in rule 498 and 498A where only the internal cross-references differ.

[267] Proposed 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 would be required to appear 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 proposed 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 should provide the functionality that is required by the rule.

[268] Proposed rule 498A(h)(2)(iii).

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

[270] Rule 421(d) of the Securities Act; *see also* proposed General Instruction B.4(c) to Form N–3; proposed General Instruction B.4(c) to Form N–4; proposed General Instruction B.4(c) of Form N–6.

[271] Proposed 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 appear (for example, in a box to the side of the main text, or at the bottom of the page). Additionally, there are certain technological solutions that are available for electronic versions of the summary prospectus, such as moving or ''hovering'' the computer's pointer or mouse over the term, or linking directly back and forth between each special term and the corresponding entry in a glossary or list of definitions. *See infra* note 274 and accompanying and following text.

[272] *See* proposed General Instruction C.3(d) to Form N–3; proposed General Instruction C.3(d) of Form N–4; proposed General Instruction C.3(d) to Form N–6; *see also* Item 2 of current Forms N–3 and N–4.

[273] Because variable contract prospectuses must describe the products' insurance and investment features, they generally contain more technical terms than mutual fund disclosure documents, which only describe investment features.

[274] 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.

[275] Proposed rule 498A(h)(2)(iv).

to consider whether other technological tools associated with their online disclosure (*e.g.,* fee calculators, pop-up explanations) would present further opportunities to promote investor understanding.

e. Ability To Retain Documents

The proposed rule also would require 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. Like the online version of these documents, the retainable version of the documents must be in a format that is: (1) 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.[276] 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. These proposed conditions are substantively identical to parallel provisions in the rule governing mutual fund summary prospectuses.[277]

In addition, the proposed rule would mandate 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 on paper.[278] Like the ''convenient for reading and printing'' online formatting requirements,[279] the failure to comply with these formatting requirements for retained electronic documents would not be a condition for reliance on the rule.[280] Since the convenience of these formatting requirements must be decided on a case-by-case basis, we believe this proposed approach would help provide certainty to market participants who seek to rely on the proposed rule to satisfy prospectus delivery obligations.[281]

f. Safe Harbor for Temporary Noncompliance

Compliance with the conditions in the proposed rule 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 proposed rule to meet prospectus delivery obligations under section 5(b)(2) of the Securities Act.[282] Such a 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 proposed rule's conditions regarding the availability of the required online contract documents.[283] The proposed rule therefore contains a safe harbor provision for temporary noncompliance, which is substantively identical to a parallel provision in the rule governing mutual fund summary prospectuses.[284]

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 proposed rule to satisfy prospectus delivery obligations would be 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.[285]

We request comment generally on the conditions in the proposed rule regarding the availability of the required online contract documents, and specifically on the following issues:

- Should we require the online posting of the required online contract documents in the manner that the proposed rule specifies? Should we require that the required online contract documents be available on the insurance company's website as opposed to a third-party website? Should the website include an archive of older versions of these documents (not just the current versions)? If so, what information should be in the archive, and how long should such materials be required to be archived online?
- Should we require, as proposed, that persons accessing this website be able to permanently retain, through downloading or otherwise, free of charge, an electronic version of such documents? Should we require that downloaded documents retain links that enable a user to move readily between related passages of multiple documents? Would these requirements pose any technological, financial, or other challenges for persons relying on the proposed rule?
- Does the proposed 90-day timeframe for the availability of online information appropriately balance the costs of maintaining information online with investors' interests in having the flexibility to access this online information after receiving the summary prospectus? Would there be operational efficiencies for certain registrants in having the timeframe be the same under the variable contract summary prospectus framework and the mutual fund summary prospectus framework? How long do registrants typically maintain information online that is required under the mutual fund summary prospectus rules? As a matter of practice, is information generally maintained for a full year from the date of the summary prospectus?
- Should we provide additional guidance regarding what might constitute a ''human-readable'' format for providing the required online contract documents, as well as a ''convenient'' format for both reading these documents online and printing them on paper?[286] Or should persons relying on the proposed rule have the flexibility to determine how best to comply with this or other technological requirements that the proposed rule contemplates? Is it necessary for the proposed rule to include separate provisions regarding the ''human-readable'' website presentation of the required online contract documents, as well as the ''convenient for reading and printing'' presentation? Is it appropriate that, of these two provisions, the former should be a condition to relying on the rule to satisfy section 5(b)(2) prospectus delivery requirements, whereas the latter should not? If we were to modify these provisions, should we also propose to modify the parallel provisions in the rule governing mutual fund summary prospectuses? Should we instead retain one of these provisions, and if so which? If the final rule retains only one of these provisions, should we propose to modify rule 498 to similarly only retain just that provision?
- Although the proposed rule specifies that the materials posted online must be in

[276] Proposed rule 498A(h)(3).

[277] *See* rule 498(e)(3).

[278] Proposed rule 498A(i)(3).

[279] *See supra* note 262 and accompanying text.

[280] Proposed rule 498A(i)(4).

[281] *See supra* notes 263 and 264 and accompanying text.

[282] Proposed rule 498A(f)(4) (section 5(b)(2) transfer of the contract security is satisfied if, among other things, the conditions in proposed rule 498A(h) are satisfied).

[283] Such events might, for example, include system outages or other technological issues, natural disasters, acts of terrorism, or pandemic illnesses.

[284] Proposed rule 498A(h)(4); *see also* rule 498(e)(4).

[285] *Id.; see also* 2009 Summary Prospectus Adopting Release, *supra* note 33, at nn.92 and 93. 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. *Id.* at n.293.

[286] *See supra* notes 261 and 263 and accompanying text.

a human-readable format, should we also require that the materials be posted online in a machine-readable format to promote the gathering and dissemination of information by data aggregators, or to facilitate the review, analysis, and comparison by investors and other data users? For example, should we require the materials to be posted online to use Inline XBRL, as we are proposing to require for certain disclosures in statutory prospectuses that are filed with the Commission?[287] Why or why not?

• Are the proposed linking requirements appropriate and useful? Will these requirements help investors to navigate effectively within and between these documents? If not, why not? Are there other ways we can improve the usability of these documents? What are some options for enabling the linking requirements? Are the proposed linking requirements sufficiently technology-neutral and flexible enough to accommodate future technological developments?

• Should persons accessing the summary prospectus be able to view the definition of special terms upon command? Is the term ''special terms'' sufficiently clear, and is the proposed requirement that the document permit a person to ''view the definition of each special term . . . upon command'' sufficiently clear? Are the examples in the proposed rule text of what it means to view a term 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) helpful? What are some options for enabling the 'upon command' features? Are there other examples we should include?

• Should we require both the initial summary prospectus and the updating summary prospectus to define special terms? Should the updating summary prospectus, for example, be exempt from this requirement given that such documents are likely to be relatively brief and may only include a few defined terms? Are there other considerations that would create operational complications to requiring the updating summary prospectus to define special terms, such as any burden associated with updating definitions from year to year?

• Should we require registrants to electronically format the summary prospectus to allow investors to move directly back and forth between each defined term and the corresponding entry in a ''glossary'' section, if any? Should we extend this requirement to the contract statutory prospectus, or other required online contract documents? Is this functionality appropriate and useful? Is there a reason we should permit this capability, but not require it? What are some technology options that would enable investors to move directly back and forth between each term and the glossary?

• How can we encourage insurers to make fuller use of innovative technology to enable more interactive, user-friendly summary prospectus disclosure, while still creating a short, easy-to-read document that includes the proposed content? Are there potential tools that we should encourage or require insurers to use in order to make their disclosures more interactive and understandable? Should the proposed rule incorporate any additional requirements for technological tools to promote further investor understanding? For example, should we require that the required online contract documents be accompanied with any other technological tools (*e.g.,* additional embedded hyperlinks, fee calculators, pop-up explanations, tools to sort or compare optional benefits or portfolio companies) that encourage interactivity and could help investors understand the features and risks of their contracts?

• Should we mandate that the required online contract documents be available in formats that are compatible with mobile devices such as smartphones and tablets, or that are optimized for use with these types of technology platforms? Is the language of the proposed rule broad enough to contemplate current and future technology platforms? Should we incorporate any special provisions in the proposed rule, or provide guidance, regarding design features that could promote investor understanding of information that investors view on smartphones and tablets—for example, placement and prominence of certain disclosure (*e.g.,* in terms of size, color, and graphic treatment), designing disclosure so that ''scrolling'' is not necessary in order to find certain disclosure elements, and including certain explicit instructions on disclosure that appears online and on mobile device platforms (*e.g.,* ''click here'' or ''see below'') to assist investors in navigating the required online contract documents? Should we require persons relying on the proposed rule to make available the information in formats that serve individuals that may be visually impaired, or other formats that promote accessibility, including alternatives that use languages other than English? Should we consider other ways to provide for greater accessibility, portability, and utility of the required online contract documents?

• Does the proposed rule appropriately provide a safe harbor to address the possibility of inadvertent technological problems? Should persons relying on the proposed rule who have technological issues that prevent them from complying with the online posting requirements of the rule for a period of time be required to disclose on the website that the information was not available for a time in the manner required and explain the reasons for the failure to comply? If not, why not?

• Are those aspects of the proposed rule that mirror the approaches taken in the rule governing the use of mutual fund summary prospectuses (*e.g.,* required online documents, formatting requirements, linking, ability to retain online documents, safe harbor for temporary noncompliance) appropriate in the context of variable contract disclosure? Are there differences between the respective disclosure frameworks for mutual funds versus variable contracts, or operational aspects associated with these different types of investment products, that warrant a different approach? If so, what modifications should we consider?

• How else could we modify the proposed summary prospectus regime to take greater advantage of modern technology to modernize current disclosure practices for variable contracts? For example, should insurers consider employing technology to require a retail investor to scroll through the entirety of the summary prospectus before entering the next stage in the sales process, accessing a different part of the insurer's website to obtain more information, or checking a box to submit the application to purchase a variable contract? Are there other ways that technology could be used to encourage investors to read the summary prospectus?

• Does the proposal sufficiently encourage electronic design and delivery? Are there other ways we can modify the requirements to make clear that paper-based delivery is not the only permissible or desired delivery format?

• Are there other requirements that we should consider for insurers that are offering variable contracts to retail investors? Should we require that certain disclosures be presented in a manner reasonably calculated to draw retail investor attention to it? Are there other ways to ensure that retail investors receive the information they need to clearly understand the features, costs and risks of the variable contract they are considering?

5. Other Requirements for Summary Prospectus and Other Contract Documents

Under the proposed rule, an investor who receives a contract summary prospectus and who would also like to review the required online contract documents would be 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, the proposed rule would require a registrant (or financial intermediary distributing the contract) to send a paper or electronic copy of the required online contract documents to any person requesting such a copy.[288] 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. The proposed rule also would require a registrant or intermediary to send electronic copies of these documents upon request within three business days.[289] The proposed rule

[287] *See infra* section II.E.

[288] Proposed rule 498A(i)(1) (permitting an investor to request either a paper copy of the required online contract documents, or an electronic copy of such documents); *see also* rule 498(f)(1) (parallel provision in the rule governing the use of mutual fund summary prospectuses); proposed Item 1(b)(1) of Forms N–3, N–4, and N–6 (requiring the prospectus to provide a toll-free telephone number for investors to call to request the SAI, to request other information about the contract, and to make investor inquiries).

[289] Proposed rule 498A(i)(1).

would also provide that 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.[290]

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. The three-business-day time period for sending the required online contract documents mirrors the parallel provision of the mutual fund summary prospectus rule.[291]

Under the proposed approach, investors who prefer paper copies of prospectuses but do not have ready access to the internet (or the ability to print out the statutory prospectus that is made available online) would 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 would need to follow the summary prospectus legend's instruction on how to request paper delivery each time a summary prospectus is available. Those that do not take the additional step of requesting paper delivery would not receive the statutory prospectus in their preferred format. While we recognize that this could provide a challenge for these investors, we nonetheless believe that the proposed 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.

In addition to the requirement to provide certain documents upon request in paper or electronically, the proposed rule also requires that a contract summary prospectus must be given greater prominence than any materials that accompany the summary prospectus.[292] We believe that this requirement is important 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 included therein.[293] Generally, we believe that the greater prominence requirement would be satisfied if the placement of the contract summary prospectus makes it more conspicuous than any accompanying materials (*e.g.,* the summary prospectus is 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).[294]

The proposed rule would also require any website address or cross-reference 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.[295] This instruction is intended to ensure that investors viewing electronic versions of the prospectus are able to easily access website addresses and cross-referenced materials that are referenced in the prospectus. This requirement would not apply to summary prospectuses that are filed on the EDGAR system.[296]

The failure to comply with each of these additional requirements would not be a condition of reliance on the rule, in order to provide greater certainty to market participants who seek to rely on the rule. For example, market participants could be concerned that the three-business-day requirement could be violated on account of weather issues or other forces outside of the control of a person seeking to rely on the rule. Similarly, market participants could be concerned if compliance with the greater prominence requirement were a condition to rely on the proposed rule, because whether one is in compliance with this requirement could entail a certain degree of subjectivity.[297] Thus, we are proposing that the failure to comply with either requirement would 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.[298] This failure would, however, constitute a violation of Commission rules.

We request comment generally on the requirements we discuss in this section, and specifically on the following issues:

- Should persons relying on the proposed rule be required to send the required online contract documents to any person requesting such documents within three business days after receiving such a request? Would a different period be appropriate? Should compliance with this requirement be a condition to reliance on the proposed rule? If not, why not?
- Does the proposed rule effectively promote investors' ability to request paper copies of the required online contract documents? Are there any changes to the proposed rule that we should consider to make the process for requesting paper copies of such documents more convenient for investors? Should we require registrants to make available to investors a way to opt into the automatic annual delivery of future statutory prospectuses in a paper format without having to specifically request the documents each year? What would be the operational challenges of this approach to registrants? Should we allow registrants to give investors the option of automatic delivery of future statutory prospectuses in paper?
- Should the rule require that the summary prospectus be given greater prominence that any materials that accompany the summary prospectus? If not, why not? Does this requirement pose any challenges to registrants? How might a summary prospectus be given greater prominence than any materials that accompany the summary prospectus when being delivered or made available electronically?
- Should compliance with any or all of the proposed requirements discussed in this

[290] *Id.*

[291] *See* rule 498(f)(1). We understand that persons relying on rule 498 have effective processes in place to handle requests for paper or electronic delivery of mutual fund materials that are available online, within the three-business-day time period that the rule specifies. *See* Comment Letter of the Investment Company Institute on Investment Company Reporting Modernization, File No. S7–08–15 (Mar. 14, 2016) (stating that fund firms have ''specific, highly effective processes in place to handle requests under Rule 498''); *see also* Investment Company Reporting Modernization, Investment Company Act Release No. 31610 (May 20, 2015) [80 FR 33590 (June 12, 2015)] (''Investment Company Reporting Modernization Proposing Release'').

[292] Proposed rule 498A(i)(2); *see also* rule 498(f)(2) (parallel provision in the rule governing the use of mutual fund summary prospectuses).

[293] The Commission's rationale was similar for the parallel provision in the rule governing mutual fund summary prospectuses. *See* 2009 Summary Prospectus Adopting Release, *supra* note 33, at n.217 and accompanying text.

[294] *See* similar discussion in 2009 Summary Prospectus Adopting Release, *supra* note 33, at n.220 and accompanying text.

[295] *See* proposed rule 498A(i)(4). A parallel requirement would also apply to statutory prospectuses. *See* proposed General Instruction C.3.(i) to Forms N–3, N–4, and N–6.

[296] *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).

[297] Commenters expressed this concern about the parallel requirement in the rule governing mutual fund summary prospectuses, when it was proposed. *See* Comment Letter of the Investment Company Institute on Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, File No. S7–28–07 (Feb. 28, 2008).

[298] Proposed rule 498A(i)(5); *see also* rule 498(f)(5) (parallel provision in the rule governing the use of mutual fund summary prospectuses). The proposed rule's requirements would mandate 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 262 and 278 and accompanying text.

section be a condition of reliance on the rule? That is, should failure to comply with these requirements result in a violation of section 5(b)(2) of the Securities Act? Alternatively, should the failure to comply with these requirements be a violation of Commission rules that does not result in an inability to rely on the rule or a violation of section 5(b)(2)?

• The proposed rule would require any website address or cross-reference 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. To what extent, if any, would this requirement present challenges or add costs or burdens with respect to the use of summary prospectuses, given that active links are not required in EDGAR filings (and active links to websites, locations, and documents outside of the EDGAR system are expressly prohibited pursuant to rule 105 of Regulation S–T [17 CFR 232.105])?

6. Incorporation by Reference

a. Permissible Incorporation by Reference

The proposed rule would permit a registrant to incorporate by reference into the summary prospectus information contained in the contract statutory prospectus and SAI, subject to certain conditions.[299] Much like with the mutual fund summary prospectus, 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.[300] Any information incorporated by reference would 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.[301] A registrant would not be permitted to incorporate by reference into the summary prospectus information from any other source. Moreover, a registrant could not incorporate by reference any information that would be required to appear in the contents of the initial summary prospectus or the updating summary prospectus.[302]

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.[303] 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 would be required to reference the SAI directly.[304]

The proposed rule would permit incorporation by reference 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.[305] 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.[306] 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, caption, or otherwise.[307] The legend would also explain that the incorporated information may be obtained, free of charge, in the same manner as the contract statutory prospectus.[308]

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, we are proposing similar conditions for incorporation by reference for variable contract summary prospectuses.[309]

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, would not also be required to send or give the incorporated information to investors together with the summary prospectus.[310] 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.

[299] Proposed rule 498A(d)(2); *see also* rule 498(b)(3)(ii).

[300] *See* 2009 Summary Prospectus Adopting Release, *supra* note 33, at paragraph accompanying n.327.

[301] Proposed rule 498A(d)(2) references rule 30e–1, which applies only to management companies (Form N–3 registrants). While Form N–4 and Form N–6 registrants must transmit the portfolio companies' annual and semi-annual shareholder reports to the investors in their trust accounts (*see* rule 30e–2 under the Investment Company Act), we would not expect a registrant would wish to incorporate by reference information from a portfolio company shareholder report into the contract prospectus even if such information by reference was permissible. Accordingly, we do not reference rule 30e–2 in the proposed rule.

[302] Proposed rule 498A(d)(2)(ii); *see also supra* sections II.A.1 (describing proposed content requirements for the initial summary prospectus) and II.A.2 (describing proposed content requirements for the updating summary prospectus).

[303] Proposed rule 498A(d)(2)(iii).

[304] *Cf.* Item 10(d) of Reg. S–K [17 CFR 229.10(d)] (''Except where a registrant or issuer is expressly required to incorporate a document or documents by reference . . . reference may not be made to any document which incorporates another document by reference if the pertinent portion of the document containing the information or financial statements to be incorporated by reference includes an incorporation by reference to another document.''). General Instruction D.2 to current Form N–6 makes Item 10(d) of Regulation S–K applicable to incorporation by reference into a variable life insurance contract's statutory prospectus.

[305] Proposed rule 498A(d)(2)(i) (referencing proposed rule 498A(h), among other paragraphs in the proposed rule); *see also supra* section II.A.4.

[306] Proposed rule 498A(b)(2)(vi)(C) and 498A(c)(3)(vi).

[307] *Id.* This requirement mirrors the requirements of rule 498(b)(1)(v)(B), and is similar to the requirements of rule 411(d) under the Securities Act [17 CFR 230.411(d)], which requires that information incorporated by reference ''be clearly identified in the reference by page, paragraph, caption or otherwise.'' Rule 411 is also subject to the 2017 FAST Act Modernization rulemaking proposal (which includes proposed amendments to the Commission's rules on incorporation by reference). *See* FAST Act Modernization and Simplification of Regulation S–K, Securities Act Release No. 10425 (Oct. 11, 2017) [82 FR 50988 (Nov. 2, 2017)] (''2017 FAST Act Proposal''). We requested that comments on the 2017 FAST Act Proposal be submitted by January 2, 2018.

[308] *Id.; see also supra* discussion in section II.A.4 and 5.

[309] *See supra* note 300 and accompanying text.

[310] Proposed rule 498A(d)(1); *see also* rule 498(b)(3)(i) (parallel provision in the rule governing the use of mutual fund summary prospectuses); General Instruction G of current Forms N–3 and N–4; General Instruction D of current Form N–6 (permitting a registrant to incorporate by reference all or part of the SAI into the prospectus without delivering the SAI with the prospectus).

b. Effect of Incorporation by Reference

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.[311] The proposed rule would provide 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 proposed rule's conditions.[312] 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.[313]

We request comment generally on the proposal to permit incorporation by reference into the summary prospectus and specifically on the following issues:

- Should we permit the contract statutory prospectus, SAI, and shareholder reports to be incorporated by reference into the summary prospectus? Are there special considerations in the case of variable contracts that warrant different incorporation by reference provisions than those under rule 498? For example, is there any other information we should permit registrants to incorporate by reference into the proposed contract summary prospectuses? Should we permit a registrant to incorporate by reference any information that is required to be included in the summary prospectuses? If so, should this approach vary based on the type of summary prospectus (initial summary prospectus versus updating summary prospectus)?
- Should we require, as proposed, that materials incorporated by reference into the summary prospectuses be available online? Are there additional or different conditions we should impose on the ability to incorporate by reference into the summary prospectus?
- The proposed rule would provide 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 proposed rule's conditions. Is this proposed provision, which mirrors the approach taken in the rule governing mutual fund summary prospectuses, also appropriate for variable contracts? Are there differences between mutual funds and variable contracts that warrant an alternative approach? If so, what modifications should be considered? Should the proposed provision apply to both types of summary prospectus (initial and updating)? Are there any modifications that would be appropriate depending on the type of summary prospectus?

7. Filing Requirements for the Summary Prospectus

a. Preliminary Form of Summary Prospectus

We are proposing to require that registrants file a preliminary form of any contract summary prospectus (initial or updating summary prospectus) that the registrant intends to use on or after the effective date of the registration statement as an exhibit to the registration statement (''preliminary summary prospectus'').[314] Registrants would only be required to provide the preliminary summary prospectus exhibit 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.

We believe that it is important that Commission staff have the opportunity to review a variable contract's summary prospectus for compliance with the proposed rule and the relevant form requirements prior to its first use. However, we note that this approach differs from the approach regarding mutual fund summary prospectuses. The Commission elected not to require the filing of a mutual fund summary prospectus prior to first use because the content of the summary prospectus would be essentially identical to the content of the summary section of the statutory prospectus, which is filed prior to its first use.[315]

In contrast, the proposed rule does not require the variable contract statutory prospectus to contain a stand-alone summary section from which a summary prospectus is created. In addition, while some variable contract summary prospectus disclosures would be identical to those in the statutory prospectus,[316] others would include only part of the information required in the statutory prospectus.[317] For example, the proposed rule would require an initial summary prospectus only to describe the features and options of the contract that the registrant currently offers, while the statutory prospectus could include information regarding contracts that the registrant no longer sells to new investors.

The initial summary prospectus and updating summary prospectus would also present certain information in a different order than might appear in the contract statutory prospectus.[318] 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.

[311] *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.

[312] Proposed rule 498A(d)(3); *see also* rule 498(b)(3)(iii) (parallel provision in the rule governing the use of mutual fund summary prospectuses); 2009 Summary Prospectus Adopting Release, *supra* note 33, at nn.106 through 110.

[313] *See* 2009 Summary Prospectus Adopting Release, *supra* note 33, 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).

[314] *See* proposed Item 34(r) of Form N–3; proposed Item 28(o) of Form N–4; proposed Item 29(r) of Form N–6. The filing process and format of these documents would be dictated by current Commission rules, including its rules on electronic submissions and exceptions. *See, e.g.,* rule 101 of Regulation S–T [17 CFR 232.101] (providing, among other things, that registration statements and prospectuses filed pursuant to the Securities Act shall be submitted in electronic format).

[315] *See* 2009 Summary Prospectus Adopting Release, *supra* note 33, 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).

[316] *See, e.g.,* Items 2 and 3 of Forms N–3, N–4, and N–6.

[317] *See, e.g.,* proposed Item 11(a) of Form N–3; proposed Item 10(a) of Form N–4; proposed Item 10(a) of Form N–6; proposed Item 12(a) of Form N–3; proposed Item 11(a) of Form N–4; proposed Item 11(a) of Form N–6. (These are the proposed ''Standard Death Benefit'' and ''Other Benefits Available Under the Contract'' disclosure items for Forms N–3, N–4, and N–6.). While only certain information of the statutory prospectus is required to be included in the summary prospectus, proposed rule 498A permits the summary prospectus to incorporate by reference some or all of the information contained in the statutory prospectus or SAI.

[318] For example, in the initial summary prospectus, the Fee Table would be located towards the end of the prospectus, with more summary type of fee information would be 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.

b. Definitive Form of Summary Prospectus

In addition to requiring registrants to file a preliminary summary prospectus with the Commission prior to use, we are also proposing amendments to rule 497 under the Securities Act that would require a registrant to file a definitive form of summary prospectus after it is first used.[319] This would ensure that the Commission receives a copy of every summary prospectus in use.[320] This is consistent with the filing requirement for mutual fund summary prospectuses under rule 497.[321]

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.[322] Accordingly, a summary prospectus that is 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.[323]

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.[324] 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. 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;[325] 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.[326]

For similar reasons, it is our view that while a variable contract summary prospectus under the proposed rule would 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 proposed rule 498A would not have a comparable provision to that in rule 498 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 proposed 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 would be the same.[327] In addition, proposed rule 498A would have the same provisions regarding information permitted to be incorporated into the summary prospectus as those in rule 498.[328]

The summary prospectus would be subject to liability under section 12(a)(2) of the Securities Act[329] and the general antifraud provisions of the federal securities laws.[330] In addition, a summary prospectus would be subject to the stop order and other administrative provisions of section 8 of the Securities Act.[331] This is in addition to the Commission's power under section 10(b) of the Securities Act to prevent or suspend the use of the summary prospectus, regardless of whether or not it has been filed.[332]

We request comment generally on the proposed filing requirements for the variable contract summary prospectus and specifically on the following issues:

- Should we require filing of the preliminary form of any contract summary prospectuses? If not, what alternatives should we consider to facilitate staff review of the summary prospectus disclosures, and would investors be adequately protected if staff did not have the opportunity to review a summary prospectus pre-use? Should we only require the initial summary prospectus (or updating summary prospectus) to be filed prior to first use?
- Should we require post-use filing of the summary prospectus? Should only the initial summary prospectus (or updating summary prospectus) be filed after use?
- If the updating summary prospectus includes a description of a contract change that is not similarly described in the related

[319] Proposed amended rule 497(k).

[320] A summary prospectus filed with the Commission would 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.4.

[321] S*ee* rule 497(k).

[322] 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, § 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)).

[323] 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.'').

[324] *See* 2009 Summary Prospectus Adopting Release, *supra* note 33, at n.344 and accompanying text.

[325] *Id.* at nn.111 and 112; *see also* rule 498(f)(4).

[326] *See* rule 498(b)(3).

[327] *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.b.ii(a); *see also* proposed 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.

[328] *See* proposed rule 498A(d); *see also* rule 498(b)(3) (parallel provisions in the rule governing the use of mutual fund summary prospectuses).

[329] *See* section 12(a)(2) of the Securities Act; *see also* discussion *supra* note 311.

[330] *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.

[331] 15 U.S.C. 77h; H.R. Rep. 1542, 83d Cong., 2d Sess., 1954 U.S.C.C.A.N. 2973, 2982 (1954) (noting that the Commission's authority to suspend the use of a defective summary prospectus under section 10(b) ''is intended to supplement the stop-order powers of the Commission under [S]ection 8'').

[332] 15 U.S.C. 77j(b).

statutory prospectus (for example, the updating summary prospectus describes the fact that there was a change and the nature of the change), or otherwise includes content or wording differences compared to the statutory prospectus, would this adversely affect investor protection (for example, if certain information were not deemed to be part of the registration statement for purposes of section 11 of the Securities Act), and if so, how? Should we require the statutory prospectus to include the same description of contract changes contained in the related updating summary prospectus? Why or why not?

- Should the summary prospectus be subject to the stop order and other administrative provisions of section 8 of the Securities Act? Why or why not?
- Should the contract summary prospectus be deemed a part of the registration statement for purposes of section 11 of the Securities Act? Why or why not?

8. Definitions in the Proposed Rule

Proposed rule 498A includes a section of definitions for certain terms used throughout the rule.[333] 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 proposed rule (*e.g.,* ''summary prospectus''). In addition, in recognition that today a variable contract may offer classes with the same currently-available features and options but different characteristics (*e.g.,* differences in the length of the surrender periods) and/or different pricing structures, we are also proposing to define ''class'' to mean a class of a contract that varies principally with respect to distribution-related fees and expenses.[334]

We request comment generally on the definitions used in the proposed rule and specifically on the following issues:

- Should we include any additional, or exclude any proposed, defined terms?
- Should we modify the definitions of any defined terms? For example, does the proposed definition of ''class'' adequately distinguish among classes of a variable contract?

[333] Proposed rule 498A(a).

[334] Proposed rule 498A(a)(1). We understand that this is how the term is commonly used in industry practice. *See also* 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)]'').

B. Optional Method To Satisfy Portfolio Company Prospectus Delivery Requirements

1. Current Delivery Practices for Portfolio Company Prospectuses

The Commission has interpreted section 5(b)(2) of the Securities Act to require the delivery of a portfolio company prospectus to any variable contract investor that allocates his or her purchase payments to that portfolio company, including on any exchange of contract value from one portfolio company to another.[335] Since variable contracts generally offer exchange privileges permitting an investor to reallocate his or her investment from one underlying portfolio company to another, we understand 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.[336] We also understand that summary prospectuses, as opposed to statutory prospectuses, for the underlying portfolio companies are typically delivered. As with contract prospectuses, portfolio company prospectuses may be delivered electronically pursuant to the Commission's guidance.[337]

Because the identity of investors is known by the insurance company and not the underlying portfolio companies, delivery of prospectuses for underlying portfolio companies is typically effected by the insurance company rather than the portfolio company.[338] Based on a staff review of participation agreements between insurance companies and underlying portfolio companies, we understand 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.

[335] *See* Forms N–3 and N–4 Adopting Release, *supra* note 28, at n.49 and accompanying text (''Of course, delivery of a prospectus of an underlying company in which a contractowner actually invests will be required pursuant to section 5(b)(2) of the 1933 Act'').

[336] We understand that while some insurers have invested in infrastructure to deliver only those prospectuses to which an investor allocates contract value, most insurers have not.

[337] *See supra* note 32 and accompanying text.

[338] *See, e.g.,* Forms N–3 and N–4 Adopting Release, *supra* note 28, at n.48 and accompanying text (suggesting that under certain circumstances, the prospectus delivery obligation for underlying portfolio companies would rest with the insurance company); *see also* rule 22c–2(c)(1) under the Investment Company Act (defining a ''financial intermediary'' for purposes of the rule to include a UIT that invests in a fund in reliance on section 12(d)(1)(E) under the Investment Company Act) [17 CFR 270.22c–2(c)(1)].

2. New Option To Satisfy Prospectus Delivery Requirements

a. Overview

The proposed rule would provide an optional method for satisfying portfolio company prospectus delivery obligations 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.[339] This new option would be available to Form N–4 and Form N–6 registrants, but would not be available to Form N–3 registrants because they do not have underlying portfolio companies.

As proposed, this option would allow 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;[340] (2) a summary prospectus is used for the portfolio company (only if the portfolio company is registered on Form N–1A);[341] 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.[342] In addition, the proposed rule would provide that any communication related to a portfolio company, other than a prospectus permitted or required under section 10 of the Securities Act, would not be deemed a prospectus if the above conditions are satisfied.[343]

As discussed above, we are concerned that the volume of disclosure materials variable contract investors currently receive may prevent them from reading the materials or fully understanding these products. While the proposed 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

[339] Proposed rule 498A(j).

[340] Proposed rule 498A(j)(1)(i).

[341] Proposed rule 498A(j)(1)(ii).

[342] Proposed rule 498A(j)(1)(iii).

[343] Proposed rule 498A(j)(2).

portfolio company prospectuses.[344] To address this issue, the proposed option for satisfying portfolio company prospectus delivery requirements would provide investors with certain key summary information about underlying portfolio companies in an appendix to the contract summary prospectus.[345] If an investor desires more detailed information about a particular portfolio company, prospectuses and other documents relating to the portfolio company would be available online and in paper or electronically upon request.

The vast majority of investors purchase variable contracts from sales persons, as opposed to purchasing directly from insurance companies.[346] We understand these sales agents assist investors in many ways, including providing information about underlying portfolio companies and sometimes recommending that investors allocate their contract value into specific portfolio companies. We anticipate that this would continue following our proposal, and that sales agents would 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, we believe that sales agents would play a significant role in continuing to provide information about portfolio companies to investors, even if investors were to no longer receive paper copies of portfolio company prospectuses.

b. Conditions

As a condition to relying on the new option, we would require the related variable contract to use an initial summary prospectus for each currently offered contract described under the related registration statement.[347] We believe that this condition would help promote the use of contract summary prospectuses. Also, the initial summary prospectus content requirements (as well as the requirements for the updating summary prospectus) would ensure that investors receive disclosure regarding: (1) The online availability of the portfolio company prospectuses; [348] and (2) key summary information about each of the portfolio companies.[349]

As a second condition, a portfolio company that is registered on Form N–1A must use a summary prospectus.[350] If we were to permit the satisfaction of delivery obligations by making portfolio company prospectuses (and other documents) available online, portfolio companies that are mutual funds and ETFs would have less incentive to use a summary prospectus.[351] We believe it is important to make available both a summary prospectus and the statutory prospectus for a portfolio company to continue the current layered disclosure approach for portfolio companies whereby investors have the option to choose the amount and type of information to review. This condition also would continue to provide investors with summary information about the portfolio company that we believe they are more likely to use and understand.[352]

Finally, to rely on the new option, the portfolio company's current summary and statutory prospectus, SAI, and most recent annual and semi-annual shareholder reports would be required to be posted online under similar conditions for the posting of variable contract materials:

- The materials 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 proposed rule 498A(h)(1); [353]
- The materials 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,[354] and permit 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; [355]
- Persons accessing the materials must be able to permanently retain, free of charge, an electronic version of such materials in a 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; [356]
- Requested materials must be sent in paper or electronically upon request within three business days after receiving a request; [357] and
- The safe harbor specified in paragraph (h)(4) of the proposed rule would be available if the required materials are temporarily unavailable at the specified website.[358]

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.[359] In addition, we understand that the amendment is typically delivered to investors, either

[344] Variable annuity contracts offer an average of 59 portfolio companies as investment options. *See supra* note 8. 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, *supra* note 39, 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 59 portfolio companies would receive 236 pages of portfolio company disclosure materials, in addition to the contract prospectus.

[345] A contract summary prospectus would include an appendix that would provide for each portfolio company its name, type or investment objective, adviser and subadviser, expense ratio, 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.D.2.r (discussing our proposal to include this appendix also in variable contracts' statutory prospectuses). Registrants on Form N–3, who would not be relying upon this optional method to satisfy portfolio company prospectus delivery obligations, would have the option of omitting the appendix and instead providing more detailed disclosures for the investment options offered under the contract that would be required by proposed Item 20 of Form N–3. *See supra* note 204 and accompanying text.

In addition, each summary prospectus would also include a Key Information Table that would provide certain disclosures about portfolio company risks and investment restrictions. *See supra* discussion at section II.A.1.c.ii(b)(ii); *see also infra* section II.D.2.c (discussing the Key Information Table in proposed Forms N–3, N–4, and N–6).

[346] Approximately 97% of sales of variable annuities are made through sales agents. *See* IRI Fact Book, *supra* note 8, at 168. Only a small percentage of investors purchase their variable contracts directly from the issuing insurance company. *See* Insurance Information Institute, *Facts + Statistics: Distribution Channels, available at https://www.iii.org/fact-statistic/facts-statistics-distribution-channels* (in 2013, 4% of new individual life insurance sales were directly sold). In comparison, only 50% of households owning mutual funds purchased their funds through sales agents. *See* Investment Company Institute, *Profile of Mutual Fund Shareholders, 2017* (Oct. 2017), at Fig. 3.1, *available at https://www.ici.org/pdf/rpt_17_profiles17.pdf.*

[347] Proposed rule 498A(j)(1)(i).

[348] *See supra* note 198 and accompanying text.

[349] *See supra* section II.A.1.c.(ii)(i).

[350] Proposed rule 498A(j)(1)(ii).

[351] For example, this online option would reduce—or fully eliminate—the cost savings associated with printing and mailing a summary prospectus as opposed to the statutory prospectus, since those summary prospectuses would be posted online instead of being printed and mailed.

[352] *See* 2009 Summary Prospectus Adopting Release, *supra* note 33, at paragraph accompanying n.195.

[353] Proposed rule 498A(j)(1)(iii).

[354] Proposed rule 498A(h)(2)(i); proposed rule 498A(j)(1)(iii). In addition, the materials must be presented on the website in a format or formats that are convenient for reading online and printing on paper. Proposed rule 498A(i)(3)(i); proposed rule 498A(j)(1)(iii).

[355] Proposed rule 498A(h)(2)(ii).

[356] Proposed rule 498A(j)(1)(iii); proposed rule 498A(h)(3). In addition, persons must be able to permanently retain these materials in a format or formats that are convenient for reading online and printed on paper. Proposed rule 498A(j)(1)(iii); proposed rule 498A(i)(3)(ii).

[357] Proposed rule 498A(j)(1)(iii); proposed rule 498A(i)(1).

[358] Proposed rule 498A(j)(1)(iii); proposed rule 498A(h)(4).

[359] Rule 497 under the Securities Act.

by special mailing or by including it with another mailing, such as with the account statement or confirmation.[360]

As discussed above, the proposed new option for satisfying portfolio company prospectus delivery requirements would require that current portfolio company summary prospectuses and statutory prospectuses be posted online. If a portfolio company amends its prospectus between annual updates, the updated prospectus must be posted online.

The proposed rule would not, however, include any separate requirement to deliver portfolio company prospectus amendments to investors. We believe that requiring delivery of prospectus amendments to investors who had not been delivered the prospectus itself could cause investor confusion. Instead, the proposed legend to the summary prospectus appendix listing all the portfolio companies available under the contract would include a statement that investors should review the prospectuses before making an investment decision and that they may be amended from time to time.[361] In addition, we note that if an interim amendment to a portfolio company prospectus affects the information provided in the variable contract summary prospectus (*e.g.,* a change to the type/investment objective or expense ratio of the portfolio company provided in the required appendix to the contract summary prospectus), then investors would receive notice of the change through an amendment to the contract summary prospectus which would be delivered to investors.[362]

We request comment generally on the proposal to permit a new option for satisfying portfolio company prospectus delivery requirements, and specifically on the following issues (in addition, we are requesting comment on certain parallel provisions of rule 498):

- Should the rule permit the use of the new option for satisfying portfolio company prospectus delivery requirements? Should this aspect of the proposed rule be optional as proposed or required if the variable contract uses a summary prospectus?
- The rule as proposed would only permit the use of the new option for portfolio company prospectuses if the related variable contract uses an initial summary prospectus for each currently offered contract described under the related registration statement. Should we permit the use of the new option even if the related variable contract does not use a summary prospectus? Why or why not?
- The rule as proposed would only permit the use of the new option if the portfolio company uses a summary prospectus. This would effectively require a portfolio company to use a summary prospectus if it does not already do so. If we were to permit the satisfaction of delivery obligations by making portfolio company prospectuses (and other documents) available online, would portfolio companies still have an incentive to use a summary prospectus? Should we permit the use of the new option even if the portfolio company does not otherwise use a summary prospectus? Why or why not?
- Should we modify any of the proposed conditions related to the new option for satisfying portfolio company prospectus delivery requirements, or add any additional conditions? For example, should we—as proposed—specify that these materials must be available at the same website address as the variable contract materials that appear online, or should there be flexibility regarding the website address on which the portfolio company materials appear? As another example, although the proposed rule specifies that the materials posted online must be in human-readable format, should we also require that the materials be posted online in machine-readable format to promote the gathering and dissemination of information by data aggregators?
- If we change any of the proposed conditions related to the new option, should we make parallel changes regarding the use of contract summary prospectuses? Should we similarly make any changes to rule 498 under the Securities Act governing mutual fund summary prospectuses for consistency or other reasons?
- Should we modify the proposed linking requirements in any way with respect to portfolio company documents encompassed by the online accessibility and delivery upon demand requirements of the proposed rule?
- Do the separate requirements of rule 498 regarding mutual fund summary prospectus documents create any confusion that should be addressed by proposed rule 498A?
- Under the rule as proposed, persons relying on the new delivery option would not be required to deliver interim prospectus supplements to investors. Should we instead require that interim prospectus supplements be delivered? Would confusion result if investors were to receive prospectus supplements when they had not previously received portfolio company prospectuses? Are there ways to mitigate any such confusion?
- Would the proposed legend on the initial and updating summary prospectuses provide sufficient notice to investors that portfolio company prospectuses may be amended from time to time? Why or why not? Should we revise the legend to include alternate or additional information? Should a similar legend also appear on the cover page of the contract summary prospectus, as well as in the appendix to the summary prospectus as proposed? Alternatively, should we require that a separate notice be given to investors to alert them of the online availability of prospectus supplements? If so, what information should that notice contain? Should that notice be filed with the Commission?
- Should the final rules provide that a communication relating to a portfolio company (other than a prospectus permitted or required under section 10 of the Securities Act) is not deemed to be a prospectus under section 2(a)(10) of the Securities Act under the conditions specified by the rule? Should we amend any of the conditions related to this provision?

C. Discontinued Variable Contracts

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 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.[363]

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

[360] 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.

[361] The appendix would include the following legend: ''The following is a list of [Portfolio Companies] currently available under the [Contract], which is subject to change as discussed in [the Statutory Prospectus for the Contract]. Before you invest, you should review the prospectuses for the [Portfolio Companies]. These prospectuses contain more information about the [Portfolio Companies] and their risks and may be amended from time to time. You can find the prospectuses and other information about the [Portfolio Companies] online at [____]. You can also request this information at no cost by calling [____] or by sending an email request to [____].'' *See* proposed Item 18 of Forms N–4 and N–6.

[362] The proposed rule would not affect the requirements to deliver other materials specified under other rules or terms of exemptive orders. *See, e.g.,* 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.

[363] *See supra* note 28 and accompanying text.

when assets are reduced to such a level that continuing the fund is not viable, an insurance 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.

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 sending alternative disclosures to investors (each, a ''Staff Letter,'' and collectively, the ''Staff Letters'').[364] The last Staff Letter was issued in 1995.[365]

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).[366] The Staff Letters also identified a set of circumstances in which the staff would not recommend enforcement action once the registration statement is no longer updated:[367]

- There are no material changes made to the contract;
- 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 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;[368] and
  - At least once a year, a statement of the number of units and values in each investor's account.
- The registrant files periodic reports with the Commission pursuant to section 30 of the Investment Company Act (*i.e.,* reports on Form N–CEN);[369] and
- New contracts are not offered to the public, and the registrant does not contemplate such an offering in the future.

Liability

As of the end of calendar year 2017, we understand that more than half of variable contract Securities Act registration statements may provide the alternative disclosures that the Staff Letters describe:[370]

Status[371]	Variable annuity	Variable life insurance	Grand total
Registration Statements That Are Updated Annually	500	221	721
Registration Statements Operating Under Staff Letters	521	334	855
Total Number of Registration Statements	1,021	555	1,576

Providing the alternative disclosures described in the Staff Letters may have the effect of potentially limiting issuers' liability under certain provisions of the federal securities laws requiring a registration statement or prospectus to contain whatever information may be necessary or appropriate to avoid material misstatements or omissions.[372] 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.[373]

Commission Position on Existing Contracts Whose Issuers Provide Alternative Disclosures to Investors

In proposing the new variable contract summary prospectus disclosure framework, we acknowledge the industry practice of providing alternative disclosures (which are

[364] *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).

[365] *See* Metropolitan Life Insurance Co., SEC Staff No-Action Letter (pub. avail. Apr. 26, 1995) (''Metropolitan Letter'').

[366] 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.'' However, there are four Staff Letters concerning contracts where the number of investors exceeded 5,000. *See* Metropolitan Letter (42,910 investors); Monarch Life Insurance Co., SEC Staff No-Action Letter (pub. avail. June 9, 1992) (''Monarch Letter'') (5,900 investors); New York Life Insurance and Annuity Corp., SEC Staff No-Action Letter (pub. avail. Nov. 15, 1989) (13,713 investors); Security Benefit Life Insurance Company, SEC Staff No-Action Letter (pub. avail. July 2, 1987) (28,019 investors).

[367] 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.

[368] With respect to variable annuities, the depositor's updated audited financial statements would be available upon request. *See, e.g.,* Metropolitan Letter; Monarch Letter.

[369] 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.

[370] Our understanding is based on staff review of filings with the Commission and discussions with industry participants.

[371] 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 filers that did not file a registration statement or amendment in 2017, 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).

[372] Sections 11 and 12(a)(2) of the Securities Act and section 34(b) of the Investment Company Act. *See supra* discussion at notes 311 (discussing section 12(a)(2) liability) and 322 (discussing section 11 liability). 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. *See Bellikoff* v. *Eaton Vance Corp.,* 481 F.3d 110 (2d Cir. 2007).

[373] *See, e.g.,* section 17(a) of the Securities Act; section 10(b) and 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.

significantly different from the requirements of the proposed summary prospectus regime) under specific circumstances that the Staff Letters identify. In light of this proposal as well as other developments with respect to layered disclosure, we believe that it is useful to consider the appropriate disclosure framework for the types of contracts that have historically relied on the alternative disclosures.

If the proposed summary prospectus framework is adopted, the Commission would take the position that if an issuer of an existing contract 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 receive the alternative disclosures. The Commission would take this position in recognition of the industry's practice that has developed in light of the Staff Letters, the costs and burdens that issuers of contracts operating in accordance with the Staff Letters currently incur, and the costs and burdens that issuers would incur under the proposed summary prospectus framework. Therefore, under the Commission's position, the Commission would permit contracts operating in the manner that the Staff Letters describe as of the effective date of any final summary prospectus rules (hereinafter referred to as the ''Alternative Disclosure Contracts'') to continue to operate in such manner.[374] For all other contracts, the Commission's position would not be applicable, and therefore 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.

As a general matter, we believe that all variable contract investors should receive the same information. In this regard, our position with respect to Alternative Disclosure Contracts would be limited to the current universe of Alternative Disclosure Contracts, which will diminish in number over time. Our position is also based on our belief that the proposed summary prospectus framework could give investors more pertinent information to monitor their contract investment than the alternative disclosures. For example, the updating summary prospectus would include a brief description of certain changes to the contract that occurred during the previous year, as well as certain key information about the contract. We believe that investors could find this document to be more useful and user-friendly than the separate account financial statements that investors receive under the alternative disclosures.

Additionally, under the proposed summary prospectus regime, investors would receive key summary information about the portfolio companies (with the portfolio company prospectuses available online) instead of receiving the portfolio company prospectuses as they do currently.[375] This proposed layered disclosure approach could provide an additional tool to investors to access the level of information about portfolio companies that best serves their information needs.

We solicit comment on the following issues regarding the Alternative Disclosure Contracts:

- Would adoption of a summary prospectus framework and related form amendments effectively relieve some of the current burdens and costs on variable contract issuers of updating registration statements, and delivering updated prospectuses, such that the Commission's position on Alternative Disclosure Contracts would not be necessary? If not, to what extent would the burdens and costs of maintaining an updated registration statement and compliance with the proposed summary prospectus regime (to the extent that a registrant chooses to rely on proposed rule 498A) exceed that of providing the disclosure related to the Alternative Disclosure Contracts?
- Does the proposed summary prospectus regime give investors more pertinent information to use to help them make informed investment decisions, compared to the information investors holding Alternative Disclosure Contracts would receive?
- Are fees and charges for variable contracts currently established based on an expectation that the insurer will be able to provide alternative disclosures at some point, such as if a product launch is unsuccessful or if the insurer stops selling new contracts so that the number of investors diminishes over time? Would the Commission's position on Alternative Disclosure Contracts have other effects relating to new variable contracts? For example, would it cause insurers to be less willing to introduce new products?
- Would the Commission's position on Alternative Disclosure Contracts result in any variable contract design changes? Would the length of registration statements or prospectuses increase or decrease? If so, why? What would be the effect, if any, on contract disclosure?
- Under the Commission's position on Alternative Disclosure Contracts, which contracts should be able to provide alternative disclosures? For example, should the Commission's position be limited to Alternative Disclosure (*i.e.,* contracts operating in the manner that the Staff Letters describe) as of the effective date of the adoption of final variable contract summary prospectus rules? Should the ability to provide alternative disclosures be limited to contracts with a maximum of 5,000 investors (or participants in the case of group contracts)?[376] Instead of limiting the number of investors, should a different approach be considered, such as limiting relief based on aggregate contract value, the length of time since a contract was last offered to new investors, the costs of updating a registration statement per contract, or the expected cost of updating a registration statement per $1,000 of contract value? If so, what limits should be imposed and why, and what is the benefit of these alternatives over using the number of investors? Alternatively, should the ability to provide alternative disclosures apply to all contracts outstanding at (1) the time of adoption, (2) the effective date, or (3) the compliance date, for final variable contract summary prospectus rules? Why?
- What percentage of insurers currently delivers the alternative disclosures for at least one contract? What percentage of the variable contract business (in terms of number of contact owners and aggregate contract value) provides alternative disclosures? What are the size ranges of registration statements for those contracts that deliver alternative disclosures (both in terms of number of investors and in terms of aggregate contract value)?
- What number of investors, or aggregate contract value, would make providing alternative disclosures more cost-effective than annually updating a registration statement under the current variable contract prospectus delivery regime?
- What are the cost savings, if any, associated with providing alternative disclosures? What are the sources of the cost savings?
- Which current items of variable annuity and variable life insurance registration

[374] The Commission's position on Alternative Disclosure Contracts would be an agency statement of general applicability with future effect designed to implement, interpret, or prescribe law or policy. This position would be consistent with the Staff Letters up to the effective date of any final rule and effectively would moot those letters. The Commission's longstanding position is that all staff statements are nonbinding and create no enforceable legal rights or obligations of the Commission or other parties. *See, e.g.,* Statement by Chairman Jay Clayton Regarding Staff Views. Securities and Exchange Commission (Sept. 13, 2018), available at *https://www.sec.gov/news/public-statement/statement-clayton-091318.*

We note, however, that if a material change is made with respect to an Alternative Disclosure Contract, the registration statement for that contract would be required to be updated, and the contract would no longer be permitted to operate as an Alternative Disclosure Contract.

[375] Under proposed rule 498A, investors would not receive the portfolio company prospectuses if the registrant were to elect to rely on the new optional method to satisfy portfolio company prospectus delivery requirements. *See supra* section II.B.2.

[376] *See supra* note 366.

statements are the most difficult or time-consuming for variable contract issuers to update? Why are these items difficult or time-consuming to update?

• How frequently do material changes to the variable contract occur that would require an issuer that is delivering alternative disclosures to update its registration statement? What specific types of contract changes are considered to be material? What types of contract changes are considered to be non-material, such that the issuer would not update its registration statement in response to this condition? How are investors notified of any non-material changes? Are there types of contract changes where it is difficult to determine whether an issuer should update its registration statement? If so, please identify those types of changes.

• Do insurers currently host on their websites the alternative disclosure documents that are delivered to investors? Why or why not?

• Do investors that receive alternative disclosures contact their insurance company looking for information at a greater frequency than investors who receive a prospectus annually? What information are these investors looking for?

• Some of the circumstances that the Staff Letters identify vary depending on the no-action letter.[377] Under which circumstances are issuers providing alternative disclosures?

We request comment generally on how investors and financial professionals view the alternative disclosures, and specifically on the following issues:

• Investors that have variable contracts with registrants that provide alternative disclosures would receive different disclosure documents, and hence different sets of information, than they would receive under the proposed summary prospectus regime. Which approach do you believe is most beneficial for investors and why?

• To the extent that there are no material changes to a variable contract, what information about the contract—if any—do investors need to receive on an ongoing basis to monitor their investments in the contract and understand how the contract operates? If there are no material changes, would it be useful to investors to receive disclosure repeating key information of the contract each year, and/or to receive summary information about the portfolio companies each year?

• Are investors able to effectively understand financial statements that are provided as alternative disclosures, and are they useful in helping investors monitor their investments?

• An updated contract statutory prospectus, which investors typically receive annually, describes the variable contract but does not include insurance company or separate account financial statements. Investors holding contracts whose issuers provide alternative disclosures, however, receive the separate account financial statements annually, and in some cases the insurance company's financials. Assuming there are no changes to the contract in a given year, do investors have a preference as to which information they would rather receive? Is there other information that investors would like to receive?

Other Approaches to the Framework for Discontinued Contracts

If the Commission takes the position described in the prior subsection with respect to Alternative Disclosure Contracts, it would permit continued operation of Alternative Disclosure Contracts (*i.e.,* issuers with contracts that are operating as described in the Staff Letters on the effective date of the final rules permitting use of a variable contract summary prospectus). All other variable contract issuers would operate under the new summary prospectus framework. That is, they 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.

We are also considering two alternative approaches for discontinued contracts. Each of these alternative approaches would involve modifying, and codifying by rule, the disclosure framework the Staff Letters identify. Each of these alternative approaches could be implemented in two different ways:

• *Method One (Apply New Approach Only to Discontinued Contracts Going Forward):* Permit Alternative Disclosure Contracts to continue operating as they currently do under the Commission position described above. For future discontinued contracts, adopt final rules codifying certain practices the Staff Letters identify and apply those rules on a going forward basis.

• *Method Two (Apply New Approach to All Discontinued Contracts):* Adopt final rules codifying certain practices the Staff Letters identify and apply those rules to all discontinued contracts (including Alternative Disclosure Contracts).

We request comment on the Commission position described above, as well as the proposed approaches described below. We also request comment on whether an alternative approach should be implemented using method one or method two.

Approach 1 (Codification of Practices under Staff Letters with Modifications): Under Approach 1, the Commission would adopt final rules providing that a registrant would not have to comply with certain requirements to update the variable contract registration statement and deliver updated contract prospectuses to existing investors, so long as the registrant complies with the following conditions:

• Investors would receive an annual notice that includes information that is comparable to that which would be provided in an updating summary prospectus. Specifically, this notice would include: (1) The Key Information Table that would appear in an updating summary prospectus; (2) a brief description of any material[378] changes to the offering relating to fees, the standard death benefits, other benefits available under the contract, and portfolio companies available under the contract;[379] (3) a table that would include the same information about portfolio companies that would appear in the proposed appendix to the updating summary prospectus; and (4) legends informing investors that additional information about their contract—including the registrant's financial statements (the depositor's financial statements in the case of variable life insurance contracts) and portfolio company prospectuses and periodic reports to shareholders—is available online. Because this notice would not be a section 10(b) prospectus, it (unlike a summary prospectus under proposed rule 498A) would not be subject to liability under section 12(a)(2) of the Securities Act, although it would remain subject to the general antifraud provisions of the federal securities laws.[380] The notice would be posted to the insurance company's website.

• The financial statements provided to investors under the alternative disclosures in the Staff Letters would be filed with the Commission, posted to the insurance company's website, and delivered to an investor upon request;

• Registrants would be permitted to use the optional method to satisfy portfolio company prospectus delivery requirements as provided under proposed rule 498A; and

• Investors would continue to receive portfolio company shareholder reports and proxy materials.

Issuers would be able to rely on Approach 1 if the contract is no longer offered to new purchasers, there are under 5,000 investors, and there have been no material changes during the period since the most recent update. Approach 1 reflects our belief that the proposed summary prospectus framework could give investors more pertinent information to use to help them make informed investment decisions, compared to the information

[377] *See supra* note 367.

[378] The changes that would necessitate disclosure under this alternative are broader than one of the circumstances that the Staff Letters identify—that there be no material changes to the contract. With respect to the annual notice, even if there are no changes to the contract between the insurance company and the investor, there may still be material changes to the offering that must be disclosed, such as changes in investment options, investment restrictions, fees, and other matters.

[379] As under proposed rule 498A, a registrant also could provide a concise description of any other change that has been made to the contract, in addition to the changes that the proposed rule would require be described. *See* proposed rule 498A(c)(6)(ii); *see also supra* note 233 and accompanying text.

[380] *See supra* note 329 and accompanying text (discussing the liability provisions applicable to summary prospectuses under proposed rule 498A).

under the circumstances that the Staff Letters identify.[381] This approach seeks to provide many of the benefits to investors associated with the summary prospectus framework while limiting the burden of updating registration statements relating to contracts that are only offered to a limited number of investors.

Approach 2 (Permit Registration Statements to be Updated via Forward Incorporation by Reference). As a variation on the framework for Approach 1, we also request comment on whether the Commission should adopt final rules that would:

- Permit the registrant to rely on a modified version of rule 498A that would:
  - Require that investors receive an annual notice that includes information that is comparable to that which would be provided in an updating summary prospectus, as described in Approach 1;
  - Require that the contract statutory prospectus and SAI be made available online and delivered to an investor upon request; and
  - Permit registrants to use the proposed rule's optional method to satisfy portfolio company prospectus delivery requirements;
- Require the filing of separate account (including accumulation unit values for variable annuities) and depositor financials with the Commission, permit issuers to incorporate these documents by reference into the registration statement (even if they are filed after the effective date of the registration statement),[382] and require these financial statements to be posted to the insurance company's website, and delivered to an investor upon request; and
- Require that investors receive portfolio company shareholder reports and proxy materials.

As with Approach 1, issuers would be able to rely on Approach 2 if the contract is no longer offered to new purchasers, there are under 5,000 investors, and there are no material changes to the contract. Also, like Approach 1, Approach 2 reflects our belief that the proposed summary prospectus framework could give investors more pertinent information to use to help them make informed investment decisions, compared to the alternative disclosures received by investors under the circumstances that the Staff Letters identify.[383]

However, Approach 2 would be more similar to the proposed summary prospectus regime in certain respects, in terms of the requirements for the information that is (1) delivered to all investors (with the annual notice under Approach 2 substituting for the summary prospectus), (2) made available online, and (3) delivered to those investors who so request.[384] This approach seeks to provide many of the benefits to investors associated with the summary prospectus framework and reduce the burden of updating registration statements for contracts that are only offered to a limited number of investors.

Approach 2 differs from Approach 1 chiefly in that Approach 2 would require a registrant to maintain a current registration statement and make the statutory prospectus and SAI available online. However, under Approach 2, the registrant would only update the registration statement when there are material changes to the offering, since updated financial statements would be permitted to be forward incorporated by reference into the registration statement.[385] Approach 2 therefore could reduce some of the burdens associated with maintaining a current registration statement.

Since Approach 2 would entail the maintenance of a current registration statement, the liability provisions available under the federal securities laws would apply to Approach 2 to the same extent as under the current variable contract prospectus delivery regime[386] and under the proposed summary prospectus regime for registrants that choose to rely on proposed rule 498A.[387] While the disclosures required under Approaches 1 and 2 are similar and both include certain protections under the federal securities laws against material misstatements or omissions, disclosures under Approach 2 may not limit potential issuer liability to investors.

The following Table 4 summarizes the frameworks under the Staff Letters, Approaches 1 and 2, and the proposed summary prospectus framework under proposed 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 4—DOCUMENTS AVAILABLE TO VARIABLE CONTRACT INVESTORS

	Staff letters and commission position	Approach 1	Approach 2	Summary prospectus framework under proposed rule 498A
Contract Statutory Prospectus *.	N/A[388]		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).	
Initial Summary Prospectus	N/A			Delivered to all new investors.

[381] *See supra* paragraph following note 374.

[382] *See, e.g., supra* note 364. Certain registrants that file on Forms S–1 or S–3 are permitted to update their registration statements by reference to Exchange Act reports filed after the effective date of the registration statement ("forward incorporation by reference").

[383] *See supra* paragraph following note 374.

[384] *See supra* sections II.A.4 through 6. We assume for purposes of this discussion that the relevant requirements in these sections—for example, the formatting requirements and relevant linking requirements discussed in these sections—would be requirements under Approach 2.

[385] One important distinction is that, under the Staff Letters, one of the set of circumstances in which the staff has stated that it would not recommend enforcement action is if there are no material changes to the contract between the investor and insurance company. However, even if there are no material changes to the contract, there may still be material changes to the offering that is described in the registration statement. *See supra* note 378. These material changes to the offering generally should be described in any updating summary prospectus or similar notice.

See supra note 29 (discussing current requirements for updating variable contract registration statements).

[386] *See supra* note 372 and accompanying text (noting that providing the alternative disclosures described in the Staff Letters may have the effect of potentially limiting issuers' liability under certain provisions available under the federal securities laws).

[387] *See supra* section II.A.3.

TABLE 4—DOCUMENTS AVAILABLE TO VARIABLE CONTRACT INVESTORS—Continued

	Staff letters and commission position	Approach 1	Approach 2	Summary prospectus framework under proposed rule 498A
Updating Summary Prospectus *.	N/A			Delivered to all existing investors.
Alternative Notice to Investors *.	N/A	Delivered to all investors (would include information that is comparable to that which would be included in the updating summary prospectus).		N/A.
Financial Statements * [389]	Delivered to all investors	Required to be available online and delivered (in paper or electronic format) upon request, and also available on EDGAR.[390]		
Portfolio Company Prospectuses *.	Delivered to all investors	Delivered to investors, or, if the new option to satisfy portfolio company prospectus delivery is relied-upon,[391] 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, or, if the new option to satisfy portfolio company prospectus delivery is relied-upon,[392] required to be available online and delivered (in paper or electronic format) upon request.		
Portfolio Company Proxy Materials.	Delivered to all investors.			

* Updated at least annually.

We request comments on the framework for discontinued contracts:[388] [389] [390] [391] [392]

• Should the Commission codify either Approach 1 or Approach 2? Why or why not? If so, which approach should the Commission codify? Would either of Approach 1 or Approach 2 facilitate the disclosure of useful information to investors in a better way than the information they would receive under the proposed summary prospectus regime? What are the benefits and drawbacks for investors of permitting Approach 1 or Approach 2, instead of requiring issuers to update the registration statement consistent with the proposed summary prospectus regime?

• Would either of Approach 1 or Approach 2 provide more useful information to investors than the information investors holding Alternative Disclosure Contracts would receive? If so, how?

• What number of investors or aggregate contract value would make reliance on Approach 1 or Approach 2 more cost-effective than annually updating a registration statement, both under current disclosure requirements and under the proposed summary prospectus regime?

• What are the expected cost savings, if any, associated with reliance on Approach 1 or Approach 2 as compared to: (1) The current disclosure regime; (2) the disclosures provided with respect to Alternative Disclosure Contracts; and (3) the proposed summary prospectus regime? What are the anticipated sources of the cost savings? Are there challenges that issuers would face in preparing and providing the information to investors that each alternative would require, and if so, what would these challenges (and any associated costs) be? Are there changes to the alternatives that we should consider in order to address those challenges? If so, what changes, and how would those changes affect investors' ability to make informed decisions?

• Under Approach 1 and Approach 2, investors would annually receive a notice that is substantially similar to the proposed updating summary prospectus. Should this notice be modified in any way? If so, how?

• Under Approach 1 and Approach 2, should the conditions incorporate a more precise definition of material changes that would require a registration statement to be updated? If so, what should the definition of material changes be? For changes to a registration statement that are not a material change to the contract, should we include a condition that the changes be posted on the insurance company's website and filed with the Commission? If so, what would be the costs associated with this condition? If not, why not?

• Under Approach 1, should the most-recently-updated prospectus and registration statement be made available to investors either by request or online? If not, why not? If we did require these documents to be made available online or by request, what kind of legend should appear on the cover page of these documents to make it clear to investors that these documents have not been updated, and that the contract has undergone no material changes, since the date of the document? Is there other information we should also require to be made available online (such as current investment restrictions associated with optional benefits, or a current Fee Table that shows both maximum and current contract fees)?

• Under Approach 1, certain materials would be required to be made available online. Should the web posting requirements be the same as those that proposed rule 498A would prescribe? Are there modifications that should be considered with respect to contracts relying on Approach 1? If so, what are those modifications and why are they necessary?

• Should a condition of Approach 1 be that audited financial statements of the registrant (and in the case of variable life insurance contracts, the depositor's audited financial statements) be filed with the Commission? If not, why not? What would be the additional costs associated with this condition?

• The approach in Approach 2, where a registration statement can refer to financial information that may be filed in the future avoiding the need to annually file a post-effective amendment to a registration statement, is permitted by other SEC registration forms, such as Form S–3. However, Securities Act rules still require that an updated registration statement be filed with the Commission once every three years.[393] Should such a requirement apply under Approach 2? Why? Instead, should we require a new prospectus to be filed every

[388] 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 Staff Letters' framework and Approach 1, these documents are not updated annually, and registrants would not make these documents available to investors either online or in paper format.

[389] 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 368 and accompanying text.

[390] The financial statements are part of the contract SAI, and proposed rule 498A would require a registrant relying on the rule to make the SAI available online. *See* proposed rule 498A(h)(1); proposed Item 26 of Form N–4; proposed Item 27 of Form N–6.

Approaches 1 and 2 separately would require financial statements to be filed with the Commission, posted to the insurance company's website, and delivered to an investor upon request. *See supra* text following note 380; *supra* note 382 and accompanying text.

[391] *See supra* section II.B.2; *see also supra* bullets accompanying notes 378–382.

[392] *See id.*

[393] *See* rule 415(a)(5) under the Securities Act.

three years? If not, why not? In between updates to a registration statement, issuers typically file stickers reflecting certain changes.[394] Instead of requiring updated registration statements or prospectuses after a certain period of time, should we limit the number of stickers before an updated registration statement or prospectus must be filed? If so, what should be the limit?

• Should Approach 2 be permitted for all registration statements even if the contract is still offered to new purchasers, has over 5,000 investors, or may have had material changes since the most recent prospectus update? What would be the benefits to registrants and investors of permitting forward incorporation by reference, as under Approach 2, for all variable contract registration statements? Or, would this result in changes to variable contract disclosure practices that would impede investors' ability to understand their variable contracts in any way?

Other Considerations

• How do Approach 1 and Approach 2 compare to the requirement to update a registration statement, and to the circumstances that the Staff Letters identify, with respect to the liability provisions available to investors under the federal securities laws? Are there changes to Approach 1 and Approach 2 that should be considered to further protect investors?

• Approaches 1 and 2 contemplate that the codified relief would be available only to Form N–4 and Form N–6 registrants (as the conditions associated with portfolio company disclosure would be applicable only to Form N–4 and Form N–6 registrants, and not also Form N–3 registrants).[395] Should the Commission's position on Alternative Disclosure Contracts or Approaches 1 or 2 be extended to managed separate accounts? If yes, how should the conditions be modified to accommodate managed separate accounts? For example, should we consider an approach similar to rule 8b–16(a) under the Investment Company Act where updated information about the contract (including audited financial statements for the insurance company) and the investment options are included in the separate account's annual shareholder report?

• Should the Commission's position on Alternative Disclosure Contracts or Approaches 1 or 2 be extended to annuity contracts registered with the Commission under the Securities Act only and filed on Forms S–1 and S–3? If yes, how should the conditions be modified to accommodate these contracts?

• If the Commission were to codify Approach 1 or Approach 2, should issuers that are operating in the manner described in the Staff Letters, as of the effective date of the adoption of final variable contract summary prospectus rules, be permitted to continue operating in this manner? Or should the Commission instead require all issuers—including those that are operating in the manner described in the Staff Letters as of the effective date of the adoption of final variable contract summary prospectus rules—to satisfy the conditions under Approach 1 or Approach 2? If commenters believe that the latter approach is appropriate, should Approach 1 or Approach 2 be available to only those contracts that are no longer offered to new purchasers, make no material changes, for contracts with fewer than a certain number of investors, or for some other group of contracts? Why?

D. Proposed Amendments to Registration Forms

We are proposing 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 proposed summary prospectus framework. These proposed 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 proposing 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 proposed revisions to Forms N–3 and N–4. Accordingly, we are proposing 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. Similarly, we 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.

1. General Instructions

We are proposing amendments to the General Instructions of Forms N–3, N–4, and N–6 regarding the preparation and filing of registration statements. The proposed General Instructions would, like the General Instructions in current Form N–6,[396] be structured to include four parts: (A) Definitions; (B) Filing and Use of Form; (C) Preparation of the Registration Statement; and (D) Incorporation by Reference.[397] With the exception of General Instruction C.3, these amendments are organizational in nature and incorporate minor changes that are not intended to significantly alter the content of the current General Instructions for these forms.

Proposed General Instruction C.3 would provide 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 would parallel Instruction C.3 of current Form N–6 in substance, except as described below.

Proposed General Instruction C.3.(a) would require that the disclosures in response to Item 2, Item 3, and Item 4 of the registration forms 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. We 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.[398] Additionally, the instruction would provide 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.

Proposed General Instruction C.3.(b) would provide that, except in response to Items 2 and 3, a registrant would be

[394] *See supra* note 29 and accompanying text.

[395] Under the Staff Letters, one of the set of circumstances under which the staff has stated that it would not recommend enforcement action is that investors are provided prospectuses for the underlying portfolio companies. However, because a managed separate account prospectus describes both the offering of the contract and the investment options, it is not possible to provide the investment option prospectuses separate from the separate account prospectus.

[396] While the proposed General Instructions in Forms N–3 and N–4 would be structured like the General Instructions in current Form N–6, there are certain new instructions that we are proposing to add to each of the forms. *See, e.g.,* proposed 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.*

[397] In 2017, the Commission proposed amendments to its rules on incorporation by reference as part of a broader proposal to modernize and simplify certain disclosure requirements in Regulation S–K (and related rules and forms) to implement Section 72003 of the Fixing America's Surface Transportation Act. *See* 2017 FAST Act Proposal, *supra* note 307. We would amend any references to these rules in the General Instructions to Forms N–3, N–4, and N–6 to reflect any rules that the Commission may adopt based on that proposal.

[398] The disclosure that proposed Items 2 and 3 would require also would appear at the beginning of the initial summary prospectus. *See supra* note 75 and accompanying text.

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. 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.

Proposed General Instruction C.3.(c) would encourage registrants to use, as appropriate, question-and-answer presentations, tables, side-by-side comparisons, captions, bullet points, numeric examples, illustrations or similar presentation methods.[399] We believe that these alternative ways of presenting information could increase readability and that this proposed instruction could encourage registrants to use these presentation options, where appropriate.

Proposed General Instruction C.3.(d) 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.

Proposed General Instruction C.3.(e) would provide new guidance in each of the forms addressing when a registrant may describe multiple contracts in a single prospectus, and include multiple prospectuses in a single registration statement. First, proposed General Instruction C.3.(e)(i) would provide that registrants may describe multiple contracts in a single prospectus when the contracts are ''essentially identical.'' Whether the contracts are essentially identical would depend on the facts and circumstances. The proposed instruction includes examples to provide guidance on this point.[400] Similarly, proposed General Instruction C.3.(e)(ii) would further provide that a registrant may combine multiple prospectuses in a single registration statement when the prospectuses describe contracts that are essentially identical. The proposed instruction also includes examples to provide guidance on this point.[401] We believe these examples are generally consistent with current industry practice.

While proposed 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, proposed General Instruction C.3.(e)(iii) would provide that, as a general matter, registrants providing disclosure in a single prospectus for more than one contract, or for contracts sold in both the group and individual markets, may depart from this requirement as necessary to present the required information clearly and effectively (although the order of information required by each item must remain the same). The proposed instruction would include examples to provide guidance on this point.[402]

Proposed paragraph (h) of General Instruction C.3, which would require variable contracts to use the Inline XBRL format for the submission of certain required disclosures in the variable contract statutory prospectus,[403] is discussed in more detail in Section II.E below.

Proposed paragraph (i) of General Instruction C.3 would require any website address or cross-reference that is included in an electronic version of the statutory prospectus (*i.e.,* electronic versions sent to investors or available online) to be an active hyperlink.[404] This instruction is intended to ensure that investors viewing electronic versions of the prospectus are able to easily access website addresses and cross-referenced materials that are referenced in the prospectus. This requirement would not apply to statutory prospectuses that are filed on the EDGAR system.[405]

We request comment generally on the proposed amendments to the General Instructions of Forms N–3, N–4, and N–6 and specifically on the following issues:

- Would the proposed instructions provide clear guidance to registrants when preparing or amending a registration statement? Should any of the proposed instructions be modified or not be included? For example, proposed paragraph (i) of General Instruction C.3 would require any website address or cross-reference that is included in an electronic version of the statutory prospectus to be an active hyperlink. Should we broaden that requirement to also apply to the SAI and Part C of the registration statement? Would broadening the requirement in this manner result in any synergies or redundancies with the requirements of proposed rule 498A(h)(2)(iii)?[406] Additionally, to what extent, if any, would the proposed requirement regarding active hyperlinks present challenges or add costs or burdens with respect to the use of statutory prospectuses, given that active links are not required in EDGAR filings (and active links to websites, locations, and documents outside of the EDGAR system are expressly prohibited pursuant to rule 105 of Regulation S–T [17 CFR 232.105])? Are there additional instructions that we should include? Should any current instructions not be included in the revised forms?
- Are the proposed definitions listed as Part A of the General Instructions clear, or should they be modified? Are there additional definitions that we should include in proposed Part A of the General Instructions?
- Are the proposed instructions in Part B of the General Instructions relating to the filing and use of the registration forms clear, or should they be modified? For example, proposed General Instruction B.2.(b) to Forms N–3, N–4, and N–6 provides that for registration statements or amendments filed only under the Investment Company Act, registrants need not respond to certain items of the forms. Those registration statements generally relate to contracts offered to institutional investors who are seeking to provide coverage for their key personnel, and

[399] *See, e.g.,* Kleimann Presentation, *supra* note 106 (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).

[400] The examples clarify that a contract that does not offer optional benefits would not be essentially identical to one that does. Similarly, group and individual contracts would not be essentially identical. However, contracts that vary only due to state regulatory requirements would be essentially identical.

[401] 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 an ''enhanced'' version of the same contract (where the ''enhanced'' version modifies the features or options that the registrant offers under that contract).

[402] The examples clarify that a prospectus may present all of the Item 2 information for several contracts, 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. As guidance, we believe that 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.

[403] *See* proposed General Instruction C.3.(h) to Forms N–3, N–4, and N–6; *see also* proposed Items 3, 4, 5, 12, 19, and 20 of Form N–3; proposed Items 3, 4, 5, 11, and 18 of Form N–4; proposed Items 3, 4, 5, 11, and 18 of Form N–6.

[404] *See* proposed General Instruction C.3.(i) to Forms N–3, N–4, and N–6.

[405] *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).

[406] *See supra* section II.A.5.

therefore certain disclosures that would be relevant to retail investors are less significant.[407] Should that instruction in each of the forms be updated to either add any additional items to, or remove any of the items from, this proposed list of exclusions?

• Would the proposed instructions in Part C of the General Instructions result in clearer and more concise disclosure to investors? Are there other instructions that we should include to encourage registrants to use plain English principles or otherwise promote clear and concise disclosure?

• Would other requirements improve the utility and accessibility of the statutory prospectus for retail investors? Are there any areas in the document where requiring the use of a specific check-the-box approach, bullet points, tables, charts, graphs or other graphics or text features would be helpful in presenting any of the information or making it more engaging to retail investors? Should we include requirements for font size, margins and paper size? Should we restrict certain types or sizes of font, color choices or the use of footnotes?

• Is the requirement of proposed General Instruction C.3.(a) that Items 2, 3, and 4 appear in numerical order at the front of the prospectus appropriate? Should we specify that any other items appear at the front of the prospectus? Should all of the portions of the statutory prospectus that are also summary prospectus disclosures be segregated and placed at the beginning of the statutory prospectus to aid in the effective presentation of information for investors in contracts whose issuers choose not to rely on proposed rule 498A?

• Are the instructions in proposed General Instruction C.3.(e) on when registrants may describe multiple contracts in a single prospectus, and include multiple prospectuses in a single registration statement, clear and appropriate? Is it clear when contracts are ''essentially identical,'' or would additional clarification (either in the form text, or provided as Commission guidance) be helpful? Are the examples that the proposed form instructions include useful and appropriate? Are they generally consistent with current industry practice? Should we modify or expand these examples in any way? Would some alternative standard for when a single prospectus may describe multiple contracts, or for when a single registration statement may include multiple prospectuses, be more appropriate than the proposed ''essentially identical'' standard?

• Should a registrant only be permitted to describe a single contract in a prospectus, and if so, what parameters should dictate what a single contract is? Likewise, should a registrant only be permitted to include one prospectus in a registration statement? What is industry practice in terms of describing multiple contracts in a single prospectus, and combining multiple prospectuses into a single registration statement? What are the benefits and costs of this practice, both to members of the industry as well as to investors?

• Should we, as proposed, permit registrants that are providing disclosure for more than one contract in a single prospectus, or for contracts sold in both the group and individual markets, to depart from the instruction to disclose the information required by Items 2, 3, and 4 in numerical order to present the required information clearly and effectively (provided the order of information required by each item remains the same)? Should this instruction be modified in any way?

• Should the instructions in proposed Part D of the General Instructions regarding the use of incorporation by reference be modified in any way?

2. Part A (Information Required in a Prospectus)

Table 5 shows how our proposed amendments would amend the item requirements of Part A of the variable contract registration forms.

TABLE 5—PROPOSED AMENDMENTS TO PART A OF FORMS N–3, N–4, AND N–6

Item description	Proposed item No.	Form N–3: Proposed treatment	Form N–4: Proposed treatment	Form N–6: Proposed treatment
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.
Overview of the Contract	• Form N–3: Item 2 • Form N–4: Item 2 • Form N–6: Item 2	New Item (also in ISP)	New Item (also in ISP)	New Item (also in ISP).
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 3 • Form N–4: Item 3 • Form N–6: Item 3	New Item (also in ISP, USP)	New Item (also in ISP, USP)	New Item (also in ISP, USP).
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 33 (currently Item 4). • Form N–4: Item 27 (currently Item 4).	Revised and moved to SAI	Revised and moved to SAI	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 Item.
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.

[407] For example, institutional investors generally negotiate benefits coverage on a custom basis, and therefore prospectuses regarding contracts offered to institutional investors may not include any discussion regarding death benefits.

TABLE 5—PROPOSED AMENDMENTS TO PART A OF FORMS N–3, N–4, AND N–6—Continued

Item description	Proposed item No.	Form N–3: Proposed treatment	Form N–4: Proposed treatment	Form N–6: Proposed treatment
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	Unchanged (part also in ISP).
Standard Death Benefit (in Forms N–3 and N–4, currently ''Death Benefit,'' and in Form N–6, currently ''Death Benefits and Contract Values'').	• Form N–3: Item 11 (currently Item 10). • Form N–4: Item 10 (currently Item 9). • Form N–6: Item 10 (currently Item 8).	Revised (part also in ISP)	Revised (part also in ISP)	Revised (part also in ISP).
Other Benefits Available Under the Contract.	• Form N–3: Item 12 • Form N–4: Item 11 • 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 13 (currently Item 11). • Form N–4: Item 12 (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 14 (currently Item 12). • Form N–4: Item 13 (currently Item 11). • Form N–6: Item 12 (currently Item 9).	Revised (part also in ISP)	Revised (part also in ISP)	Unchanged (part also in ISP).
Loans	• Form N–3: Item 15 • Form N–4: Item 14 • 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	Unchanged (also in ISP).
Taxes	• Form N–3: Item 16 (currently Item 13). • Form N–4: Item 15 (currently Item 12). • Form N–6: Item 15 (currently Item 12).	Revised	Revised	Unchanged.
Legal Proceedings	• Form N–3: Item 17 (currently Item 14). • Form N–4: Item 16 (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) [408].	Eliminated	Eliminated	N/A.
Financial Statements	• Form N–3: Item 18 • Form N–4: Item 17 • Form N–6: Item 17 (currently Item 14).	New Item	New Item	Unchanged.
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 19 • Form N–4: Item 18 • Form N–6: Item 18	New Item (also in ISP, USP if disclosures from Item 20 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 20	New Item (also in ISP, USP if disclosures from Item 19 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 propose to amend Item 1 of each registration form to reflect the requirements for the prospectus cover pages required by Item 1 of current Form N–6, with three additions to the front cover page:

- First, we are proposing that the front cover page include 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;[409]
- Second, as with the initial summary prospectus and updating summary prospectus, we are proposing that the front cover page include a statement directing an investor to the *Investor.gov* website for additional information;[410] and
- Third, as with the initial summary prospectus, we are proposing that the front cover page include a legend informing investors about the free look period.[411]

To streamline the front cover page and because similar information would appear in tabular presentation in the prospectus, we are proposing 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, respectively.

Additionally, we are proposing that the prospectus back cover page 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 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.[412]

We request comment generally on the proposed amendments to the prospectus cover page requirements, and specifically on the following issues:

- Are there additional disclosure topics that should be included in the cover pages of the statutory prospectus?
- As proposed, should a legend that is similar to the disclosure regarding the free look period on the cover page of the initial summary prospectus also appear on the cover page of the statutory prospectus? Why or why not? Should we modify the proposed legend regarding the free look period that would appear on the cover page of the statutory prospectus in any way?
- Should the registration forms require that the registrant include the names of the investment options/portfolio companies on the front cover page?
- Should we require the name of the contract and the class/classes?

b. Overview of the Contract (Item 2 of Forms N–3, N–4, and N–6)

We propose to add new Item 2 to the registration forms, which would require registrants to include certain basic and introductory information about the contract and its benefits.[413] These disclosures would also be required in initial summary prospectuses.[414]

We request comment generally on the proposal to include a new item requiring registrants to include in the prospectus an overview of the contract, and specifically on the following issues:

- Should we require the proposed overview discussion to be included in the statutory prospectus? Are the content requirements for this proposed item appropriate for inclusion in the statutory prospectus?
- Should the disclosure requirements for this item be modified in any way for the statutory prospectus?

c. Key Information (Item 3 of Forms N–3, N–4, and N–6)

We propose to add new Item 3 to the registration forms, which would require a statutory prospectus to include the Key Information Table providing a brief description of key facts about the variable contract.[415] The Key Information Table would also appear in the initial summary prospectus and the updating summary prospectus, except that it could vary depending on the scope of the initial summary prospectus (which could only describe a single contract that the registrant currently offers for sale), in contrast to the updating summary prospectus and statutory prospectus (which could describe multiple contracts under the conditions of the proposed General Instructions to the registration forms).[416] An updating summary prospectus that describes multiple contracts could 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.[417]

We request comment generally on the proposal to include the Key Information Table in the prospectus, and specifically on the following issues:

- Should we require the proposed Key Information Table to be included in the statutory prospectus? Are the content requirements for this proposed item appropriate for inclusion in the statutory prospectus?
- Should the Key Information Table in the statutory prospectus differ in any respect from the table in the summary prospectuses? If so, in what respect? Should we eliminate certain line-items? Are there additional disclosure topics that we should require in the Key Information Table that appears in the statutory prospectus?
- Would the Key Information Table disclosure requirements confuse investors if a prospectus were to describe multiple contracts? For example, if a prospectus that describes multiple contracts were to include a single Key Information Table that discloses separate fee information in the ''Fees and Expenses'' line-items for each contract, would this confuse investors?
- Are there certain disclosure presentations that would be so lengthy, or overly-broad, that they may not be useful to investors? Would it be useful for us to provide additional instructions in the form, about different approaches that registrants could take in presenting any of the required information in the Key Information Table? For example, with respect to fee disclosure in the Key Information Table, should we provide guidance or additional instructions on whether it would be acceptable to present a range of minimum and maximum fees, and lowest and highest annual costs, that includes all of the contracts that the prospectus describes, or instead require registrants to provide separate fee and cost ranges for each contract that the prospectus describes? Alternatively or additionally, should we require disclosure in the Key Information Table reminding investors to review their individual contract for information about the specific fees they will pay in connection with their contract?
- As discussed above, we are proposing a requirement that the Key Information Table include cross-references to the location in the statutory prospectus where the relevant subject matter is described in greater detail.[418] We are separately proposing a

[408] We are proposing to eliminate 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.D.3.

[409] Proposed Item 1(a)(5) of Forms N–3; proposed Item 1(a)(4) of Forms N–4 and N–6.

[410] Proposed Item 1(a)(8) of Form N–3; proposed Item 1(a)(7) of Forms N–4 and N–6; *see also supra* note 84 and accompanying text.

[411] Proposed Item 1(a)(10) of Form N–3; proposed Item 1(a)(8) of Forms N–4 and N–6; *see also supra* note 83 and accompanying text. The proposed legend on each of the three forms would read: ''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.''

[412] Proposed Item 1(b) of Forms N–3, N–4, and N–6.

[413] *See supra* section II.A.1.c.ii(a) for a discussion of these requirements in more detail. Proposed Item 2(d) of Form N–6 would include the requirements that appear in Item 2(a) of current Form N–6.

[414] Proposed rule 498A(b)(5)(i).

[415] *See supra* section II.A.1.c.ii(b) for a discussion of these requirements in more detail.

[416] *See supra* sections II.A.1 and II.A.2.

[417] *See supra* section II.A.2.c.ii(b).

[418] *See supra* note 162 and accompanying text.

General Instruction (and a parallel instruction in proposed rule 498A) requiring cross-references in electronic versions of the statutory prospectus to link directly to the location in the statutory prospectus where the subject matter is discussed in greater detail).[419] Should we instead include a General Instruction in each of the registration forms (and/or rule 498A as appropriate) that would provide that, where a topic is summarized in the summary or statutory prospectus 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?

d. Fee Table (Item 4 of Forms N–3, N–4, and N–6)

We propose to amend Item 3 of the current registration forms (which we would re-designate as Item 4) to simplify and update current fee and expense disclosure obligations.[420]

i. Transaction Expenses (Forms N–3 and N–4)

We are proposing to modify the current ''Contractowner Transaction Expenses'' table in Forms N–3 and N–4 (which we would re-title as ''Annual Transaction Expenses'' in each form) by removing the current ''Surrender Fees'' line-item in this table. We believe the current ''Deferred Sales Load'' line-item in the table would already capture these fees.[421] Correspondingly, we are proposing to revise 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.

ii. Annual Contract Expenses (Forms N–3 and N–4) and Periodic Charges Other Than Portfolio Company Operation Expenses (Form N–6)

We are proposing several changes to the current ''Annual Account Fee'' and ''Annual Expenses'' line-items in Form N–3,[422] and the current ''Annual Contract Fee and Separate Account Annual Expenses'' table in Form N–4. As proposed, each would be 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, we are proposing to modify the captions for existing line-items, consolidate certain line-items, and add a new line-item for optional benefits in this table in each form.[423] Under the proposal, the ''Annual Contract Expenses'' table in Forms N–3 and N–4 would be composed of the following line-items:

- *Administrative Expenses.* The line-item ''Annual Contract Fee'' in Form N–4 (''Annual Expenses'' in Form N–3) would be replaced with the more plain-English ''Administrative Expenses.''[424]
- *Base Contract Expenses.* We are consolidating the current line-item under ''Annual Expenses'' in Form N–3 (''Mortality and Expense Risk Fees,'' and ''Other Expenses''), 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.'' 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.[425] Any other recurring charge (other than charges associated with the portfolio companies, or management fees in the case of Form N–3) would appear as an additional line-item in the Annual Transaction Expenses table or the Annual Contract Expenses table, and would disclose the maximum amount or basis on which the charge is deducted.[426]
- *Management Fees.* Unlike Forms N–4 and N–6, which as discussed below would require separate disclosures about total annual portfolio company operating expenses, Form N–3 would 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 generally do have distinct management fees for each investment option offered under the contract. Since these management fees can vary significantly, we propose to require disclosure of the management fee for each investment option.[427]
- *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 would require a new line-item that would require registrants to list any optional benefits available under the contract, along with its corresponding annual charge.[428] In Form N–6, this same new line-item would be added in the ''Periodic Charges Other Than Portfolio Company Operations Expenses'' table.[429]
- *Total Annual Contract Expenses.* In Form N–3, we are proposing a new requirement to disclose total annual contract expenses, and a related instruction that would specify that total annual contract expenses should be disclosed as a percentage of account value.[430] 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 proposed instruction would provide 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). The requirement to disclose total annual contract expenses would differ from the proposed approach to disclosing annual contract expenses in Form N–4, which would require separate line-items for administrative expenses, base contract expenses, and optional benefit expenses, but would not (unlike the proposed approach in Form N–3) require the disclosure of a composite total of these line-items.[431]

[419] *Id.*

[420] We also propose to change 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.

[421] As a conforming change, we propose to remove Instruction 2(c) to current Item 3 of Form N–3 and Instruction 10 to current Item 3 of Form N–4 and revise Instruction 2(b) to current Item 3 of Form N–3 and Instruction 9 to current Item 3 of Form N–4 (which we would re-number as Instruction 10 in each form) to clarify that the term ''deferred sales load'' includes surrender charges.

[422] In current Form N–3, these items are each presented as line-items in the table that Item 3(a) requires.

[423] Although these proposed revisions generally apply to Forms N–3 and N–4, as discussed below, the new line-item for optional benefits would also be added to the ''Periodic Charges Other Than Portfolio Company Operation Expenses'' table in Form N–6.

[424] We also propose to make conforming changes to Instruction 3 to current Item 3 of Form N–3 and Instruction 7 to current Item 3 of Form N–4, which we would renumber as new Instruction 8 in both forms (no changes to the definition).

[425] We also propose to make conforming changes to each form's instructions. We propose to remove Instruction 4(b) to current Item 3 of Form N–3 and Instruction 13 to current Item 3 of Form N–4, which permit ''Mortality and Expense Risk Fees'' to be listed separately on two lines in the table. We also propose to revise Instruction 14 to current Item 3 of Form N–4 (which we would renumber as Instruction 13), and add a corresponding new Instruction 13 to proposed Item 4 of Form N–3, to state that ''Base Contract Expenses'' includes mortality and expense risk fees, and account fees and expenses. We would also include a new Instruction 3(e) to proposed Item 4 of Form N–6 permitting Registrants to consolidate any charges that are assessed on a similar basis (*e.g.,* Administrative charge and Mortality and Expense Risk Fees).

[426] We propose to revise and renumber Instruction 15 to current Item 3 of Form N–4 (which currently appears under the heading ''Portfolio Company Annual Expenses'') as Instruction 14 to proposed Item 4 (to appear under the heading ''Other Annual 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).

[427] *See* Instruction 7 to proposed Item 4 of Form N–3.

[428] *See* Instruction 15 to proposed Item 4 of Forms N–3 and N–4.

[429] *See* Instruction 3.(f) to proposed Item 4 of Form N–6.

[430] *See* Instruction 16 to proposed Item 4 of Form N–3.

[431] *See* ''Annual Contract Expenses'' table in Item 4 of proposed Form N–4. 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 difficult to sum optional benefit expenses with other expenses that are presented as annual contract expense line-items. In contrast, we understand that most

iii. Total Annual Portfolio Company Operating Expenses (Form N–4)

We are proposing to amend the disclosures that registrants would provide with respect to the ''Total Annual Portfolio Company Operating Expenses'' table in Form N–4. First, we are proposing to revise the legend that would precede the table to direct investors to the new appendix required by new Item 18 relating to the portfolio companies available under the contract. As a conforming change, we are proposing to eliminate current Instruction 20 (stating that a registrant may include additional tables showing annual operating expenses separately for each portfolio company immediately following the required table), as this information would duplicate the fee information that would appear in the new appendix.

We also propose to simplify other instructions to the table. We propose to revise current Instruction 17(a) (which we would re-designate as new Instruction 16) 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 ''Total Annual [Portfolio Company] Operating Expenses.'' Current Instruction 17(a) contains instructions for calculating Total Annual Portfolio Company Operating 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 would avoid the need to provide detailed instructions in the form regarding how to calculate this figure (as is the case with current Instruction 17(a)).[432]

We also propose revising current Instruction 19 (and renumbering it as Instruction 17) to modify the way that registrants could reflect operating expenses that include expense reimbursement or fee waiver arrangements. Currently, the instruction specifies that such expenses could appear in a footnote to the table. The revised instruction would instead state 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 would provide a clearer presentation for investors than a footnote to the table.[433]

iv. Example (Forms N–3 and N–4)

We are proposing to update the requirements for the Example that would appear in the Fee Table in Forms N–3 and N–4 in several respects. First, we propose to revise 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. We also propose to increase 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. We believe that $100,000 more closely approximates the current average value of a variable annuity,[434] and therefore we believe this figure is more likely to result in cost projections that align with actual investor expectations and experience.

We are also proposing to revise the instructions for the Example to clarify that registrants must provide an example for each contract class, consistent with current practice.[435] We also propose to revise Instruction 21(b) in current Form N–4 (which we would re-number as Instruction 18(b)), and to add new Instruction 16(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 would be permitted, but not required.

In addition, we propose to remove 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 would therefore not only reflect actual practice, but also would be consistent with our goal of streamlining prospectus disclosure.

We also propose to make 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.[436]

v. 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. We propose to require 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 and higher taxes, which affect the investment option's performance.[437] These disclosure requirements would largely restate existing requirements in caption 10 of Item 4(a) of current Form N–3, although they would 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.[438]

vi. 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 would appear in response to the proposed Item 4 disclosure requirements, we also propose to update 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

registrants on Form N–3 either do not offer optional benefits or else calculate optional benefit expenses on a contract value basis. We therefore believe that proposing the disclosure of total annual contract expenses is appropriate for Form N–3 registrants, because the disclosure would be practicable and could help investors understand the total expenses (not including portfolio company fees and expenses) that they will pay each year.

[432] Because this simplification would render obsolete the rest of Instruction 17, as well as Instructions 16 and 18, to current Item 3 of Form N–4, we propose eliminating them.

[433] *See* Disclosure of Costs and Expenses by Insurance Company Separate Accounts Registered as Unit Investment Trusts that Offer Variable Annuity Contracts, Investment Company Act Release No. 25802 (Nov. 13, 2002) [67 FR 69973 (Nov. 19, 2002)], 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.'').

[434] *See supra* note 130.

[435] The instructions for the Example in current Item 3 of Form N–3 (currently unnumbered) would be new Instruction 17 to proposed Item 4, while Instruction 21 to current Item 3 of Form N–4 would be renumbered as Instruction 18 to proposed Item 4.

[436] 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.

[437] *See* proposed Item 4 of Form N–3.

[438] *See* Item 3 of Form N–1A.

dollar and all percentages to the nearest hundredth of one percent.[439] 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, we have proposed to modify this instruction to only require rounding percentages to the nearest hundredth of one percent.[440]

We also propose to revise General Instruction 5 of 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 proposed instruction would help minimize confusion regarding how much an investor can expect to pay under the contract and would 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 benchmark).[441] Under the proposed 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 they also disclose the maximum possible charge (*e.g.,* 3%). We also propose to add a parallel provision to Form N–3 as General Instruction 5 of Item 4.

As part of our effort to update the Fee Table, we propose to modify current General Instruction 1.(f) to Item 3 of Form N–3 and General Instruction 6 to Item 3 of Form N–4 to eliminate language that would be redundant in light of new proposed General Instruction C.3.(e) of both forms.[442] We also propose to include new General Instruction 7 to Forms N–3 and N–4, which would require 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).[443]

vii. Instructions for New Variable Contract Registrants (Forms N–3, N–4, and N–6)

Finally, we propose to eliminate certain instructions in Item 3 of current Forms N–3, N–4, and N–6 relating to new variable contract registrants. Specifically, we propose to eliminate 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 Total Annual Portfolio Company Operating Expenses table on estimated amounts for the current fiscal year, but we understand that these operating expenses need not be estimated because they would 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) of Item 3 to 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 14(e) in proposed Item 4 of Form N–3, Instruction 17 in proposed Item 4 of Form N–4, and Instruction 4(b) in proposed Item 4 of Form N–6 would 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 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 propose to eliminate these current Instructions in their entirety.

We request comment generally on the amendments we propose to make to the Fee Table, and specifically on the following issues:

- Would the proposed changes to the Fee Table disclosures effectively and appropriately streamline and consolidate the Form and the required disclosures? Would the proposed changes better reflect registrants' current disclosure practices? Would the new captions convey, more clearly than the current captions, the types of expenses investors can expect to pay under the contract?
- Are the proposed disclosure requirements and related instructions associated with the ''Annual Contract Expenses'' table appropriate? For example, would the table appropriately disclose the annual fees and expenses associated with a variable contract? As another example, is ''Base Contract Expenses'' an appropriate way to describe the basic insurance-related contract features available under the contract, or would some other term be preferable? How else might we characterize the charges associated with the basic features available under the contract (excluding optional benefits and annual portfolio company operating expenses)?
- For Form N–3 registrants, should we revise or remove the instruction to the ''Total Annual Expenses'' line-item providing that if optional benefit expenses are calculated on a basis other than contract value, registrants should prominently indicate that those optional benefit expenses are not included in total annual expenses? Would investors be confused by viewing total annual expenses which did not include optional benefit expenses? In this case, or generally, should we not require disclosure of total annual expenses? Conversely, should we require disclosure of total annual expenses for all registrants on Forms N–4 and N–6, as well as on Form N–3?
- Would the proposed requirements appropriately convey to investors the types of optional benefits available under the contract and the charges associated with each? Should we require disclosure of optional benefits that are available at no additional charge in the list of optional benefits? If not, why not?
- Should we revise the legend that would precede the required ''Total Annual Portfolio

[439] *See* Instruction 1(a) to current Item 3 of Form N–6.

[440] *See* Instruction 1(a) to proposed Item 4 of Form N–6.

[441] 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.

[442] We propose to remove from Instruction 6 to current Item 3 of Form N–4 and Instruction 1.(f) to current Item 3 of 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,'' as proposed General Instruction C.3.(e)(i) of Forms N–3 and N–4 would address the registration of multiple contracts.

[443] This would harmonize the General 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.'').

Company Operating Expenses'' table, as proposed in Forms N–4 and N–6? Are the amendments that we propose to the current instructions associated with this table appropriate? Should we make any other modifications to the table?

• Should we modify the requirements for the Example that would appear in the Fee Table, as proposed? Would the revised legend accompanying the Example appropriately alert investors to the assumptions that form the basis for the Example? Are the proposed revised instructions for the Example, including eliminating the option to include separate expense examples based on the expenses of each portfolio company, appropriate? Would they result in a clearer and more salient illustration of the costs of investing in the contract? Would increasing the value of the assumed investment in the Example from $10,000 (or $1,000 in the case of Form N–3 registrants) to $100,000 more closely align with typical current levels of investment in variable contracts? Are there any other modifications to the Example that we should make? If so, what?

• Should we revise the General Instructions to the Fee Table item, as proposed? For example, would the proposed requirement to disclose a maximum guaranteed charge as a single number, if a fee is calculated based on a benchmark, reduce investor confusion and better assist investors in understanding the costs they will pay when investing in a variable annuity? Are the other proposed revisions to the General Instructions appropriate to eliminate redundant language, and to otherwise update the tables? Should we modify or remove any other General Instructions, and if so, how?

• Are there any current General Instructions that we also should amend or other General Instructions we should include?

• Are there any additional modifications we should require to make the fee and expense information easier for investors to understand?

e. Principal Risks of Investing in the Contract (Item 5 of Forms N–3, N–4, and N–6)

We propose to add new Item 5 to Forms N–3 and N–4, which would require 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 propose to re-designate as Item 5), with the exception of the risk of contract lapse.[444] Although registrants currently include risk disclosures in their prospectuses without an explicit form requirement to do so, we note that 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 summary of the principal risks associated with the contract would provide 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 propose to require for each registration form that the risk section be provided after the Key Information Table and Fee Table. While the Key Information Table would include a condensed discussion of contract risks, proposed Item 5 would give 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 proposing to limit the length of the summary of principal risks in response to proposed 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.[445]

We request comment generally on the proposal to include a new item requiring disclosure of principal risks in the prospectus, and specifically on the following issues:

• Should we require the summary of principal risks of investing in a contract to be disclosed in a single location in the prospectus? Should we instead permit registrants the flexibility to disclose risks in conjunction with the specific contract feature to which they pertain, thus providing greater context for the risk(s)?

• Should the summary of principal risks disclosures be required to follow the Key Information Table and Fee Table, or should we require or permit the disclosures to be provided elsewhere in the prospectus?

• Does the proposed item appropriately describe the types of risks to be summarized, or should the list of risks be revised?

• Would cross-referencing the risk section in the Key Information Table provide useful layered disclosure for investors, or are there limitations in this approach? How might they be resolved?

• Should we impose a page limit, or other length limit, on responses to the proposed item? If so, what limit would be appropriate? Should we instead allow registrants the flexibility to determine how much disclosure is appropriate? Are there any organizing principles we might consider to encourage registrants to avoid overly-lengthy disclosure?

• Should we make any other changes regarding proposed prospectus disclosures describing risks associated with the contract?

• Should we require the Item 5 disclosures to also be included in the Initial Summary Prospectus and Updating Summary Prospectus?

f. General Description of Registrant, Depositor, and Investment Options/Portfolio Companies (Item 6 of Forms N–3, N–4, and N–6)

We propose to amend Item 5 of current Forms N–3 and N–4, and Item 4 of current Form N–6, which we would re-designate 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 proposing to amend 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.[446] In addition, for consistency with Form N–6 and our newer registration forms,[447] in Forms N–3 and N–4 we are proposing to relocate the requirement to identify and state the principal business address of any person who provides significant administrative or business affairs

[444] We are not including risk of contract lapse in proposed Item 5 of Form N–3 or 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, require continuous 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.

[445] *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.'').

[446] Proposed Item 6(a) and (b) of Forms N–3 and N–4; proposed Item 22(a) and (b) of Form N–3; proposed Item 20 of Form N–4; *see also* Item 5(a) and 5(b) of current Forms N–3 and N–4.

[447] *See, e.g.,* Item 17(c) of current Form N–6; Item 19(h) of Form N–1A.

management services, and a description of those services, from the prospectus to the SAI.[448]

We are also proposing to amend the information required by the current item in Forms N–4 and N–6 regarding portfolio companies (and for Form N–3, investment options).[449] As discussed below, we are moving the summary of certain information about the portfolio companies and investment options to an appendix of the prospectus.[450] Therefore, with respect to Forms N–4 and N–6, we propose to revise this item to replace the current requirement to briefly describe each portfolio company[451] with a requirement to state that certain information about the portfolio companies is available in the appendix and to cross-reference or link to 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.[452]

Proposed Item 19 of Form N–3 similarly would require a comparable appendix of investment options, but only if the appendix were included in a summary prospectus.[453] Registrants would also include more detailed disclosures about investment options as required by proposed Item 20. Proposed Item 20 would generally include 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.[454] Similar to Forms N–4 and N–6, proposed Item 6 would require a Form N–3 registrant to state that certain information about the investment options is available in the appendix (pursuant to proposed Item 19) or elsewhere in the prospectus (pursuant to proposed Item 20), and provide cross-references or links as appropriate.

We request comment generally on the amendments we propose to make to the required prospectus disclosures describing the registrant, depositor, and portfolio companies, and specifically on the following issues:

- Should we streamline the disclosures relating to the depositor and registrant as proposed? Would these proposed amendments reduce any information that would be important to investors? Should we maintain any existing disclosures or require additional disclosures as to the depositor and registrant?
- Should we relocate the requirement to disclose information relating to service providers to the SAI as proposed?
- Should we make any other changes to the form regarding required prospectus disclosures describing the registrant, depositor, and/or portfolio companies?

g. Charges (Item 8 of Form N–3, Item 7 of Forms N–4 and N–6)

We propose to amend Item 7 of current Form N–3 and Item 6 of current Form N–4 (which we would re-title, and re-designate 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.[455]

Paragraph (a) would expand 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 proposed amended items would 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, we are proposing to require that the registrant describe: (1) The frequency of deductions (*e.g.,* daily, monthly or annually) for any recurring charges; and (2) 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), an explanation of what consideration is provided. 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, Instruction 1 to subparagraph (a) of the proposed amended item in Forms N–3 and N–4 would include a new requirement for the registrant to describe the factors affecting the computation of the amount of the sales load.[456] For contracts with a deferred sales load, Instruction 1 would require the registrant to 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, registrants would identify any events that would cause the deduction of a deferred sales load (*e.g.,* surrender or partial surrender). The description of any deferred sales load would 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).

We are also proposing new Instruction 4 to subparagraph (a) of the amended item of Forms N–3 and N–4.[457] If the contract's charge for premium taxes or other taxes varies according to jurisdiction, proposed Instruction 4 would clarify for the registrant that identifying the range of current premium taxes or other taxes in this paragraph is sufficient.

We also propose to revise the item related to charges in each form to clarify that the required disclosures should relate to ''current'' charges.[458] Disclosure of ''maximum'' charges would be redundant because those charges are encompassed in the fee table that would be included in the prospectus.[459]

Finally, we are proposing to amend the item of Form N–6 relating to charges in two respects. First, we are proposing to relocate disclosures on commissions paid to dealers from the SAI[460] to the prospectus.[461] We believe that this disclosure, which is currently required in the prospectus under Forms N–3 and N–4,[462] is more appropriate in the prospectus due to potential conflict of interest concerns. In addition, we also propose to require a description of the types of operating expenses for which the registrant is responsible,[463] which

[448] *See* proposed Item 25(g) of Form N–3; proposed Item 21(c) of Form N–4.

[449] 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.

[450] *See infra* section II.D.2.r (discussing proposed Item 19 of Form N–3, proposed Item 18 of Forms N–4 and N–6).

[451] *See* Item 5(c) of current Form N–4; Item 4(c) of current Form N–6.

[452] Proposed Item 6(c) of Forms N–4 and N–6.

[453] Instruction 1(a) to proposed Item 19 of Form N–3; *see also supra* text accompanying note 204 and note 241.

[454] *See infra* text following note 525 (discussing the disclosure requirements of proposed Item 20 of Form N–3).

[455] *See* Item 5 of current Form N–6.

[456] This instruction is based on Instruction 1 to Item 5(a) of current Form N–6.

[457] This instruction is based on Instruction 3 to Item 5(a) of current Form N–6.

[458] *See* proposed Item 8(a) of Form N–3; proposed Item 7(a) of Forms N–4 and N–6.

[459] *See* Item 4 of proposed Forms N–3, N–4, and N–6.

[460] Item 20(d) of current Form N–6.

[461] Proposed Item 7(b) of Form N–6.

[462] *See* Item 7(d) of current Form N–3; Item 6(d) of current Form N–4.

[463] Proposed Item 7(e) of Form N–6. If organizational expenses of the registrant are to be paid out of its assets, this item also would require an explanation of how the expenses will be amortized and the period over which the amortization will occur.

Forms N–3 and N–4 currently require in the prospectus.[464] Operating expenses paid by the registrant can be significant, and we believe this is appropriate disclosure for an item discussing contract charges.

We request comment generally on the amendments we propose to make to the required prospectus disclosures regarding contract charges and specifically on the following issues:

- Will investors find the information resulting from the expanded disclosure requirements of the proposed amendments useful (*e.g.,* new requirements in Forms N–3 and N–4 that the registrant describe the frequency of deductions for any recurring charges and, where it is possible to identify what is provided in consideration for a particular charge, an explanation of what consideration is provided)?
- Is the proposed new instruction in Forms N–3 and N–4 that would permit a registrant to disclose a range of charges for premium or other taxes (if these would vary according to jurisdiction) appropriate? Instead, should the prospectus specify each of these charges individually?
- Should we require prospectus disclosure of additional information regarding contract charges?
- In the context of Form N–6 registrants, are there reasons that disclosures on commissions paid to dealers should not be located in the prospectus (and instead should be located in the SAI)? Will the new requirement in Form N–6 to provide a description of the types of operating expenses for which the registrant is responsible better help investors to understand contract charges?
- Are there any instructions that we should not include? Are there any additional instructions we should include?

h. General Description of the Contracts (Item 9 of Form N–3, Item 8 of Forms N–4 and N–6)

We propose to amend Item 8 of current Form N–3, Item 7 of current Form N–4, and Item 6 of current Form N–6 (which we would re-designate 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 proposed amendments to the forms. Except as described below, we do not intend these proposed amendments to significantly alter current disclosure obligations.

We propose to remove 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 replace it with a new instruction to subparagraph (a) in each of the forms[465] 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 state in which a contract is offered. We have also observed that certain contract features may not be available through certain intermediaries.

We also propose to revise current subparagraph (b) of Forms N–3 and N–4 regarding contract provisions and limitation in two ways.[466] First, we would require 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.[467] Second, we are proposing to modify 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.[468]

We also propose to revise 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.[469]

We are also proposing to newly require in each registration form a description of the obligations under the contract that the insurer's general account funds (*e.g.,* death benefits, living 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.[470] While some of this information would appear in the Key Information Table,[471] this item would require registrants to provide more detailed disclosure later in the prospectus.

We are also proposing to modify the instruction to the current subparagraph in each form relating to contract or registrant changes to require disclosure of the substitution of one portfolio company for another pursuant to section 26(c) of the Investment Company Act.[472] 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.[473]

We are also proposing to eliminate current subparagraph (d) in Forms N–3 and N–4, which requires a description of how investor inquiries may be made. This item would duplicate information that would be required to appear on the back cover page of the prospectus pursuant to proposed Item 1(b)(1).

Finally, with respect to Forms N–3 and N–4, we are proposing to relocate disclosures regarding limitations on classes of purchasers from the cover page of the prospectus[474] to the item requiring the general description of contracts.[475] This proposed revision mirrors Item 6(e) of current Form N–6, would help streamline cover page disclosure, and would permit registrants to describe this limitation more fully than if it had to appear on the cover page (which would necessarily entail space constraints).[476]

We request comment on the proposed form amendments relating to the general description of the contracts, and specifically on the following issues:

[464] *See* Item 7(f) of current Form N–3; Item 6(f) of current Form N–4.

[465] This new instruction would also appear in Form N–6.

[466] In addition, subparagraph (b)(iii) of current Forms N–3 and N–4 would be re-designated as subparagraph (b)(5) and revised to replace ''exchanges'' with ''buyout offers'' of variable annuity contracts, including interests of participations therein.

[467] Proposed Item 9(b)(1) of Form N–3; proposed Item 8(b)(1) of 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.

[468] Proposed Item 9(b)(4) of Form N–3 and related proposed instruction; proposed Item 8(b)(4) of Form N–4 and related proposed instruction; *see also* Item 8(b)(3) and related instruction of proposed Form N–6; Item 6(b)(3) of current Form N–6.

[469] Proposed Item 9(b)(3) of Form N–3; proposed Item 8(b)(3) of Form N–4; proposed Item 8(b)(2) of Form N–6.

[470] Proposed Item 9(c) of Form N–3; proposed Item 8(c) of Form N–4; proposed Item 8(c) of Form N–6.

[471] *See* Instruction 3(d) to proposed Item 3 of Forms N–3, N–4, and N–6.

[472] *See* Instruction to proposed Item 9(d) of Form N–3; Instruction to proposed Item 8(d) of Form N–4; Instruction to proposed Item 8(d) of Form N–6.

[473] *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).

[474] Item 1(a)(iv) of current Forms N–3 and N–4.

[475] Proposed Item 9(e) of Form N–3; proposed Item 8(e) of Form N–4.

[476] *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.

• Should we require the prospectus to include a description of the obligations under the contract that the insurer's general account funds? Should the proposed requirement be modified in any way?

• Should we require disclosure of the substitution of one portfolio company for another pursuant to section 26(c) of the Investment Company Act? If not, why not? How should such disclosure be provided to investors?

• Should we make any other changes to the form regarding required prospectus disclosures describing the contract?

i. Annuity Period (Item 10 of Form N–3, Item 9 of Form N–4)

We propose to amend Item 9 of current Form N–3 and Item 8 of current Form N–4 (which we would re-designate 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.[477] While the proposed ''Overview'' section of the prospectus would contain similar information,[478] the new item requirement would provide 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.

We request comment generally on the proposed form amendments relating to the annuity period, and specifically on the following issues:

• Should we require the prospectus to include a statement that the investor will not be able to withdraw any contract value amounts after the annuity commencement date? Should the proposed requirement be modified in any way?

• Should we make any other changes to the form regarding required prospectus disclosures relating to the annuity period (*e.g.,* to specifically require a registrant to state directly, as applicable, that all contract benefits terminate upon annuitization)?

j. Standard Death Benefit (Item 11 of Form N–3, Item 10 of Forms N–4 and N–6)

We propose 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 would re-designate 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.[479] Registrants would include prospectus disclosure about optional death benefits (as well as standard and optional living benefits) pursuant to the proposed new Item 12 to Form N–3, and proposed new Item 11 to Forms N–4 and N–6, as discussed below.

To assist variable annuity investors in better understanding the operation of the standard death benefit, we are also proposing to amend Forms N–3 and N–4 to specifically require registrants to summarize the operation of the standard death benefit.[480] As discussed above, these disclosures would also be required in any variable annuity initial summary prospectus, and would serve as the counterpart to similar disclosures that would be included in variable life initial summary prospectuses.[481]

We request comment generally on the proposed form amendments relating to the standard death benefit, and specifically on the following issues:

• Should we require other disclosures regarding the operation of the standard death benefit? Should we make any other changes to the form regarding required prospectus disclosures relating to the standard death benefit?

• As proposed, optional death benefit disclosures would be provided with disclosures of other optional benefits available under the contract. Instead, should we permit or require optional death benefits disclosures to accompany standard death benefit disclosures?

k. Other Benefits Available Under the Contract (Item 12 of Form N–3, Item 11 of Forms N–4 and N–6)

We propose to add a new item to each registration form that would require a registrant to discuss any standard living benefits, as well as all optional benefits (*e.g.,* death benefit, accumulation benefit, withdrawal benefit, long-term care benefit, etc.) available under the contract.[482] Optional benefits and standard living benefits are now a significant aspect of most variable annuity contracts (as well as most variable life insurance contracts). While we understand that insurers generally include disclosure about optional benefits and standard living benefits in their prospectuses, these disclosures have no standard content or presentation because there is no current form requirement regarding optional benefits.

As discussed above, subparagraph (a) of the proposed new item would require a tabular summary overview of each benefit available under the contract (other than the standard death benefit).[483] This tabular summary would also be required in any initial summary prospectus.[484]

Subparagraphs (b) and (c) of the proposed new item would require the statutory prospectus to include narrative disclosures that would provide more detailed information regarding each of the benefits presented in the tabular summary. As proposed, a registrant would be required to include a brief description of each benefit (other than the standard death benefit) offered under the contract,[485] and a brief description of any limitations, restrictions and risks associated with each benefit.[486]

Some benefits offered by a contract may have complicated terms that do not readily lend themselves to being fully described in a tabular summary. Therefore, the proposed 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 would 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.

[477] Proposed Item 10(g) of Form N–3; proposed Item 9(g) of Form N–4.

[478] Proposed Item 2(c)(2) of Forms N–3 and N–4.

[479] Proposed Item 11 of Form N–3; proposed Item 10 of Forms N–4 and N–6.

[480] Proposed Item 11(a) of Form N–3; proposed Item 10(a) of Form N–4. When describing the standard death benefit, registrants would discuss 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.

[481] *See* proposed rule 498A(b)(5)(iii); *see also supra* section II.A.1.c.ii(c).

[482] Proposed Item 12 of Form N–3; proposed Item 11 of Forms N–4 and N–6.

[483] The summary table would 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).

[484] *See* proposed rule 498A(b)(5)(iv); *see also supra* section II.A.1.c.ii(d).

[485] This brief description would be 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* proposed Item 12(b) of Form N–3; proposed Item 11(b) of Forms N–4 and N–6.

[486] For example, this could include restrictions on which portfolio companies may be selected, risk of reduction or termination of benefit resulting from excess withdrawals, etc. *See* proposed Item 12(c) of Form N–3; proposed Item 11(c) of Forms N–4 and N–6.

We also propose to include an instruction directing registrants in responding to proposed subparagraphs (b) and (c) to provide one or more examples illustrating the operation of each benefit in a clear, concise, and understandable manner.[487] This instruction is intended to further assist investors in understanding the other benefits offered under the contract.

We request comment generally on the proposed new form requirements relating to other benefits under the contract, and specifically on the following issues:

- Would the disclosures by the proposed new item enhance the ability of investors to understand any standard living benefit, as well as additional options available under the contract?
- Should we require additional disclosures or otherwise modify the proposed requirements? For example, while the proposed new item would encompass optional death benefits, as well as standard and optional living benefits, should our registration forms require separate and more tailored disclosures for any of these benefit categories?
- Should the required disclosures be presented in a different manner? Should the statutory prospectus include both a tabular summary overview as well as narrative disclosures? Should any of the disclosures specifically required in the narrative disclosure also be required in the tabular summary?

l. Purchases and Contract Value (Item 13 of Form N–3, Item 12 of Form N–4)

We propose to amend Item 11 of Form N–3 and Item 10 of current Form N–4 (which we would re-designate as Items 13 and 12, respectively) to re-structure the disclosure item and make other minor revisions that would not substantively change current disclosure requirements.[488] As discussed above, variable annuity initial summary prospectuses would include the proposed subparagraph (a) disclosures, which would require registrants to briefly describe the procedures for purchasing a contract, and would serve as the counterpart to similar disclosures that would be included in variable life initial summary prospectuses.[489]

We request comment generally on the proposed form requirements relating to purchases under the contract, including whether we should require any other disclosures with respect to purchases, or otherwise modify existing requirements.

m. Surrenders and Withdrawals (Item 14 of Form N–3, Item 13 of Form N–4, Item 12 of Form N–6)

We propose to amend Item 12 of current Form N–3 and Item 11 of current Form N–4 (which we would re-title and re-designate as Items 14 and 13, respectively) to reflect the more up-to-date requirements of the parallel item of Form N–6 and standardize these disclosure requirements across variable product registration forms.[490]

Specifically, subparagraph (a) of the proposed item would consolidate the current disclosure requirements regarding surrenders and delays in effecting requests for surrender and provide a high-level overview of how an investor can surrender (or partially surrender or make withdrawals from) a contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable.[491] As discussed above, the initial summary prospectus would include the proposed subparagraph (a) disclosures.[492]

Subparagraphs (b) through (d) would require additional information related to the operation of partial 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 partial withdrawals will be allocated among the sub-accounts.[493]

Subparagraph (e) would require registrants to describe any provision for involuntary redemptions and the reasons for such provision.[494] 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 proposing to eliminate the requirement to discuss lapse provisions because contract lapse is more relevant in the context of variable life products.[495]

Subparagraph (f), like Item 12(e) of current Form N–3 and Item 11(e) of current Form N–4, would require the disclosure of any revocation rights. However, to provide additional information relating to an investor's revocation rights, the proposed item would also specifically require: (1) A 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.[496] 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.[497]

We request comment generally on the proposed form requirements relating to surrenders and withdrawals, and specifically on the following issues:

- Do commenters agree with our proposed approach of generally modeling disclosures regarding surrenders and withdrawals on similar disclosures required by Form N–6? Are there specific disclosures in Form N–6 that would be inappropriate or less relevant for N–3 and N–4 registrants? For example, although current Form N–3 and Form N–4 use the terms ''redemptions'' and ''partial redemptions,'' proposed Form N–3 and proposed Form N–4 would use the terms ''surrender'' and ''partial surrender.'' We understand these terms are synonymous, although we have chosen the latter terms to reflect the same terminology used in Form N–6. Is there any reason why Form N–3 and Form N–4 should use different terminology other than what is included in Form N–6? Alternatively, are there specific disclosures that would be more appropriate or relevant for N–3 or N–4 registrants but are not currently required by Form N–6?
- Would the proposed amendments help investors to better understand the procedures and impact of surrenders and withdrawals, including issues relating to partial surrenders and withdrawals, sub-account allocation, involuntary redemption, and investors' revocation rights under the contract?
- Should we require any other disclosures with respect to surrenders and withdrawals, or otherwise modify existing requirements? For example, should the proposed

[487] *See* Instruction to proposed Item 12 of Form N–3; Instruction to proposed Item 11 of Forms N–4 and N–6.

[488] Proposed Item 13 of Form N–3; proposed Item 12 of Form N–4.

[489] *See* proposed rule 498A(b)(5)(v); *see also supra* section II.A.1c.ii(e).

[490] *See* Item 9 of current Form N–6.

[491] Proposed Item 14(a) of Form N–3; proposed Item 13(a) of Form N–4.

We are proposing to eliminate 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 partial surrenders and withdrawals.

[492] *See* proposed rule 498A(b)(5)(vii); *see also supra* section II.A.1.c.ii(g).

[493] Proposed Item 14(b) through (d) of Form N–3; proposed Item 13(b) through (d) of Form N–4. These disclosure requirements would 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.

[494] Proposed Item 14(e) of Form N–3; proposed Item 13(e) of Form N–4.

[495] *See supra* note 444 and accompanying text.

[496] These proposed disclosure requirements would conform to those that appear in the parallel provisions of current Form N–6. *See* Item 9(e) of current Form N–6.

[497] *See supra* paragraphs accompanying note 65.

requirements to disclose any limits on the ability to surrender, including any limits on the availability of partial surrenders and withdrawals, specifically include any of the disclosure requirements that appear currently in Form N–3 and Form N–4, and that we believe the proposed disclosure requirements encompass?[498]

n. Loans (Item 15 of Form N–3, Item 14 of Form N–4, Item 13 of Form N–6)

We are proposing to amend Form N–6 to consolidate required prospectus and SAI disclosures relating to contract loans[499] into a single item in the prospectus.[500] Given that investors would receive summary information relating to loan provisions in the Overview section of the statutory prospectus (and initial summary prospectus), we believe that investors would benefit from having more complete information on contract loans in a single location.

Specifically, a registrant would be required to 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 insurers and intermediaries frequently promote this contract feature in their sales of variable annuities. Therefore, we are also proposing to add new Item 15 to Form N–3 and new Item 14 to Form N–4, which would require similar prospectus disclosure about the availability and terms of loans under the contract.[501]

We request comment generally on the proposed new form requirements relating to loans under the contract, and specifically on the following issues:

- Should we require the prospectus to include a discussion of contract loan provisions? Would this disclosure be more appropriate only in the context of variable life insurance products?
- Will the information disclosed to investors pursuant to the proposed new form item be helpful to investors in understanding contract loan provisions, including any attendant risks? Should we require disclosure of additional information related to loan provisions, or otherwise modify the proposed requirements?

o. Taxes (Item 16 of Form N–3, Item 15 of Forms N–4 and N–6)

We propose to amend Item 13 of current Form N–3 and Item 12 of current Form N–4 (which we would re-designate 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.[502] As amended, registrants would continue 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.[503]

However, the amendments would 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 proposing to eliminate this instruction in light of the proposed language limiting disclosures to ''material'' consequences.

We do not expect any of the proposed amendments to this item to significantly alter current disclosure obligations. We request comment generally on these amendments.

p. Legal Proceedings (Item 17 of Form N–3, Item 16 of Forms N–4 and N–6)

We propose to amend Item 14 of current Form N–3 and Item 13 of current Form N–4 (which we would re-designate as Items 17 and 16, respectively) to reflect the more up-to-date presentation and disclosure requirements of the parallel provisions of Form N–6.[504]

As currently required by Form N–6, the proposed amendments would newly require registrants 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.[505] The proposed amendments would also eliminate the requirement to discuss pending legal proceedings against any subsidiary of the registrant to mirror Form N–6's (and Form N–1A's) parallel provision and provide consistency across forms, which we believe is particularly appropriate in the context of separate account registrants, which are unlikely to have subsidiaries.[506]

These amendments are not expected to significantly alter current disclosure obligations. We request comment generally on these amendments.

q. Financial Statements (Item 18 of Form N–3, Item 17 of Forms N–4 and N–6)

We propose to add new Item 18 of Form N–3 and new Item 17 to Form N–4, which would 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.[507] A registrant would also briefly explain how investors may obtain any financial statements not provided in the SAI.[508] These proposed disclosure requirements would conform with a similar requirement included in Item 14 of current Form N–6.

The form's proposed General Instructions would 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.[509] The proposed 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.[510]

We request comment generally on the proposal to include new Item 18 of Form N–3 and new Item 17 of Form N–4, and specifically on the following issues:

- To what extent do registrants currently make available the financial statements of the registrant and depositor in locations other than the prospectus and/or SAI, as our

[498] *See supra* note 491 and accompanying text.

[499] *See* Items 10 and 23 of current Form N–6.

[500] Proposed Item 13 of Form N–6.

[501] Proposed Item 15 of Form N–3; proposed Item 14 of Form N–4.

[502] *See* Item 12 of current Form N–6.

[503] Proposed Item 16 of Form N–3; proposed Item 15 of Form N–4.

[504] *See* Item 13 of current Form N–6.

[505] Proposed Item 17 of Form N–3; proposed Item 16 of Form N–4.

[506] *Id.; see also* Item 13 of current Form N–6; Item 10(a)(3) of Form N–1A.

[507] Proposed Item 18 of Form N–3; proposed Item 17 of Form N–4.

[508] *Id.*

[509] *See* proposed General Instruction C.3.(b) to Forms N–3, N–4, and N–6.

[510] A similar requirement to this proposed new item appears in paragraph (c) of Item 4 of current Form N–3 and paragraph (b) of current Form N–4. As discussed below, we propose to move the majority of the disclosure that current Item 4 of each of these forms would require to the contract SAI. *See infra* notes 545 through 554 and accompanying text (discussion of Accumulation Unit Value tables).

registration forms currently permit? What are the advantages or disadvantages of providing flexibility to registrants as to the location of the registrant's and depositor's financial statements?

• Would the proposed item in the prospectus regarding the availability of financial statements assist investors in locating those materials?

r. Appendix: Portfolio Companies/ Investment Options Available Under the Contract (Item 19 of Form N–3, Item 18 of Forms N–4 and N–6)

We propose to add a new disclosure item to each registration form (proposed Item 19 of Form N–3, and proposed Item 18 of Forms N–4 and N–6), which would require registrants to include as an appendix to the prospectus a table summarizing information about the portfolio companies available under the contract. This table would appear under the heading ''Portfolio Companies Available Under the Contract'' and would consolidate certain summary information about each portfolio company into a concise, easy-to-read tabular presentation, as discussed in more detail above.[511] This would replace certain other disclosure requirements, on the prospectus cover page[512] and elsewhere in the prospectus,[513] relating to the contract's portfolio companies or investment options.

The appendix would provide a tabular summary overview of portfolio companies available under the contract that is designed to improve the ability of investors to understand, evaluate, and compare those portfolio companies. If the availability of one or more portfolio companies varies by benefit offered under the contract, registrants would be required to include as another appendix a separate table indicating which portfolio companies were available under each of those benefits.[514] These same disclosures would also appear in the initial summary prospectuses and updating summary prospectus,[515] except for variations due to the more limited scope of the initial summary prospectus (which would only describe one contract) in contrast to the updating summary prospectus and statutory prospectus (which could describe more than one contract).[516]

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 proposed appendix could have limited utility for certain Form N–3 registrants and their investors. For this reason, for variable contracts registered on Form N–3, we propose that registrants could omit the appendix and instead provide the more detailed disclosures about the investment options offered under the contract that proposed Item 20 of Form N–3 would require.[517] For Form N–3 registrants, the appendix would be required to appear in a statutory prospectus only if the appendix were included in a summary prospectus.[518]

The same legends that precede the appendix in the summary prospectus would generally also precede the appendix in the statutory prospectus.[519] Under proposed Form N–3, the legend that would precede the appendix would be required to state, in part, as follows: ''Performance reflects contract fees and expenses that are paid by each investor'' (in contrast, the parallel legend that Forms N–4 and N–6 would require would state that performance *does 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 performance of investment options for contracts registered on Form N–3, since those investment options are offered as part of the variable contract. The performance of portfolio companies offered under contracts registered on Forms N–4 and N–6 does 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 rely upon proposed rule 498A(j) to satisfy their portfolio company prospectus delivery obligations would be 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.[520]

We request comment generally on the proposed appendix requirement, and specifically on the following issues:

• Should we require these disclosures to be included in the statutory prospectus? Are the content requirements for this proposed item appropriate for inclusion in the statutory prospectus?

• Our proposal would generally require registrants to include the same information in the proposed appendix regarding portfolio companies in the statutory prospectus and in the initial summary prospectus and updating summary prospectus.[521] Should any of the appendix requirements for the summary prospectus be different for the appendix

[511] *See supra* discussion at note 192 and accompanying and following text.

[512] *See* Item 1(a)(v) of current Form N–3 (requiring outside cover page to identify the type of separate account or a brief statement of the registrant's investment objectives); Item 1(a)(viii) of current Form N–4 (requiring the outside cover page of the prospectus to include the names of portfolio companies).

[513] *See* Item 5(c) and (d) of current Form N–3 (requiring registrants to concisely describe the investment objectives and policies of the registrant, and providing instructions for disclosure regarding the registrant's investment policies); Item 5(c) of current Form N–4 (requiring registrants to briefly describe each portfolio company, including its name, its type or a brief statement concerning its investment objectives, and its investment adviser); 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).

[514] *See supra* note 195 and accompanying and following text. A reference in this section to ''appendix'' includes any additional appendix (to the extent a registrant would be required to include one).

[515] *See* proposed rule 498A(b)(5)(ix); proposed rule 498A(c)(6)(iv); *see also supra* sections II.A.1.c.ii(*i*), II.A.2.c.ii(c).

[516] As discussed above, an initial summary prospectus could only describe a single contract that the registrant currently offers for sale, whereas the updating summary prospectus and statutory prospectus could describe multiple contracts under the conditions of the proposed General Instructions to Forms N–3, N–4, and N–6. *See supra* sections II.A.1.b, II.A.2.b.

[517] *See* Instruction 1(a) to proposed Item 19 of Form N–3; *see also* proposed rule 498A(b)(5)(ix), (c)(6)(iv) (the appendix also could be omitted from the summary prospectus); *infra* paragraphs following note 525 (discussing proposed Item 20 of Form N–3).

[518] *See* Instruction 1(a) to proposed Item 19 of Form N–3; *see also supra* text following note 192 and accompanying note 241.

[519] *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 proposed Item 19. In this case, the portion of the legend in the summary prospectus explaining how more information about the investment options may be obtained would not be required to be included in the statutory prospectus. *See* note 520 and accompanying text.

[520] *See* Instruction 1(b) to proposed Item 18 of Forms N–4 and 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.'').

Registrants on Form N–3 that use a summary prospectus that includes the disclosures required by proposed Item 19 of Form N–3 would be required to include in that appendix an introductory legend explaining how more information about the investment options may be obtained. *See* proposed rule 498A(b)(5)(ix) and *supra* notes 196–199 (discussing legend in initial summary prospectus); proposed rule 498A(c)(6)(iv) and note 240 (discussing legend in updating summary prospectus). However, that legend would not be required to be included in the statutory prospectus, because the statutory prospectus would already include those disclosures pursuant to proposed Item 20 (which requires more detailed disclosure regarding each of the investment options available under the contract). *See* Instruction 1(a) to proposed Item 19 of Form N–3; proposed Item 20 of Form N–3.

[521] *See generally supra* sections II.A.1.c.ii(*i*), II.A.2.c.ii(c).

included in the statutory prospectus? If so, how? For example, should registrants that choose not to use a summary prospectus be permitted not to include disclosures about how investors can find portfolio company prospectuses online or obtain them at no cost upon request? Should the statutory prospectus require more comprehensive disclosures for investors who wish to obtain additional details beyond what would be disclosed in the summary prospectus? If so, what additional information should be disclosed?

- Will the proposed tabular presentation required for portfolio company-related disclosures in the prospectus be more user-friendly for investors than the current disclosure requirements? Is the specific information required to be disclosed about portfolio companies likely to be more relevant and useful to investors than the current disclosure requirements? If not, why not? Are there alternatives we should consider?
- Under our proposal, registrants on Form N–3 would have the option of omitting the proposed appendix and instead providing the more detailed disclosures about the investment options offered under the contract that proposed Item 20 of Form N–3 would require (and would be required to include the appendix in the statutory prospectus only if the appendix also appears in the summary prospectus). In order to increase comparability between registration statements, should we require this appendix for all registration statements on Form N–3?

s. Additional Amendments to Form N–3

We are also proposing 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.

Management (Item 7 of Form N–3)

We are proposing to revise Item 6 of current Form N–3 (which we would re-designate as Item 7) to increase consistency among forms used to register management investment companies.[522] Except as described below, we do not intend these proposed amendments to significantly alter current disclosure obligations.

Among other things, the proposed amendments would require disclosure of the compensation paid to each investment adviser of the registrant.[523] Form N–3 currently includes three fiscal years of such disclosures in the SAI, where they would remain under our proposal, but our proposal would also include such disclosures for the most recent fiscal year in the prospectus to highlight this information for investors and to update this aspect of Form N–3 to parallel Form N–1A.[524] The proposed amendments would 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.[525] 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.

Additional Information About Investment Options Available Under the Contract (Item 20 of Form N–3)

We are proposing a new item that would provide more detailed information about each of the investment options available under the contract.

New paragraphs (a) and (b) would 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 would 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, the proposed amendments would 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, 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.

The proposed amendments also would 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 proposed 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.[526]

New paragraph (c) would require 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 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) would require 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[527] by providing investors and potential investors with more information about the performance of the investment options offered under the contract.[528] In particular, the bar chart would illustrate the variability of the investment options' returns and give investors an idea of the attendant risks of each investment option. Likewise, the

[522] *See, e.g.,* Items 5 and 10 of Form N–1A.

[523] Registrants would 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* proposed Item 7(a)(1)(i) and (ii) of Form N–3.

[524] *Compare* 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* proposed Item 25(a)(3) of Form N–3 (same); *see also* Item 10 of Form N–1A.

[525] These disclosure requirements would be moved, respectively, to: Proposed Item 24(b)(1) (''Management of the Registrant''); proposed Item 25(g) (''Investment Advisory and Other Services''); and proposed Item 27 (''Brokerage Allocation and Other Practices'').

[526] *See, e.g.,* Item 9 of current Form N–1A.

[527] *See infra* section II.D.3.d.

[528] *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).

accompanying table would help investors evaluate an investment option's risks and returns relative to the market.

We request comment generally on the proposed amendments to the Part A requirements of Form N–3, and specifically on the following issues:

• Should we, as proposed, adopt amendments to certain current items in Form N–3 Part A as described in this section? To the extent that we have proposed amending these items to generally mirror the presentation of parallel items in Form N–1A, is this appropriate in the context of variable annuities whose separate accounts are registered on Form N–3? Do commenters recommend any additional amendments to any of the current Form N–3 Part A items?

• Proposed Item 7 (''Management'') would revise current disclosure requirements to move certain disclosures from the prospectus to the SAI, while other disclosures would appear in the prospectus that currently only appear in the SAI. Are these proposed amendments appropriate, and are there other disclosures that currently appear in Part A of Form N–3 that would be better suited for disclosure in the SAI? On the other hand, are there other disclosures that currently appear in the SAI that would better suited for disclosure in the prospectus?

• In the case of registrants that offer more than one investment option under the contract, should the disclosures contemplated by proposed Item 20 (''Additional Information About Investment Options Available Under the Contract''), as proposed, be presented for each investment option? If not, how should those disclosures be presented? Should any of these proposed disclosures be modified in any way? Are there additional investment option-related disclosures that may be relevant to contract investors and that we should require to appear in the prospectus?

3. Part B (Information Required in a Statement of Additional Information)

Table 6 shows how our proposal would amend the item requirements of Part B of our variable contract registration forms. Except as described below, our proposed amendments to Part B of Forms N–3 and N–4 would generally conform to the language of the related Part B disclosure items in current Form N–6.

TABLE 6—PROPOSED AMENDMENTS TO PART B OF FORMS N–3, N–4, AND N–6

Item description	Proposed item No.	Form N–3: Proposed treatment	Form N–4: Proposed treatment	Form N–6: Proposed treatment
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 21 (currently Items 16, 17). • Form N–4: Item 19 (currently Items 15, 16). • Form N–6: Item 19 (currently Item 15).	Revised	Revised	Revised.
General Information and History.	• Form N–3: Item 22 (currently Item 18). • Form N–4: Item 20 (currently Item 17). • Form N–6: Item 20 (currently Item 16).	Revised	Revised	Unchanged.
Services (in Form N–3, ''Investment Advisory and Other Services'').	• Form N–3: Item 25 (currently Item 21). • Form N–4: Item 21 (currently Item 18). • Form N–6: Item 21 (currently Item 17).	Revised	Revised	Unchanged.
Investment Objectives and Risks (in Form N–3, currently ''Investment Objectives and Policies'').	• Form N–3: Item 23 (currently Item 19).	Revised	N/A	N/A.
Management of the Registrant (in Form N–3, currently ''Management'').	• Form N–3: Item 24 (currently Item 20).	Revised	N/A	N/A.
Portfolio Managers	• Form N–3: Item 26 (currently Item 22).	Revised	N/A	N/A.
Brokerage Allocation and Other Practices (in Form N–3, currently ''Brokerage Allocation'').	• Form N–3: Item 27 (currently Item 23).	Revised	N/A	N/A.
Purchase of Securities Being Offered.	• Form N–3: Item 28 (currently Item 24). • Form N–4: Item 22 (currently Item 19).	Unchanged	Unchanged	N/A.
Premiums	• Form N–6: Item 22 (currently Item 18).	N/A	N/A	Unchanged.
Additional Information About Operation of Contracts and Registrant.	• Form N–6: Item 23 (currently Item 19).	N/A	N/A	Unchanged.
Underwriters	• Form N–3: Item 29 (currently Item 25). • Form N–4: Item 23 (currently Item 20). • Form N–6: Item 24 (currently Item 20).	Revised	Revised	Revised.
Additional Information About Charges.	• Form N–6: Item 25 (currently Item 21).	N/A	N/A	Unchanged.

TABLE 6—PROPOSED AMENDMENTS TO PART B OF FORMS N–3, N–4, AND N–6—Continued

Item description	Proposed item No.	Form N–3: Proposed treatment	Form N–4: Proposed treatment	Form N–6: Proposed treatment
Lapse and Reinstatement	• Form N–6: Item 26 (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 30 (currently Item 26). • Form N–4: Item 24 (currently Item 21).	Revised	Revised	N/A.
Annuity Payments	• Form N–3: Item 31 (currently Item 27). • Form N–4: Item 25 (currently Item 22).	Unchanged	Unchanged	N/A.
Financial Statements	• Form N–3: Item 32 (currently Item 28). • Form N–4: Item 26 (currently Item 23). • Form N–6: Item 27 (currently Item 24).	Revised	Revised	Revised.
Condensed Financial Information.	• Form N–3: Item 33 (currently Item 4). • Form N–4: Item 27 (currently Item 4).	Revised and moved to SAI	Revised and moved to SAI	N/A.
Illustrations	• Form N–6: Item 28 (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

We propose to amend 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 to re-designate their numbering as shown in Table 6 above. To the extent that these amended items incorporate only minor wording changes,[529] they are indicated as ''unchanged items'' in Table 6. Otherwise, each of these amended items is discussed in more detail below.

• *Cover Page (Item 21 of Form N–3, Item 19 of Forms N–4 and N–6).* We are proposing to amend the outside front cover page requirements for each registration form to include the name of the contract and classes to which the contract relates.[530] We are also proposing to amend Forms N–3 and N–4 to: (1) Require a statement whether and from where information is incorporated by reference;[531] (2) remove the current required statement that the SAI should be read with the prospectus;[532] and (3) consolidate the current item requiring a table of contents into the item specifying cover page disclosures.[533]

• *General Information and History (Item 22 of Form N–3, Item 20 of Forms N–4 and N–6).* We are proposing to amend Item 18 of current Form N–3 and Item 17 of current Form N–4 (which we would re-designate as Items 22 and 20, 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.[534]

• *Services (Item 25 of Form N–3,*[535] *Item 21 of Forms N–4 and N–6).* We are proposing to amend Item 21 of current Form N–3 and Item 18 of current Form N–4 (which we would re-designate as Items 25 and 21, 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.[536]

• *Financial Statements (Item 32 of Form N–3, Item 26 of Form N–4, Item 27 of Form N–6).* We are proposing to amend Item 28 of current Form N–3 and Item 23 of current Form N–4 (which we would re-designate as Items 32 and 26, respectively) to: (1) Clarify that the depositor's financial statements must be prepared in accordance with generally accepted 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;[537] (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;[538] and (3) clarify how current the depositor's financial statements must be when the anticipated effective date of the registration statement

[529] 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).

[530] Proposed Item 21(a)(3) of Form N–3; proposed Item 19(a)(3) of Form N–4; proposed Item 19(a)(3) of Form N–6.

[531] Proposed Item 21(a)(4)(iii) of Form N–3; proposed Item 19(a)(4)(iii) of Form N–4.

[532] Item 16(a)(iii)(B) of current Form N–3; Item 15(a)(iii)(B) of current Form N–4.

[533] Proposed Item 21(b) of Form N–3; proposed Item 19(b) of Form N–4.

[534] Proposed Item 22 of Form N–3; proposed Item 20 of Form N–4.

[535] In Form N–3, the title of this disclosure item is ''Investment Advisory and Other Services.'' In addition to the amendments we propose to conform this disclosure item with the parallel item in Form N–6, we also propose additional amendments to this disclosure item, as discussed below, that would reflect the presentation of Item 19 in Form N–1A. *See infra* section II.D.3.e.

[536] Proposed Item 25(g) of Form N–3; proposed Item 21(c) of Form N–4.

[537] Instruction 1 to proposed Item 32(b) of Form N–3; Instruction 1 to proposed Item 26(b) of Form N–4. This instruction would 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 54, at n.58 and accompanying and following text.

[538] Instruction 2 to proposed Item 32(b) of Form N–3; Instruction 2 to proposed Item 26(b) of Form N–4.

falls within 90 days after the depositor's fiscal year-end.[539]

b. Underwriters (Item 29 of Form N–3, Item 23 of Form N–4, Item 24 of Form N–6)

We are proposing to amend Item 25 of current Form N–3 and Item 20 of current Form N–4 (which we would re-designate as Items 29 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.[540]

We also propose to add 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 would parallel similar instructions in Part C of these same forms regarding disclosures for principal underwriters.[541]

Also, because we propose to amend 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 propose to remove this disclosure from current Item 20 (which we would re-designate as Item 24).[542]

c. Calculation of Performance Data (Item 30 of Form N–3, Item 24 of Form N–4)

We are proposing to amend Item 26 of current Form N–3 and Item 21 of current Form N–4 (which we would re-designate as Items 30 and 24, respectively), to remove the instruction specifically permitting the registrant to furnish separate yield quotations for individual and group contracts.[543] Because the proposed General Instructions would 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.[544]

d. Accumulation Unit Value Disclosure (Item 33 of Form N–3, Item 27 of Form N–4)

We also propose to relocate the disclosures required by Item 4 of current Forms N–3 and N–4 from the prospectus to the SAI,[545] with some modifications.[546] Those items currently require 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'').[547] For variable annuity contracts, the change in accumulation unit value provides a measure of performance of the registrant's sub-accounts.[548]

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.[549] 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.[550] Because only one combination of contract charges is relevant to any individual investor (depending on the contract features they select), much of the required disclosure is of limited value to most investors.[551]

To streamline the prospectus, we propose to relocate the AUV tables from the prospectus to the SAI, where they are more appropriately located with certain detailed information that traditionally appears in the SAI. To reduce burdens on registrants, we propose to decrease the time periods for which the required information must be presented from 10 years[552] to five years.[553] We also propose to include an instruction permitting registrants to omit AUV tables altogether if they provide each investor with an annual account statement that discloses, with respect to each class of accumulation units the investor holds, the actual performance of each subaccount during the prior fiscal year.[554] This option would reduce the length of the SAI and provide investors with customized annual performance information that reflects the impact of insurance-related costs.

[539] Instruction 3 to proposed Item 32(b) of Form N–3; Instruction 3 to proposed Item 26(b) of Form N–4.

[540] Proposed Item 29(a) of Form N–3; proposed Item 23(a) of 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.

[541] *See infra* text accompanying and preceding note 597. 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.

[542] *See supra* note 461 and accompanying text.

[543] Proposed Item 30 of Form N–3; proposed Item 24 of Form N–4.

[544] *See supra* note 400 and accompanying text.

[545] Proposed Item 33 of Form N–3; proposed Item 27 of Form N–4.

[546] Such modifications would include re-designating Item 4(c) of current Form N–3 and Item 4(b) of current Form N–4 as Items 18 and 17, respectively (''Financial Statements''), and adding an instruction to proposed Item 33 of Form N–3 and proposed Item 27 of Form N–4 that defines ''class of accumulation units'' to mean ''any variation that affects accumulation units, including variations related to contract class, optional benefits, and sub-accounts.'' *See supra* section II.D.2.q (discussing proposed Item 18 of Form N–3 and proposed Item 17 of Form N–4); *see also* Instruction 1 to proposed Item 33 of Form N–3; Instruction 1 to proposed Item 27 of Form N–4.

[547] Item 4(a) of current Form N–3; Item 4(a) of current Form N–4.

[548] 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 445, at 17.

[549] *See* Forms N–3 and N–4 Adopting Release, *supra* note 28.

[550] In response to these concerns, 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 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''). If the Commission adopts the proposed AUV table amendments, these final rules would effectively moot the Nationwide 2001 Letter.

[551] 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.

[552] *See* Instruction 2 to Item 4 of current Forms N–3 and N–4.

[553] *See* Instruction 3 to proposed Item 33 of Form N–3; Instruction 3 to proposed Item 27 of Form N–4. We are proposing five years to be consistent with Item 13 of Form N–1A, which requires funds to disclose five years of data for the Financial Highlights section of the prospectus. Five years is also the typical timeframe for disclosing information in response to other form items (*e.g.,* Fee Table expense example (Item 3 of current Form N–3 and current Form N–4); insurer name change and suspension of sales (Item 18 of current Form N–3 and Item 17 of current Form N–4)).

[554] *See* Instruction 7 to proposed Item 33 of Form N–3; Instruction 6 to proposed Item 27 of Form N–4. For accounts held less than one year, the annual account statement would disclose the actual performance of each sub-account for the length of time the investor has owned the sub-account.

e. Adjustment to Disclosure Thresholds (Items 29 and 32 of Form N–3, Items 23 and 26 of Form N–4, Items 24 and 27 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 made during each of the last three fiscal years.[555] 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 would show a combined capital and surplus (if a stock company) or an unassigned surplus (if a mutual company), of less than $1,000,000.[556] As part of our efforts to update the registration forms, we are proposing to increase these thresholds to $15,000[557] and $2,500,000,[558] respectively, to account for the effects of inflation since 1985, the year of inception for Forms N–3 and N–4.[559]

f. Additional Amendments to Form N–3

We are also proposing 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 would harmonize the disclosure requirements across registration statements for different products.

Investment Objectives and Risks (Item 23 of Form N–3)

We are proposing to make certain amendments to Item 19 of Form N–3, which we would re-designate as Item 23.[560] Proposed Item 23 would contain 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 proposed Item 23 would newly require the registrant to describe any investment strategies that are not principal strategies, as well as the risks of those strategies. These disclosures would complement the prospectus disclosures of principal investment strategies that would be required by proposed Item 20.

Paragraph (b) of proposed Item 23 would require 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 proposed amendments better 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.[561]

Paragraph (c) of proposed Item 23 would newly require 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 (f) of proposed Item 23 would newly require 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.[562] 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.[563] 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.[564] The

[555] *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.

[556] *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.

[557] *See* Instruction 2 to proposed Item 29 of Form N–3; Instruction 2 to proposed Item 23 of Form N–4; Instruction 2 to proposed Item 24 of Form N–6.

[558] *See* Instructions 3(ii) and (iii) to proposed Item 32 of Form N–3; Instructions 3(ii) and (iii) to proposed Item 26 of Form N–4; Instructions 3(ii) and (iii) to proposed Item 27 of current Form N–6.

[559] Indexing the $5,000 thresholds for inflation would result in revised thresholds of $11,950, and indexing the $1,000,000 thresholds for inflation would result 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.*

[560] *See* proposed Item 23 of Form N–3. The proposed amendments to this item would reflect the presentation of Item 16 of Form N–1A.

[561] Section 8 of the Investment Company Act requires a fund to disclose in its registration statement 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 528. This amended Form N–1A requirement forms the basis for the amendments to paragraph (b) of proposed Item 23 of Form N–3 described herein.

[562] *See* proposed Item 23(e) of 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).

[563] *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.

[564] *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.

remaining paragraphs of proposed Item 23 would restate existing disclosure requirements to reflect the updated presentation and disclosure requirements of the parallel item in Form N–1A.[565]

Management of the Registrant (Item 24 of Form N–3)

We are proposing to make certain amendments to Item 20 of Form N–3, which we would re-designate as Item 24, to restate existing disclosure requirements to reflect the updated presentation and disclosure requirements of the parallel item in Form N–1A.[566] Except as discussed below, these changes are not intended to significantly alter current disclosure obligations.

The proposed amendments would: (1) Newly 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;[567] 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.[568]

Investment Advisory and Other Services (Item 25 of Form N–3)

In addition to the amendments to Item 21 of Form N–3 (which we would re-designate as Item 25) that we discuss above, which would conform certain aspects of this item to the disclosure requirements of Form N–6,[569] we are also proposing amendments to restate existing disclosure requirements to reflect the updated presentation and disclosure requirements of the parallel item in Form N–1A.[570] Except as discussed below, these changes are not intended to significantly alter current disclosure obligations.

We are proposing to amend 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.'' [571] We are also proposing to newly require a registrant to disclose any front-end sales load reallowed to dealers as a percentage of the registrant's shares.[572] Finally, we are proposing to newly require additional disclosures regarding plans adopted under rule 12b–1 under the Investment Company Act.[573] Industry practices regarding the use of ''12b–1 plans'' have evolved 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 26 of Form N–3)

We are proposing to make certain amendments to Item 22 of Form N–3, which we would re-designate as Item 26.[574] The proposed amendments would amend 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.[575] Otherwise, these changes would 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 27 of Form N–3)

We are proposing to make certain amendments to Item 23 of Form N–3, which we would re-designate as Item 27.[576] The proposed amendments would 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 brokerage commissions and markups.[577] This would mirror the parallel requirement of Form N–1A [578] and could 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. The proposed amendments would 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.[579] Otherwise, these changes would 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,[580] we are proposing two additional amendments to Part B of Form N–6. First, as discussed above, we are proposing to relocate the disclosure on commissions paid to dealers from the SAI to the prospectus.[581] Second, as also discussed above, we are proposing to eliminate current Item 23 (Loans) and consolidate

[565] Proposed paragraphs (b), (d), and (e) would require disclosure regarding certain investment policies, portfolio turnover, and disclosure of portfolio holdings, respectively.

[566] *See* proposed Item 24 of Form N–3. The proposed amendments to this item would reflect the presentation of Item 17 of Form N–1A.

[567] *See* paragraphs (b)(1) and (d) of proposed Item 24 of Form N–3.

[568] *See* paragraph (e) of proposed Item 24 of Form N–3. These codes of ethics would continue to be filed as exhibits to Part C of the registrant's registration statement. *See* proposed Item 34(q) of Form N–3.

[569] *See supra* note 536 and accompanying text.

[570] *See* proposed Item 25 of Form N–3. The proposed amendments to this item would reflect the presentation of Item 19 of Form N–1A.

[571] *See* paragraph (a)(3)(i) of proposed Item 25 of Form N–3.

[572] *See* paragraph (e) of proposed Item 25 of Form N–3.

[573] Registrants would disclose the relationship between amounts paid to the distributor and the expenses that it incurs; the amount of any unreimbursed expenses incurred under the 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 asset size, number of shareholder accounts). *See* paragraphs (f)(2) through (4) of proposed Item 25 of Form N–3.

[574] *See* proposed Item 26 of Form N–3. The proposed amendments to this item would reflect the presentation of Item 20 of Form N–1A.

[575] *See* Instruction 2 to proposed Item 26(b) of Form N–3 (discussing relocation expenses).

[576] *See* proposed Item 27 of Form N–3. The proposed amendments to this item would reflect the presentation of Item 21 of Form N–1A.

[577] *See* proposed Item 27(a) of Form N–3.

[578] *See* Item 21(a) of Form N–1A.

[579] *See* Instruction to proposed Item 27(e) of 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.

[580] *See supra* note 530 and accompanying text.

[581] *See supra* note 461 and accompanying text; *see also* Item 20 of current Form N–6; proposed Item 7 of Form N–6.

required disclosures relating to contract loans into the prospectus.[582]

h. Request for Comment on Proposed SAI Amendments

We request comment generally on the proposed amendments to the SAI requirements contained in our variable contract registration forms, and specifically on the following issues:

- Should we amend as proposed the items in Part B discussed above? Should we amend any other items of Part B, or add new items to Part B covering other disclosure items?
- Should we adjust the thresholds described above in section II.D.3.e? If so, should we propose to adjust similar thresholds in our registration statement forms for other types of investment companies to comparable levels? Should they be adjusted to a different level? Please explain the basis for any suggested changes, including the reasons for whether they should be adjusted using different factors or other considerations.
- Are the AUV tables useful to investors, and has the usefulness of these tables evolved since Forms N–3 and N–4 were first adopted? Is it appropriate to move the AUV tables from the prospectus to the SAI, or would some other approach better serve investors? For example, should we instead codify the approach set forth in staff no-action relief described above?[583] Should we consider other modifications, such as eliminating the requirement to provide AUVs corresponding to every pricing permutation that results from offering multiple optional riders (which were not available when the forms were first adopted), and instead require only disclosure of variations that affects AUVs related to contract (share) class and sub-accounts? Should we require the AUV tables to reflect only five, and not 10, years of data? Should we, as proposed, permit registrants to omit AUV tables altogether if they provide each investor with an annual account statement that discloses, with respect to each class of accumulation units the investor holds, the actual performance of each subaccount during the prior fiscal year? Or should we mandate that registrants provide annual account statements to each investor? Alternatively, should we eliminate altogether the requirement to include AUV tables in the registration statement, or otherwise revise this requirement? If we were to revise the requirement, should we also extend the revised requirement to Form N–6, which does not currently require the inclusion of AUV tables?[584] Can or do investors receive performance information that is similar to, or more useful than, the data in the AUV tables?
- Should we, as proposed, amend Part B of Form N–3 to require comparable disclosures required by Form N–1A? Should we modify the proposed amendments in any way?

4. Part C (Other Information)

Table 7 shows how our proposed amendments would 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. We are also proposing to eliminate certain disclosure items in light of recent regulatory developments and our goal of reducing duplicative disclosure requirements.

TABLE 7—PROPOSED AMENDMENTS TO PART C OF FORMS N–3, N–4, AND N–6

Item description	Proposed item No.	Form N–3: Proposed treatment	Form N–4: Proposed treatment	Form N–6: Proposed treatment
Exhibits (in Forms N–3 and N–4, currently "Financial Statements and Exhibits").	• Form N–3: Item 34 (currently Item 29). • Form N–4: Item 28 (currently Item 24). • Form N–6: Item 29 (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 35 (currently Item 30). • Form N–4: Item 29 (currently Item 25). • Form N–6: Item 30 (currently Item 27).	Unchanged	Unchanged	Unchanged.
In Form N–3: Persons Controlled by or Under Common Control with the Insurance Company or Registrant. In Forms N–4 and N–6: Persons Controlled by or Under Common Control with the Depositor or Registrant.	• Form N–3: Item 36 (currently Item 31). • Form N–4: Item 30 (currently Item 26). • Form N–6: Item 31 (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.

[582] The disclosures required by current Item 23 would be consolidated with current Item 10 into a single proposed Item 13. *See supra* paragraphs accompanying and immediately following note 500.

[583] *See supra* note 550.

[584] The level of customization now available for variable annuity contracts is somewhat comparable to the individual nature of variable life insurance charges, which the Commission previously stated did not appear to provide a comparable measure of performance that is applicable to all holders of a particular variable life insurance contract. *See* Form N–6 Proposing Release, *supra* note 445. Consequently, Form N–6 does not require the inclusion of AUV tables.

TABLE 7—PROPOSED AMENDMENTS TO PART C OF FORMS N–3, N–4, AND N–6—Continued

Item description	Proposed item No.	Form N–3: Proposed treatment	Form N–4: Proposed treatment	Form N–6: Proposed treatment
Indemnification	• Form N–3: Item 37 (currently Item 33). • Form N–4: Item 31 (currently Item 28). • Form N–6: Item 32 (currently Item 29).	Revised	Revised	Unchanged.
Business and Other Connections of Investment Adviser.	• Form N–3: Item 38 (currently Item 34).	Unchanged	N/A	N/A.
Principal Underwriters	• Form N–3: Item 39 (currently Item 35). • Form N–4: Item 32 (currently Item 29). • Form N–6: Item 33 (currently Item 30). • Form N–3: Item 40 (currently Item 36).	Revised	Revised	Revised.
Location of Accounts and Records.	• Form N–4: Item 33 (currently Item 30). • Form N–6: Item 34 (currently Item 31).	Unchanged	Unchanged	Unchanged.
Management Services	• Form N–3: Item 41 (currently Item 37). • Form N–4: Item 34 (currently Item 31). • Form N–6: Item 35 (currently Item 32).	Revised	Revised	Revised.
Fee Representation	• Form N–3: Item 42 • Form N–4: Item 35 • Form N–6 Item 36 (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

We propose to amend certain items of Part C of proposed Form N–4 to reflect the more up-to-date presentation of corresponding items in Form N–6, and to re-designate their numbering as shown in Table 7 above. To the extent that these amended items incorporate only minor wording changes,[585] they are indicated as ''unchanged items'' in Table 7. Otherwise, each of these amended items is discussed in more detail below.

• *Exhibits (Item 34 of Form N–3, Item 28 of Form N–4, Item 29 of Form N–6).*[586] We are proposing to amend 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;[587] (2) for Form N–4, to require the filing of participation agreements;[588] and (3) for Forms N–3 and N–4, to require the filing of administrative contracts.[589]

• *Persons Controlled by or Under Common Control with the Depositor or Registrant (Item 36 of Form N–3, Item 30 of Form N–4, Item 31 of Form N–6).* We are proposing to amend 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.[590] 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 37 of Form N–3, Item 31 of Form N–4, Item 32 of Form N–6).* For Forms N–3 and N–4, we are proposing to amend 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 rule 461 and 484, and section 17 of the Investment Company Act.[591] We do not believe that specifically noting these legal requirements is necessary for an investor to understand the general effects of agreements insuring or indemnifying underwriters or affiliated persons of the registrant against liability, and moreover, eliminating legal references from investor documents is consistent with our plain English requirements.[592]

[585] *See supra* note 529.

[586] As part of the 2017 FAST Act Proposal, the Commission proposed 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* 2017 FAST Act Proposal, *supra* note 307.

[587] *See* Item 29(a) of current Form N–3; Item 24(a) of current Form N–4.

[588] Proposed Item 28(h) of Form N–4.

[589] Proposed Item 34(k) of Form N–3; proposed Item 28(i) of Form N–4.

[590] *See* Item 31 of current Form N–3; Item 26 of current Form N–4.

[591] *See* Item 33 of current Form N–3; Item 28 of current Form N–4.

[592] *See, e.g.,* rule 421(c) under the Securities Act (requiring information required to be included in a prospectus to be clearly understandable without referring to the particular form or general rules and regulations).

• *Fee Representation (Item 42 of Form N–3, Item 35 of Form N–4).* We also propose to add new Item 42 to Form N–3 and new Item 35 to Form N–4, which would 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 would mirror Item 33 of current Form N–6 (which we propose to re-designate as Item 36). Because section 26(f) of the Investment Company Act requires that the representation be made in the registration statement,[593] this new item would merely request the representation required by section 26(f) and 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, we are proposing to amend the ''Exhibits'' disclosure item to require a registrant to file a preliminary form of any contract summary prospectus that the registrant intends to use on or after the effective date of the registration statement as an exhibit.[594] As discussed above, we are proposing the new requirement to file a preliminary form of a contract summary prospectus 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.[595] These proposed amendments to the ''Exhibits'' item of each form would 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.[596]

c. Principal Underwriters (Item 39 of Form N–3, Item 32 of Form N–4, Item 33 of Form N–6).

For Form N–3, we propose to add 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, we propose to add 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 underwritings costs, as opposed to costs for legal or auditing services or other ancillary matters, and would parallel similar instructions in Part B of these same forms regarding disclosures for underwriters.[597]

Also, for Form N–3, we propose to amend 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.[598] The category of ''other compensation'' is intended to encompass compensation that is not otherwise enumerated in one of the other categories, and so we believe deletion of this instruction would help streamline the form and remove any 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 39 and 41 of Form N–3, Items 32 and 34 of Form N–4, Items 33 and 35 of Form N–6)

In addition to proposing certain updated disclosure thresholds in the SAI, we are similarly proposing to increase 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.[599] 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.[600] As part of our efforts to update the registration forms, we are proposing to increase these thresholds to $15,000[601] to reflect the effects of inflation since 1985.[602]

e. Amendments Eliminating Current Part C Disclosure Requirements

To reduce overlapping regulatory requirements, we propose to eliminate Item 32 of current Form N–3 and Item 27 of current Form N–4 (''Number of Contractowners''), as we will obtain the information that this item would require a registrant to disclose in a registrant's filings on Form N–CEN.[603] 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. We also propose to eliminate Item 38 of current Form N–3 and Item 32 of Form N–4 (''Undertakings''). These requirements are outdated[604] or redundant of similar requirements under the proposed amendments to Forms N–3 and N–4.[605]

[593] 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.

[594] Proposed Item 34(r) of Form N–3; proposed Item 28(o) of Form N–4; proposed Item 29(r) of Form N–6.

[595] An instruction would provide that registrants are required to provide the preliminary summary prospectus exhibits 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. *See generally supra* section II.A.7.a.

[596] *See supra* notes 587 through 589 and accompanying text.

[597] *See supra* section II.D.3.b.

[598] Instruction 1 to Item 35(c) of current Form N–3.

[599] *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.

[600] *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.

[601] *See* Instruction 3 to proposed Item 39 and Instruction 2 to proposed Item 41 of Form N–3; Instruction 3 to proposed Item 32 and Instruction 2 to proposed Item 34 of Form N–4; Instruction 3 to proposed Item 33 and Instruction 2 to proposed Item 35 of Form N–6.

[602] For a discussion of the calculation methodology, *see supra* note 559.

[603] *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).

[604] 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.

[605] 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

f. Additional Amendments to Form N–6

We are proposing to amend the third column of the table required by Item 30 of current Form N–6 (''Principal Underwriters,'' which we would re-designate as Item 33) to reflect compensation received from the registrant on all redemptions, rather than the more narrow requirement to disclose only compensation from events occasioning the deduction of a deferred sales load.[606] Because compensation may be paid upon redemptions not defined as deferred sales loads, we believe this proposed change will clarify for investors the amount of redemption compensation received from the registrant.

g. Request for Comment on Proposed Part C Amendments

We request comment generally on the proposed amendments to the Part C requirements of our variable contract registration forms, and specifically on the following issues:

- Should we amend as proposed the items in Part C discussed above? Should we amend any other items of Part C, or add new items to Part C covering other disclosure items?
- We request comment regarding the exhibits that would be required to be filed as part of the registration statement. Should we modify the proposed list of required exhibits? Should we require any additional exhibits, or eliminate any currently required exhibits? Should we revise the description of the exhibits that this item would require? For example, with respect to reinsurance contracts, should we specifically request guarantees and credit support agreements from one insurance company to another (*e.g.,* from parent to subsidiary)? Are there any other changes we should make to the required exhibit list?
- Should we require Form N–3 and Form N–4 registrants to include the fee representations specified by the new item that mirrors a parallel item in Form N–6? If we do not require this disclosure in Form N–3 and Form N–4, should we remove the parallel requirement in Form N–6?
- Should we adjust the thresholds described above in section II.D.4.d? If so, should we propose to adjust similar thresholds in our registration statement forms for other types of investment companies to comparable levels? Should they be adjusted to a different level? Please explain the basis for any suggested changes, including the reasons for whether they should be adjusted using different factors or other considerations.

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.[607] 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. Certain Division positions in the Guidelines have become outdated.[608] Other Guidelines explain or restate legal requirements and may encourage generic disclosure about registrant operations that may not assist investors in evaluating and comparing registrants.[609] More generally, we believe the Guidelines have generally been superseded by other resources that are more frequently updated and accessible to the public. For example, registrants seeking additional guidance in preparing new or amended registration statements may consult the Investment Company Registration and Regulation Package, a Commission staff publication that is available online.[610]

As with other registration forms that have more recently been amended to eliminate the guidelines for those forms, we are proposing to rescind the Guidelines to Forms N–3 and N–4.[611] We request comment on whether all or parts of the Guidelines should be retained (either as form items or instructions, or addressed as Commission guidance).

E. Inline XBRL

We are proposing to require the use of the Inline XBRL format for the submission of certain required disclosures in the variable contract statutory prospectus. The proposed 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, as required by their particular needs and circumstances. This aspect of our proposal is in keeping with our ongoing efforts to implement reporting and disclosure reforms that take advantage of the benefits 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.

Information structured using the Inline XBRL format is both human-readable and machine-readable for purposes of validation, aggregation, and analysis. 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.

In 2009, the Commission adopted rules requiring operating companies, mutual funds, and ETFs to submit certain disclosures in the XBRL format.[612] More recently, the

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 445, 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* proposed Item 1(b) of 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 proposed Item 18 of Form N–3 and proposed Item 17 of Form N–4 (requiring registrants to explain how financial statements may be found or obtained).

[606] Proposed Item 33(c) of Form N–6. This proposed change would conform Form N–6 with the comparable item of Form N–4. *See* Item 29(c) of current Form N–4.

[607] *See* Forms N–3 and N–4 Adopting Release, *supra* note 28, at text following n.51 (stating that publication of the Guidelines was not intended to elevate their status beyond that of staff guidance).

[608] *See, e.g.,* Form N–3 Guideline 31 (the reference to the synopsis would no longer be necessary as revised Form N–3 would have detailed instructions with respect to the Overview and Key Information sections); Form N–3 Guideline 36 (the staff no longer takes the position that if there is a variable annuitization option that the variable option must be the default; a fixed option can be the default so long as the default option is disclosed in the prospectus at the time of purchase); *see also* Form N–4 Guideline 4 (mortality and expense risk charges no longer require exemptive relief; also the reference to the Glass-Steagall Act is no longer relevant); Form N–4 Guideline 12 (same as Form N–3 Guideline 36).

[609] *See, e.g.,* Form N–3 Guideline 1 (rule 35d–1 under the Investment Company Act makes the guidance redundant that the registrant should invest least 65% of its assets in the type of investment suggested by its name); *see also* Form N–4 Guideline 3 (restates the law regarding redemptions without providing new guidance).

[610] *See* Investment Company Registration and Regulation Package (Dec. 21, 2014), *available at https://www.sec.gov/investment/fast-answers/divisionsinvestmentinvcoreg121504htm.html.*

[611] *See* Form N–1A Adopting Release, *supra* note 528 (eliminating similar guidelines from Form N–1A).

[612] In one rulemaking, the Commission required operating companies to submit financial statements accompanying their registration statements and periodic and current reports in XBRL. *See* Interactive Data to Improve Financial Reporting, Release No. 33–9002 (Jan. 30, 2009) [74 FR 6776], as corrected by Release No. 33–9002A (Apr. 1,

Continued

Commission amended its rules to require operating companies, mutual funds, and ETFs to submit the required information in Inline XBRL.[613] Those amendments were intended to improve the data's usefulness, timeliness, and quality, benefiting investors, other market participants, and other data users and to decrease, over time, the cost of preparing the data for submission to the Commission.[614]

Reflecting the development in XBRL specifications and for consistency with the format required for operating companies, mutual funds, and ETFs, we are proposing amendments to our rules and forms that would require variable contract registrants to submit certain information in the Inline XBRL format.[615] We believe that the public's access to this data will be facilitated by making the data available in Inline XBRL, a format with which they will already be familiar as a result of reviewing and analyzing other disclosures in Inline XBRL. Variable contract registrants would be required to embed a part of the Interactive Data File[616] 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 will contain contextual information about the XBRL tags embedded in the filing. The information as tagged will continue to be required to satisfy all other requirements of rule 405 under Regulation S–T, including the technical requirements in the EDGAR Filer Manual.

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 because 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. Moreover, given the complexity of variable contracts, we believe that tagging certain sections within the statutory prospectus in Inline XBRL format could provide greater transparency regarding the products' features and risks in the marketplace.

Filings to be tagged. Like mutual funds and ETFs, registrants would 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 prospectuses filed pursuant to rule 497(c) or rule 497(e) under the Securities Act that include information that varies from the registration statement.

Information to be tagged. We are proposing that registrants tag the following prospectus disclosure items using Inline XBRL: The Key Information Table, Fee Table, Principal Risks of Investing in the Contract, Other Benefits Available Under the Contract, and Investment Options Available Under the Contract in the statutory prospectus, and for Form N–3 registrants, Additional Information About Investment Options Available Under the Contract.[617] We believe that these items—which provide important information about a variable contract's key features, costs, and risks—would be most suited to being tagged in a structured format and be of greatest utility for investors and other data users that seek structured data to analyze and compare variable contracts.

We would require 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 proposing to include 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 contracts or other investment products, such as mutual funds.

We are also proposing to require Principal Risks to be tagged so investors and their investment professionals can analyze a contract's risks alongside the contract's features and benefits. We would also require registrants to tag Other Benefits Available Under the Contract because these optional product features may be easier to analyze and compare if information pertaining to those features is available in a structured data format. Finally, we are proposing to require registrants to tag Investment Options Available Under the Contract, as this may allow investors and their investment professionals to more easily 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.

Submission of Interactive Data File. In a framework similar to that for mutual funds and ETFs under the recently adopted Inline XBRL regime,[618] we would require 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,[619] Interactive Data Files must be filed either concurrently with the filing 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;[620]
- 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

2009) [74 FR 15666]. In a parallel rulemaking, the Commission required mutual funds and ETFs to submit risk/return summaries in XBRL. *See* Interactive Data for Mutual Fund Risk/Return Summary, Investment Company Act Release No. 28617 (Feb. 11, 2009) [74 FR 7748 (Feb. 19, 2009)].

[613] *See* Inline XBRL Filing of Tagged Data, Investment Company Act Release No. 33139 (June 28, 2018) [83 FR 40846 (Aug. 16, 2018)] (''Inline XBRL Adopting Release'').

[614] *Id.*

[615] Proposed General Instruction 3.C.(h) of Forms N–3, N–4, and N–6; proposed amendments to rules 485 and 497 under the Securities Act; proposed amendments to rules 11 and 405 of Regulation S–T.

[616] 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. 17 CFR 232.11; 17 CFR 232.405. The EDGAR Filer Manual sets forth the technical formatting requirements for the presentation and submission of electronic filings through the EDGAR system.

[617] *See* General Instruction C.3.(h) to Forms N–3, N–4, and N–6; *see also* proposed Items 3, 4, 5, 12, 19, 20 of Form N–3; proposed Items 3, 4, 5, 11, and 18 of Form N–4; proposed Items 3, 4, 5, 11, and 18 of 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).

[618] *See* Inline XBRL Adopting Release, *supra* note 613.

[619] To help facilitate efficiencies in the variable contract post-effective amendment filing process, we propose to 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.

[620] Proposed 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.

in a subsequent amendment on or before the date the registration statement or post-effective amendment that contains the related information becomes effective;[621] and

• for any form of prospectus filed pursuant to rule 497(c) or (e), Interactive Data Files must be submitted concurrently with the filing.[622]

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 in the Inline XBRL format concurrent with filing or before the date of effectiveness would allow them to quickly process and share the data and related analysis with investors. Therefore, we are not proposing to provide variable contract registrants with a filing period to submit Interactive Data Files.

Identification of Classes. The Interactive Data File would be required to be submitted in such a manner that would 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.[623]

Consequence of failure to submit required Interactive Data File. Similar to the framework for mutual funds and ETFs, we are proposing to amend 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.[624]

Availability of hardship exemptions. Variable contract registrants could request temporary and continuing hardship exemptions for the inability to timely file electronically the Interactive Data File.[625]

We request comment generally on the proposed amendments to require the use of Inline XBRL, and specifically on the following issues:

• Should we adopt rules that make the submission of structured data in the Inline XBRL format mandatory for variable contract registrants? Should the requirements for variable contracts generally mirror the recently adopted Inline XBRL requirements for mutual funds and ETFs as we have proposed, or do variable contracts present different issues and considerations from mutual funds and ETFs? To what extent, or how, should registration statements and other filings for contracts operating in the manner that the Staff Letters describe, as discussed in section II.C above, be required to submit information in Inline XBRL?

• Should any category of variable contract registrants be exempt from the proposed Inline XBRL requirements? If so, which ones, and explain why. If we were to exempt any such filers from the Inline XBRL requirements, should they be permitted to voluntarily file in the Inline XBRL format? What would be the effects on data quality and usability to investors and other data users associated with exempting such filers from the Inline XBRL requirements?

• Should we otherwise take a different approach for variable contracts, and if so, what would that be? For example, should we require instead that information be submitted in reports filed on Form N–CEN? Would submission on Form N–CEN ensure that current structured data for all variable contracts, including those operating in the manner that the Staff Letters describe, as discussed in section II.C above, would be available under a common submission framework for all variable contracts? Would such a filing framework provide a less burdensome means of submitting the same structured data to the Commission? What would be the effects on data quality and usability to investors and other data users of having the information available in Form N–CEN's XML format instead of the proposed Inline XBRL format?

• Should variable contract registrants be required to use Inline XBRL to tag the proposed sections of the contract (Key Information Table, Fee Table, Principal Risks of Investing in the Contract, Other Benefits Available Under the Contract, and/or Portfolio Companies [Investment Options] Available Under the Contract) for Forms N–3, N–4, and N–6? Should only one or both Items 19 (Investment Options Under the Contract) and 20 (Additional Information About Investment Options Available Under the Contract) of Form N–3 be required to be tagged? Should other or different information be required to be tagged in Inline XBRL?

• What costs or other burdens (*e.g.,* related to personnel, systems, operations, compliance, etc.) would the proposed Inline XBRL requirements impose on variable contract registrants? Please provide quantitative estimates to the extent available.

• How long is it likely to take for vendors and filers to develop solutions for tagging variable contract submissions in Inline XBRL?

• As outlined in Section II.G below, we are proposing a similar compliance date of 18 months after the effective date of any final rules for the summary prospectus framework for all variable contracts to submit to the Commission the required information in Inline XBRL. Is this period appropriate, or should the requirement to submit the required information in Inline XBRL be subject to a compliance date later than the compliance date for any final rules for the summary prospectus framework? Should we adopt a phase-in schedule for the implementation of Inline XBRL for variable contract registrants based on certain factors, such as registrant size (or otherwise)?

• In the case of post-effective amendment filings made pursuant to paragraphs (b)(1)(i), (ii), (v), and (vii) of rule 485 under the Securities Act, and in the case of registrants on Forms N–4 or N–6, paragraph (b)(1)(vi) of rule 485, should we, as proposed, permit registrants to file the Inline XBRL document concurrently with the related filing? Why or why not? For example, is there a risk that investors may be confused by information that is tagged in Inline XBRL and filed before effectiveness of the related filing? Should we also permit registrants to submit tagged data information concurrently with the related filing in the case of initial registration statements and post-effective amendments made pursuant to other paragraphs of rule 485? Why or why not? Should we instead require that Interactive Data Files only be submitted in a subsequent amendment to the initial registration statement or any post-effective amendment? Why or why not?

• We are not proposing to provide a filing period for registrants to submit the Interactive Data Files. Instead, registrants would be required to submit Interactive Data Files on or prior to the effectiveness of a related initial registration statement or post-effective amendment, or concurrently with the filing of a related form of prospectus pursuant to rule 497. Are there costs or other burdens that may be incurred by filers if there is no filing period? Should we instead provide a filing period, and if so, what is the appropriate time period (*e.g.,* 1 day, 5 days, 10 days, 20 days, 30 days)? In lieu of a filing period that would be available indefinitely, should we instead provide for a filing period that would be available for a temporary transitional period after the effectiveness of any final rules? If so, what should that transitional period be (*e.g.,* the filing period would only be available for two years after effectiveness of any final rules, and thereafter, registrants would submit Interactive Data Files no later than the effectiveness of the related initial registration statement or post-effective amendment, or concurrently with the filing of a related form of prospectus pursuant to rule 497, as under the proposed rules)? If there is a filing period, would investors and other data users find the structured data to be as useful as if it had been as proposed?

• To what extent do investors and other market participants find information that is available a structured format useful for analytical purposes? Is information that is narrative, rather than numerical, useful as an analytical tool? Would investors and other market participants find variable contract information that is available in a structured format useful for analytical purposes? To what ends would they find that information useful?

• Are any other amendments necessary or appropriate to require the submission of the

[621] Proposed 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.

[622] Proposed 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.

[623] Proposed General Instruction C.3.(h)(iii) to Forms N–3, N–4, and N–6.

[624] Proposed rule 485(c)(3).

[625] *See* rule 201 Regulation S–T (temporary hardship exemption) and rule 202 of Regulation S–T (continuing hardship exemption).

proposed required information in Inline XBRL? If so, what are they?

• In what ways might the Commission enhance the access to Inline XBRL data submitted by filers?

• Should we require other types of information to be submitted in the Inline XBRL format? If so, what other types of information would be suitable for the Inline XBRL format and why? Are there other means of embedding structured data into the human-readable format of filings that we should consider?

• Are the proposed hardship exemptions appropriate for variable contract registrants? Do variable contract participants have unique challenges that would impede them from being able to comply with the proposed filing requirements? If so, what are they?

F. Technical and Conforming Amendments to, and Requests for Comment on, Other Aspects of the Regulatory Framework for Variable Contracts

Proposed Conforming Amendments, and Requests for Comment, To Reflect Proposed Rule 498A and Amended Registration Forms

We are proposing conforming amendments to various cross-references in our rules to reflect proposed rule 498A, and the proposed amendments to Forms N–3, N–4, and N–6. These cross-references are reflected in our proposed amendments to: Rules 159A, 421, 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 request comment generally on whether the proposed conforming amendments are appropriate. Should they be modified in any way or are additional conforming amendments needed?

Rescission of Form N–1

We are proposing to rescind Form N–1 under the Securities Act and the Investment Company Act. 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.[626] 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.[627] 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.[628] 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.[629]

We request general comment on rescinding Form N–1 and whether there is any continuing need for the form. In addition, we request specific comment on the following:

• Are there currently any insurance company separate accounts offering variable life insurance contracts that are organized as management investment companies? Do any insurers have a present intention of establishing such a separate account?

• Would any registrants, including any variable annuity or variable life insurance registrants, be affected by the rescission of Form N–1? If so, how?

• If Form N–1 is rescinded, should the Commission prescribe another registration form for use by open-end management investment companies that are separate accounts of insurance companies issuing variable life insurance contracts? If so, should a new form be used for this purpose, or should an existing form be used and what changes should be made to the suggested form to adapt it for this category of registrants? If a new form should be used, what should that form look like?

Proposed Technical Amendments to, and Rescission of, Certain Rules and Forms Governing Variable Life Insurance Contracts and Variable Annuity Contracts

We are proposing certain technical amendments to rules relating to variable life insurance contracts. Rule 6e–2 under the Investment Company Act, which was adopted in 1976, covers variable life insurance contracts having scheduled premium payment plans.[630] Rule 6e–3(T) under the Investment Company Act (together with rule 6e–2, the ''VLI Rules''), which was adopted in 1984, covers variable life insurance contracts offering flexible premium payment plans.[631] Rule 6e–2 was last substantively amended in 1983,[632] and rule 6e–3(T) in 1987.[633]

Some provisions of these rules, specifically the detailed regulation of sales loads and other fees and charges required by sections 26 and 27 of the Investment Company Act, no longer follow statutory requirements as a consequence of amendments to those sections enacted by the National Securities Market Improvement Act of 1996 (''NSMIA'').[634] We are proposing to amend the VLI Rules and other rules under the Investment Company Act, as well as rescind certain other rules and forms under the Investment Company Act, to reflect the effect of these NSMIA amendments.[635]

[626] Form N–1 Amendments, Investment Company Act Release No. 14084 (Aug. 7, 1984) [49 FR 32058 (Aug. 10, 1984)].

[627] Forms N–3 and N–4 Adopting Release, *supra* note 28, at 26156.

[628] 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 28, at 26156. The Commission is not aware of any such variable annuity registrants that continue to use Form N–1.

[629] Based on a review of EDGAR filings, it appears that Form N–1 has not been used in more than 20 years. When Form N–6 was proposed in 1998, the Commission sought comment on whether to rescind Form N–1. Form N–6 Proposing Release, *supra* note 445, at section II.G. One commenter noted that at that time several contracts registered on Form N–1 were still in existence, but not actively marketed. Because of this continuing need for the form, the Commission decided at that time to retain Form N–1. *See* Separate Accounts Offering Variable Life Release, *supra* note 54, at section I.C.

[630] Separate Accounts of Life Insurance Companies Funding Certain Variable Life Insurance Contracts, Investment Company Act Release No. 9482 (Oct. 18, 1976) [41 FR 47023 (Oct. 27, 1976)].

[631] Separate Accounts Funding Flexible Premium Variable Life Insurance Contracts, Investment Company Act Release No. 14234 (Nov. 14, 1984) [49 FR 47208–01 (Dec. 3, 1984)].

[632] *See* Exemptive Relief for Mutual Funds Underlying Variable Life Insurance Separate Accounts, Investment Company Act Release No. 13688 (Dec. 23, 1983) [49 FR 1476–01 (Jan. 12, 1984)]. Among other things, these amendments provided relief to variable life insurance separate accounts, and to portfolio companies underlying those accounts, from minimum capital requirements already being provided by rule 14a–2 under the Investment Company Act to variable annuity separate accounts and to portfolio companies underlying those accounts.

[633] *See* Separate Accounts Funding Flexible Premium Variable Life Insurance Contracts, Investment Company Act Release No. 15651 (Mar. 30, 1987) [52 FR 11187–02 (Apr. 8, 1987)]. These amendments revised the calculation of charges subject at the time to rate regulation under section 27 of the Investment Company Act.

In 2002, the Commission issued a release making technical amendments to the VLI Rules, among others, to correct statutory references in those rules following the enactment of then recent legislation affecting those statutes. *See* Technical Amendments to Rules and Forms Due to the National Securities Markets Improvement Act of 1996 and the Gramm-Leach-Bliley Act, Investment Company Act Release No. 25621 (June 24, 2002) [67 FR 43534–01 (July 8, 2002)].

[634] National Securities Market Improvement Act of 1996 (Pub. L. 104–290, 110 Stat. 3416 (1996). In particular, NSMIA amended sections 26 and 27 of the Investment Company Act to replace specific limits on the amount, type, and timing of charges applicable to variable life insurance contracts with a requirement that fees and charges be reasonable when considered in the aggregate.

[635] In addition to the VLI Rules, we are proposing technical amendments to rules 0–1, 6c–7, 6c–8, 11a–2, 14a–2, 26a–1, and 27c–1 under the Investment Company Act. Rule 27c–1, relating to the redeemability of variable contracts, would be 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. We are also proposing to make permanent temporary rule 6e–3(T) under the Investment Company Act, which would be renamed rule 6e–3.

As part of these technical amendments, we are proposing to rescind rules 26a–2, 27a–1, 27a–2, 27a–3, 27d–2, 27g–1, and 27h–1 under the

Among other things, these amendments would remove the detailed rate regulatory provisions in the VLI Rules and other rules and forms under the Investment Company Act. In addition, these technical amendments would remove the detailed definitions of sales charges in those rules, as these definitions are not necessary to implement the reasonableness in the aggregate standard instituted by NSMIA. These amendments would also remove the numerical load limit on front end sales loads on variable annuities that had been included in rule 11a–2 when it was adopted in 1983—before NSMIA had been enacted—to incorporate the load limit in section 27(a), and make appropriate cross-referencing revisions to related rules. Separate from sales charge related changes, these amendments would additionally remove certain minimum capital conditions for insurers to qualify for exemptions from section 14(a) of the Investment Company Act, since NSMIA amended section 26 to mandate that any insurer serving as a separate account depositor have that level of minimum capital.[636]

We seek comment on our proposed technical amendments to the VLI Rules, and proposed technical amendments and rescission of other rules and forms under the Investment Company Act intended to reflect the effect of the NSMIA amendments. Specifically:

- Should we adopt the technical amendments to the VLI Rules and other rules as proposed? Are other amendments necessary to reflect the effect of the NSMIA amendments?
- We are proposing to rescind rules 26a–2, 27a–1, 27a–2, 27a–3, 27d–2, 27g–1, and 27h–1, and related Forms N–27I–1 and N–27I–2, because these rules and forms were rendered moot as a result of the NSMIA amendments. Should we rescind these rules and forms as proposed, or are these rules and forms still necessary despite the NSMIA amendments?

Rescission of Rules 27e–1 and 27f–1 and Related Forms

We also propose to rescind rules 27e–1 and 27f–1 under the Investment Company Act and related Forms N–27E–1 and N–27F–1. 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 proposing to rescind these rules and forms because since 2006, section 27(j) of the Investment Company Act has barred new certificate issuances,[637] and notice rights of holders of certificates issued before then have long since expired.

We request comment generally on our proposal to rescind rules 27e–1 and 27f–1 and related Forms N–27E–1 and N–27F–1, and specifically on the following issues:

- Are any periodic payment plans currently outstanding? If so, how many?
- Would any outstanding periodic payment plans be affected if we rescind the rules and forms as proposed? If so, how would they be affected?
- In lieu of rescinding these rules and forms, should we modify them in any way?

General Request for Comment on VLI Rules

Finally, we are considering whether it would be appropriate to update other provisions of the VLI Rules. Certain provisions of the VLI Rules, such as exemptions allowing insurers, under certain circumstances, to disregard voting instructions on matters submitted to policy holders in compliance with sections 13 and 15 of the Investment Company Act, may not be necessary.[638] In addition, it may be appropriate to update other provisions of the VLI Rules, such as the exemptions provided to insurance companies and affiliated persons from section 9(a) of the Investment Company Act, to reflect industry experience with the operation of those rules.[639] We request general comment on the continued utility of the exemptions the VLI Rules provide and the extent to which those rules should be harmonized with the regulation of variable annuity issuers and of other investment companies. We also request specific comment on the following:

- To what extent are issuers of variable life insurance contracts relying on the exemptions and other conditions of the VLI Rules? For example, do insurers rely on the exemptions to disregard voting instructions?
- To what extent, if any, should limits in the VLI Rules on the parties to whom portfolio company shares underlying UIT separate accounts may be sold, or the conditions under which they may be sold, be changed?
- To what extent, if any, should the minimum capital requirement imposed by NSMIA on separate accounts offering variable insurance contracts, and on insurers sponsoring those accounts, be changed?
- In light of NSMIA's replacement of specific limits on sales charges and administrative expenses with a reasonableness standard for all fees and charges in the aggregate, would it be appropriate to consider any limitations on deferred sales loads to address concerns that those loads might present a burden on redemption? For example, how should those concerns be reflected in rule 6c–8 under the Investment Company Act governing deferred sales loads on variable annuity contracts?
- The VLI Rules provide an exemption from the redeemability provisions of the Investment Company Act generally for ''established administrative procedures of the life insurer'' relating to, among others, issuance, transfer, and redemptions of variable life insurance contracts. What procedures have developed since the rules were adopted for which an exemption is appropriate?
- Should the VLI Rules be amended to eliminate exemptions for managed separate

Investment Company Act. We are also proposing to rescind Forms N–27I–1 and N–27I–2 under the Investment Company Act.

[636] Section 14(a) requires that registered investment companies have at least $100,000 in net worth. Under the VLI Rules, managed separate accounts and portfolio companies that are established by an insurer and are sold only to variable life insurance contract investors are exempt from the requirement if the insurer has at least $1,000,000 in combined capital and surplus (or unassigned surplus in the case of a mutual life insurer). *See* rules 6e–2(b)(6), 6e–2(b)(15)(v), 6e–3(T)(b)(6), and 6e–3(T)(b)(15)(iv) under the Investment Company Act. Section 26(f)(2)(B), enacted by NSMIA, prohibits any insurance separate account (or the depositor insurer) from selling any variable contract unless, among other things, the insurer has at least that amount in combined capital and surplus (or unassigned surplus in the case of a mutual life insurer).

The $1,000,000 requirement in section 26(f)(2)(B) is a condition required for sales of both variable life insurance contracts and variable annuity contracts. Accordingly, in addition to proposing this amendment to the VLI Rules, we are also proposing a conforming amendment to rule 14a–2 under the Investment Company Act, which has a similar minimum capital condition applicable to depositors of separate accounts offering variable annuities to qualify for a similar exemption from section 14(a).

[637] Section 27(j) was enacted into law by the Military Personnel Financial Services Protection Act (Pub. L. 109–290, 120 Stat. 127) (2006).

[638] In the release proposing rule 6e–2, the Commission stated that these exemptions were proposed ''to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer.'' Notice of Proposal to Adopt Rule 6e–2 under the Investment Company Act of 1940 Relating to Separate Accounts Formed by Life Insurance Companies to Fund Certain Variable Life Insurance Contracts, Investment Company Act Release No. 9104 (Dec. 30, 1975) [41 FR 2256 (Jan. 15, 1976)], at 10–11. Since the adoption of rule 6e–2 over forty years ago, however, we are not aware of an instance where an insurer relied on these exemptions to disregard investors' voting instructions.

[639] As to section 9(a), the language in the rules provides exemptions in circumstances for which no instance of reliance could be identified. For example, the rules conditionally allow separate account depositors employing an ineligible person to serve as an adviser or underwriter of an underlying fund, but depositors generally do not themselves serve in those roles. *See* rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) under the Investment Company Act. More broadly, many of the provisions in the VLI Rules cover exemptions provided to registered managed separate accounts, but there have been no filings by those accounts issuing variable life insurance contracts at least since EDGAR filings became mandatory for all filers in 1996.

accounts? Should they be combined into a single rule relating to all variable life insurance contracts, or instead framed as separate exemptions from one or more provisions of the Investment Company Act or rules that would apply both to variable annuity and variable life insurance contracts?

• Should the VLI Rules be amended in any other manner to reflect current legal requirements and industry practice, and if so, how?

G. Compliance Date

The Commission proposes 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. We would require 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 18 months or more after the effective date, to comply with the proposed amendments. 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 provided that the registrant is also in compliance with the amendments to Forms N–3, N–4, or N–6 (as applicable). We would also require variable contract registrants to submit to the Commission certain specified disclosures in Inline XBRL within the same 18-month compliance period. Further, our position with respect to Alternative Disclosure Contracts and/or any final rules associated with discontinued contracts would come into effect as of the effective date of rule 498A.

We request comment on the proposed compliance date, including whether the compliance date for using Inline XBRL to file certain specified disclosures should be different (if so, why), and whether the Commission should adopt a transition period after the effective date of the amendments for its position with respect to Alternative Disclosure Contracts if a summary prospectus framework is adopted.

III. Economic Analysis

A. Introduction

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 proposed rule, including the benefits and costs to investors and other market participants as well as the broader implications of the proposal for efficiency, competition, and capital formation.

The proposed rule allows insurers to satisfy prospectus delivery requirements for variable contracts by providing investors with a summary prospectus while making statutory prospectuses and other documents available online. The proposed approach 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 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 proposed rule would permit satisfaction of any portfolio company prospectus delivery obligations if, among other conditions, the portfolio company summary and statutory prospectuses are posted at the website address specified on the variable contract summary prospectus.

We are also proposing to amend the registration forms for variable contracts to update and enhance the disclosure regime for these investment products. Additionally, we are proposing to require registrants to use Inline XBRL when filing certain disclosures contained in the contract statutory prospectus with the Commission. Finally, if the proposed summary prospectus framework is adopted, the Commission would take the position that if an issuer of an existing contract does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, under certain circumstances, this would not provide a basis for enforcement action so long as investors receive certain alternative disclosures (the Commission's position on ''Alternative Disclosure Contracts,'' as discussed above [640]).[641]

We note that, where possible, we have attempted to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from the proposed rule. In some cases, however, we are unable to quantify the economic effects because 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.[642] Similarly, summary

[640] *See supra* section II.C. Under the Commission's position, the Commission would permit ''Alternative Disclosure Contracts,'' *i.e.,* contracts operating in the manner described in the Staff Letters discussed in section II.C *supra* as of the effective date of any final summary prospectus rules, to continue to operate in such manner. For all other contracts, the Commission's position would not be applicable, and therefore 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.

[641] As noted above, the Commission is proposing certain technical and conforming amendments. With respect to those intended to reflect proposed 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 proposed rule 498A and the proposed amendments to the registration forms. In addition, we do not believe there are any economic effects of the proposed technical amendments regarding certain variable life insurance rules, since market participants have already adjusted to the changes enacted by NSMIA that the amendments would reflect in the rules. Similarly, we do not believe there are any economic effects of the proposed 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.

[642] 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

prospectuses could reduce the amount of time and effort investors require making an investment decision. 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 the value of that time and effort to investors.[643] In those circumstances in which we do not have the requisite data to assess the impact of the proposal quantitatively, we have qualitatively analyzed the economic impact of the proposed rule.

B. Economic Baseline

We are concerned that the volume, format, and content of disclosures in the variable contract context may make it difficult for investors to find and understand key information that they may want to make an informed investment decision. Section III.B.1 below provides an overview of the variable products market, including discussion of total assets, sales, organizational structures, and investor demographics. Our view of this market is based on statistics that describe the variable annuity market because we have not identified a reliable data source of information on the variable life insurance market. We invite commenters to provide data to assist us in forming a more complete understanding of the variable life insurance portion of the overall variable products market. Section III.B.2 provides an overview of existing statutory and regulatory disclosure requirements for variable products.

1. Overview of Variable Products Market

In 2017 there were a total of 2,327 unique variable annuity products offered by a total of 33 companies.[644] The average number of portfolio companies offered per registered contract was 59.[645] The total number of variable annuity contracts in force was 18.7 million, with an average individual contract value of $106,187.[646] Net assets totaled $1,985.7 billion.[647]

Also in 2017, variable annuity sales totaled $91.8 billion.[648] Of the total sales, $59.3 billion (65% of total sales) were to qualified plans and $32.5 billion (35%) were to non-qualified plans.[649] Investors purchased variable annuities across various distribution channels—captive agents, $34.6 billion (38% of total sales); independent financial planners/NASD firms, $33.4 billion (36%); banks/credit unions, $8.7 billion (10%); wirehouses/regional broker-dealers, $12.0 billion (13%); and direct response, $3.1 billion (3%).[650]

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. Separate accounts may be registered as management companies or UITs. As of the end of calendar year 2017, there were five separate accounts registered as management companies and 723 structured as UITs.[651]

Eighty-six percent of individual annuity investors purchased their first annuity before age 65, including 47% who were between the ages of 50 and 64 years old.[652] The average age of investors at first purchase of an annuity is 51.[653] The average current age of annuity investors is 70.[654] Eighty percent of individual annuity investor households have incomes under $100,000.[655] Sixty percent of household incomes are below $75,000, and 35% are below $50,000.[656]

2. Statutory and Regulatory Disclosure Requirements

Currently, the default method for delivering the variable contract prospectus and the underlying portfolio company prospectuses is by printing and mailing paper copies of the 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.[657] 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% of contract owners have affirmatively consented to electronic delivery.[658] Another industry source estimated in a 2016 report that approximately 5% of annuity investors had opted for electronic delivery at that time.[659] Based on these estimates, and with consideration for the general increase in electronic delivery rates over time demonstrated in other investment products,[660] we estimate that currently

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 would actually be more likely to read a variable contract summary prospectus relative to a statutory prospectus.

[643] *Id.* The survey results do not provide data on the extent to which a variable contract summary prospectus would actually reduce the amount of time and effort required to make an investment decision using summary prospectuses rather than statutory prospectuses.

[644] IRI Fact Book, *supra* note 8, at 170.

[645] *Id.*

[646] *Id.*

[647] *Id.*

[648] *Id.* at 167.

[649] *Id.*

[650] *Id.* at 169. The IRI Fact Book defines (1) a ''captive agent'' as a career or general agent who typically only sells products issued by an affiliated company, (2) ''independent financial planners/NASD firms'' as independent firms not affiliated with major national banks, regional banks, or captive firms, and (3) wirehouses as large, national full service firms. Under direct response, the investor purchases directly without relying on a third party. *See* Lee Covington, ''The Impact of Third-Party Distribution Channels,'' presented at the National Association of Insurance Commissioners and the Center for Insurance Policy and Research State of the Life Insurance Industry Symposium on October 25, 2012, available at *http://irionline.org/docs/default-source/default-document-library/the-impact-of-third-party-distribution-channels-.pdf?sfvrsn=0*).

[651] Of the 723 separate accounts organized as UITs, 435 were variable annuity separate accounts and 288 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.

[652] Gallup Survey, *supra* note 9, at 8.

[653] *Id.*

[654] *Id.*

[655] *Id.* at 8 and 9.

[656] *Id.* at 9. Also, according the U.S. Census Bureau, in 2016 72% of households had incomes of less than $100,000, 60% had incomes of less than $75,000, and 43% had incomes of less than $50,000. *See* U.S. Census Bureau, U.S. Income and Poverty in the United States: 2016 (Sept. 2017), available at *https://www.census.gov/data/tables/2017/demo/income-poverty/p60-259.html.*

[657] 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.

[658] Comment Letter of the Committee of Annuity Insurers on Proposed Rule 30e–3 (Jul. 22, 2016), available at *https://www.sec.gov/comments/s7-08-15/s70815-612.pdf.*

[659] *See* Broadridge, *Digital Transformation of Insurance Communications* (2016), *available at https://www.broadridge.com/_assets/pdf/digital-transformation-ins-comm.pdf.*

[660] *See, e.g.,* Memorandum from the Division of Investment Management re: Meeting with Broadridge (Sept. 27, 2017) (including attachments

Continued

15% of variable contract statutory prospectuses and portfolio company summary prospectuses are delivered electronically.[661]

As discussed in section II.C 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 sending alternative disclosures to investors. We estimate that as of the end of calendar year 2017, approximately 14% of existing variable annuity contracts had issuers that were operating in the manner that the Staff Letters describe (hereinafter, we refer to contracts whose issuers are currently operating in the manner that the Staff Letters describe as ''In-Force Alternative Disclosure Contracts'').[662]

C. Benefits and Costs of the Proposed Rule

1. Optional Summary Prospectus Regime

The proposed rule would create a choice for insurers. They 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 statutory prospectuses and other required documents available online. Those insurers that expect to benefit by providing summary prospectuses will choose to rely on the proposed rule to meet their prospectus delivery obligations.[663] Those insurers that do not expect to benefit from this optional prospectus delivery regime will choose to continue to provide statutory prospectuses to investors.[664]

If insurers choose to meet their prospectus delivery obligations by delivering summary prospectuses to investors, with other documents available online, investors will then have a choice as well. Under the layered disclosure framework we are proposing, investors will receive information in the form of a summary prospectus, with more detailed information available online if the investor chooses to access it. Thus, investors can 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 proposed contract summary prospectus regime and associated new optional delivery method for portfolio company prospectuses.

a. Benefits and Costs for Investors

i. Proposed 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.[665] Variable contract prospectuses (particularly those that include optional benefits) are typically lengthy and complex, 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 a range of 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.

First, investors are likely to benefit from the simplification of disclosure associated with initial summary prospectuses. 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 can hinder investors from distinguishing between contract features and options that apply to them and those that do not.[666]

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,

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).

[661] 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.

[662] Of the 1,021 variable annuity registration statements on file, 521 registration statements appear to be for In-Force Alternative Disclosure Contracts. Of the 521, we understand that 517 are for contracts whose issuers are operating in the manner described in letters in which the staff stated that a circumstance associated with its determination not to recommend enforcement action was that the relevant registration statement have 5,000 or fewer existing investors. We understand that the remaining four registration statements are for contracts whose issuers are operating in the manner described in letters in which the number of existing investors described by the staff was greater than 5,000. While there is no data in the registration statements regarding the number of current investors, we assume that registrants are operating in the manner described in the Staff Letters entailing circumstances in which a contract has 5,000 or fewer investors. As a result, we estimate that these 517 registration statements represent a maximum of 2.59 million investors. Staff estimates that the remaining four registration statements represent at most 90,542 investors. *See supra* footnote 366. As a result, we estimate that up to 2.68 million investors may hold In-Force Alternative Disclosure Contracts (14% of the total number of contracts). Because we lack reliable data on the variable life insurance market, we have not estimated the proportion of existing variable insurance contracts that are In-Force Alternative Disclosure Contracts.

[663] 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.

[664] 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 would take any such competitive effects into account when assessing the costs of using summary prospectuses.

[665] 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 would, under the proposed 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.

[666] Existing research notes that individuals exhibit limited ability to absorb and process information. *See* Nisbett RE & Ross L. Human Inference: Strategies and Shortcomings of Social Judgment (1980); David Hirshleifer & Siew Hong Teoh, Limited attention, information disclosure, and financial reporting, Journal of Accounting and Economics 36, 337–386 (Dec. 2003).

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.

In contrast, the proposed initial summary prospectus would be limited to describing only the contract and features currently available under the statutory prospectus. We believe this narrower focus could 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.

Moreover, the initial summary prospectus is designed to provide investors with key information relating to the contract's key terms, benefits, and risks. The overview would describe the parties to the contract (the issuer and investor), and provide readers with basic information relevant to the cash flows of the contract, such as premium payments and benefits. Further, 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,[667] including: (1) Fees, including surrender charges; (2) risk of loss of principal and/or lack of guarantees of income; (3) illiquidity prior to the pay-out period; (4) tax consequences; (5) death benefits; and (6) compensation of investment professionals.[668]

Later sections of the initial summary prospectus would provide investors more detailed information about the cash flows related to contract purchase. One section would provide 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. Finally, 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. This basic information about cash flows would help investors value a variable contract and determine whether the contract would help them meet their financial goals. Taken together, the concise content provided in the initial summary prospectus could facilitate investors' evaluation and comparison of contracts at the time of investment and re-evaluation of contracts during the free look period. This could reduce the risk of inappropriate investments in variable contracts or inefficient matching of investors to variable contracts.

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.[669] Within the specific context of investing, there is evidence from related 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.[670] 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.[671]

Further, investors allocate their attention selectively,[672] 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).[673] The observations of a telephone survey conducted on behalf of the Commission with respect to mutual fund statutory prospectuses (which are typically shorter than variable contract statutory prospectuses) are consistent with the view that the volume of disclosure may discourage investors from reading statutory prospectuses.[674] 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.[675]

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

[667] *See supra* note 105.

[668] *See supra* section II.A.1.c.ii(b). The Commission's Office of Investor Education and Advocacy offers online resources designed to enhance investor understanding of variable contract investments. *See, e.g., https://www.investor.gov/additional-resources/news-alerts/alerts-bulletins/investor-bulletin-variable-annuities%E2%80%94-introduction.*

[669] There is evidence that the summarization of key information is useful to consumers. *See, e.g.,* Agarwal S, Chomsisengphet S, Mahoney N, Stroebel J., *Regulating consumer financial products: Evidence from credit cards,* NBER Working Paper 19484 (2013). The authors find that a series of requirements in the CARD Act, including provisions designed to promote simplified disclosure, has produced decreases in both over-limit and late fees, saving US credit card users $20.8 billion annually; *see also* Clark R, Maki J, Morrill M.S., *Can simple informational nudges increase employee participation in a 401(k) plan?,* NBER 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.

[670] Beshears Paper, *supra* note 43. 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 . . .'' (p. 13).

[671] *See* 2012 Financial Literacy Study, *supra* note 39.

[672] *See* Loewenstein, George, Cass R. Sunstein, and Russell Golman, *Disclosure Psychology Changes Everything,* 6 Annual Review of Economics 391–419 (2014).

[673] *See supra* note 344.

[674] *See supra* note 642.

[675] Review of the complaints database maintained by the Commission's Office of Investor Advocacy and Education 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.

allocation of funds across underlying portfolio companies.[676]

We note that these benefits are potentially magnified given the demographic profile of variable contract investors. The average age of annuity investors is 70.[677] 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.[678] To the extent that summary prospectuses 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.[679]

The presentation proposed for 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.[680] For example, the proposed rule requires insurers to distill certain key product information into tables, which could facilitate comparison across different products. The effect of the proposed initial 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.[681]

Additionally, the proposed framework for variable contract summary and statutory prospectuses also includes design elements to facilitate investor use. In particular the proposed rule includes requirements for linking both within the electronic version of a contract statutory prospectus and between the electronic versions of the contract statutory prospectus and the contract summary prospectus. The linking requirement would permit investors who use the electronic versions of contract prospectuses to quickly navigate between related sections within the contract statutory prospectus and back and forth between related sections of the contract summary prospectus and the contract statutory prospectus.[682] Further, the proposed rule would also require 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 the summary prospectus includes. This requirement would facilitate understanding of terms that may be confusing or unfamiliar among investors viewing the documents online.

Finally, the proposed rule would additionally require 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 used by most portfolio companies. 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 proposed 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 large amounts 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 proposed rule, the updating summary prospectus would include a concise description of important changes affecting the statutory prospectus disclosure relating to certain topics that occurred within the prior year—namely the Fee Table, the standard death benefit, other benefits available under the contract, and portfolio companies available under the contract. We believe that these are topics that are most likely to entail contract changes and, for the reasons previously noted, are the types of contract changes most likely to be important to investors because they affect how investors evaluate variable contracts and are relevant to investors when making additional investment decisions or otherwise monitoring their contract. The proposed 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 foregoing the repetition of most information that had remained unchanged.[683]

[676] *See* Paredes, Troy A., *Blinded by the light: Information overload and its consequences for securities regulation,* 81 Wash. U. Law Rev. 417 (2003).

[677] *See supra* note 652.

[678] *See e.g.,* Schroeder, David H., and Timothy A. Salthouse, ''Age-related effects on cognition between 20 and 50 years of age,'' *Personality and individual differences* 36.2 (2004): 393–404; Salthouse, Timothy A., ''Aging and measures of processing speed,'' *Biological psychology* 54.1–3 (2000): 35–54; Fair, Ray C., ''How Fast Do Old Men Slow Down?'' *The Review of Economics and Statistics* (1994): 103–118; Ulman Lindberger and Paul B. Baltes, ''Sensory functioning and intelligence in old age: A strong correlation,'' Psychology and Aging, 9 (1994): 339–355; Ulman Lindberger and Paul B. Baltes, ''Intellectual functioning in old and very old age: Cross-sectional results from the Berlin Aging Study,'' Psychology and Aging, 12, (1997): 410–432; 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 and Doug Shadel, ''AARP Foundation National Fraud Victim Study'', (2011).

[679] 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.

[680] 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.,* Hsee C.K., Loewenstein G.F., Blount S, Bazerman M.H., *Preference reversals between joint and separate evaluations of options: A review and theoretical analysis,* 125 Psychological Bulletin 576–90 (1999); *see also* Kling J.R., Mullainathan S., Shafir E., Vermeulen L.C., Wrobel M.V., *Comparison friction: Experimental evidence from Medicare drug plans,* 127 Quarterly Journal of Economics 199–235 (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% in the intervention group, but only 17% in the comparison group, and the intervention caused an average decline in predicted consumer cost of about $100 a year among letter recipients.

[681] However, we expect the proposed requirement to file certain information from variable contract statutory prospectuses in Inline XBRL would facilitate data collection by third-party aggregators and the trade press as well as facilitate investors' comparison of variable products. *See infra* section III.C.4.

[682] In response to a recent rulemaking proposal 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 Item 601 of Regulation S–K or under Form F–10 or Form 20–F, commenters agreed 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 (March 1, 2017) [82 FR 14130 (March 17, 2017)] at nn.85 and 86.

[683] Unlike with the initial summary prospectus, the proposed rule permits insurers to describe multiple contracts in the updating summary

The updating summary prospectus also would include the Key Information Table. The inclusion of this key information could benefit investors by reminding them of the most important features of the contract, including the contract's fees and expenses, risks, restrictions, tax implications, and investment professional compensation. Finally, the updating summary prospectus would include an appendix that 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 reminding them of 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

While we believe that, should insurers opt to use summary prospectuses, the majority of investors would benefit from their disclosures, certain investors may incur costs. For example, although research indicates that investors generally prefer to receive summary disclosures [684] there may be investors who prefer to rely on statutory prospectuses when making investment decisions. While statutory prospectuses will continue to 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 will need to manually enter a hyperlink from a paper updating summary prospectus or click on a link to a website containing the statutory prospectus.[685] 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.[686] Even for those investors with home internet access, there may be some resistance to taking the additional step of accessing the statutory prospectus online.

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 [687]), would not be able to elect paper delivery of statutory prospectuses on a going-forward basis. Rather, they would 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 their preferred format and ultimately receiving less information than they would like about their contract.[688] 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.

ii. Proposed Approach to Portfolio Company Prospectus Delivery

As described in section III.C.1.b below, we anticipate that the new optional delivery method for portfolio company prospectuses will result in cost savings from reduced printing and mailing expenses. To the extent that a portfolio company bears the printing and mailing expenses associated with portfolio company prospectuses, we expect that the reductions would 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 would 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.[689]

While we believe that the proposed framework may benefit investors through reduced costs, certain investors may incur additional costs. While the portfolio company prospectuses will be available online and in paper or

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 would 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 would 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 proposed 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.

[684] *See supra* note 671.

[685] Investors may also call or email the insurer to obtain the statutory prospectus.

[686] According to the most recent U.S. census data, approximately 77.2% of U.S. households had some form of internet access in their home in 2015, and 86.8% had a computer (*e.g.,* desktop, laptop, tablet or smartphone). *See* Camille Ryan & Jamie M. Lewis, *Computer and internet Usage in the United States: 2015* (Sept. 2017), available at *https://www.census.gov/content/dam/Census/library/publications/2017/acs/acs-37.pdf; see also* Sarah Holden, Daniel Schrass & Michael Bogdan, *Ownership of Mutual Funds, Shareholder Sentiment, and Use of the internet, 2017* (Oct. 2017), available at *https://www.ici.org/pdf/per23-07.pdf* (''[i]n mid-2017, 95 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 mid-2017''); 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).

[687] *See supra* section II.A.4.

[688] This outcome is suggested by research which finds that investors can experience a ''status quo bias.'' *See, e.g.,* Richard H. Thaler and Shlomo Bernatzi, *Save More Tomorrow™: Using Behavioral Economics to Increase Employee Saving,* 112:1 Journal of Political Economy, S164–S187 (2004); Richard H. Thaler and Cass R. Sunstein, *Libertarian Paternalism,* 93:2 The American Economic Review 175–179 (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.

[689] 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 note that we expect the benefit in terms of lower pricing of variable contracts would be small. We estimate the cost saving, per prospectus mailed, for the underlying portfolio company prospectuses to be $0.18. *See supra* note 700. The average value of a variable contract investor's investment is $106,187.

electronically upon request on an ad hoc basis, investors may experience additional burdens when accessing the prospectuses. As with the proposed 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 prospectuses would be required to request paper delivery of those prospectuses on an ad hoc basis which could, in turn, delay investor review of those prospectuses.[690] Further, to the extent that investors prefer paper copies of prospectuses, but do not request a paper copy or access the document online, there would be no investor review of those prospectuses.

b. Benefits and Costs for Insurers

i. Proposed 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 proposed 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.

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 foregoing the printing and mailing costs. Accordingly, to estimate the potential cost reduction associated with the proposed rule, as noted above, we assume that 15% of the contract investors currently elect electronic delivery of the statutory prospectus both at sale, and annually thereafter.[691] Moreover, we assume that at least 15% of variable contract investors will continue to elect electronic delivery going forward.

To estimate the overall impact of the proposed rules 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 95% of contracts[692] that do not operate in the manner that the Staff Letters describe.[693]
- Issuers of In-Force Alternative Disclosure Contracts provide alternative disclosures in lieu of statutory prospectuses.[694] Based on staff analysis, 54% of variable contract registration statements are for In-Force Alternative Disclosure Contracts, and these registration statements apply to up to 14% of variable annuity contracts.[695] We further assume that each investor in an In-Force Alternative Disclosure Contract owns exactly one policy issued under a registration statement for an In-Force Alternative Disclosure Contract.
- We assume 15% of investors elect electronic delivery of prospectuses.

Together with the baseline estimate of 18.7 million contracts in force at the end of 2017, these assumptions imply that insurers would no longer send approximately 13 million statutory prospectuses each year.[696]

Next, we estimate the number of statutory prospectuses that would no longer be provided to investors in paper in connection with new contract purchases. In 2017, there were 18.7 million contracts in force.[697] Total sales of variable annuity contracts for 2017 were $91.8 billion. Assuming that the average size of each variable contract sold in 2017 is similar to the average size of all variable contracts in force, we estimate the number of new contracts sold in 2017 was 865,000 contracts. Based on these estimates, we further estimate that among investors who elect to receive paper copies of prospectuses, the proposed new option to use a summary prospectus would be applied

[690] As we discuss in section II.B.2 above, 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 would continue under the proposed framework, and that sales agents would 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 proposal to yield lower costs and higher benefits for investors.

[691] We lack verifiable data on current electronic delivery election rates among variable contract investors but are estimating 15% 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 656, 659, and 660. 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 proposed amendments would 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 proposed amendments would be lower than estimated here.

[692] 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 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 proposed layered disclosure framework for variable contracts is not identical to the corresponding framework for mutual funds and the creation of initial and updated 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% of mutual funds have adopted layered disclosure with summary prospectuses, and our anticipation that the proposed rule will provide costs savings to insurers, we believe it is appropriate to assume that 95% of insurers will choose delivery of summary prospectuses.

[693] *See supra* note 364 and accompanying text.

[694] *See supra* note 374 and accompanying text.

[695] *See supra* note 662.

[696] $18.7 \text{ million} \times (1 - 14\%) \times 95\% \times (1 - 15\%) = 13.0 \text{ million contracts}$.

[697] *See supra* section III.B.1.

to 13 million existing contracts and 698,000 new contracts annually.[698]

We next estimate the cost difference, per prospectus, of sending summary prospectuses (initial summary prospectuses, as well as updating prospectuses) rather than statutory prospectuses.[699] We estimate that printing and mailing expenses for statutory prospectuses are $0.53 per statutory prospectus.[700] We estimate that printing and mailing expenses for initial summary prospectuses and updating summary prospectuses are $0.35.[701] Assuming the 2017 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 would decline by up to $108,180 and $2,340,000,[702] respectively, for aggregate cost savings of approximately $2,465,640.[703]

As noted earlier in this section, another key component of costs that insurer will consider when determining whether to provide summary prospectuses under the proposed rules is the cost of producing the initial and updating summary prospectuses. Insurers choosing to provide summary prospectuses would 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 versions of both documents in the future on at least an annual basis.[704] We estimate the aggregate cost to prepare initial and updating summary prospectuses to be $4,908,960.[705]

Insurers that choose to provide summary prospectuses are required to make statutory prospectuses and other materials available online.[706] We estimate the aggregate cost to comply with the proposed website posting requirements of the rule for documents relating to variable contracts to be $329,581.[707]

Insurers are also required to include inter- and intra-document linking and special terms definitions. One linking requirement would 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 would correspond with the item requirements of the forms. We estimate that Form N–3 filers would require 33 back-and-forth internal links, Form N–4 filers would require 27, and Form N–6 would require 28. The other linking requirement would 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 in the statutory prospectus or SAI. For our analysis, we assume direct links as those 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 eight sections and an initial summary prospectus for a Form N–6 registrant includes nine sections. However, the Key Information Table has instructions stating that, wherever feasible, a registrant should provide cross-references or links to the location in the statutory prospectus where the subject matter is described in greater detail. There are 11 sections of the Key Information Table. Therefore, we estimate that there would be 18 back-and-forth links between Form N–3 and Form N–4 registrant initial summary prospectuses and statutory prospectuses, and 19 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 11 sections. One section is the ''Updated Information About Your Contract'' section. The number of links in this section would 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 16.

The proposed rule would 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

[698] *See supra* note 696. The number of new contracts falling within the proposed regime is calculated as: 865,000 contracts × (1 − 0.15) × 0.95 = 698,488 contracts.

[699] 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 29. As a result, we assume updating prospectuses would be delivered annually.

[700] In response to the Investment Company Reporting Modernization rulemaking proposal in which we solicited information with respect to the cost of printing and mailing investment company shareholder reports, a commenter estimated that the cost of printing and mailing the reports to be $0.53. *See* Comment Letter of Broadridge Financial Solutions, Inc. on Investment Company Reporting Modernization, File No. S7–08–15 (Aug. 11, 2015) (''Broadridge Comment Letter''). Although those documents are different from documents at issue here, we do not have specific data regarding how the cost of printing and mailing those two sets of documents would differ. We inferred the $0.53 estimate from Broadridge's estimates as follows. Broadridge estimates total savings from using summary reports to be $130 million and savings per report to be $0.18. We use these two numbers to infer the total number of reports used in calculations to be approximately 722 million. Broadridge also estimates the total cost (FY18 estimate) of printing and mailing shareholder reports to be $382 million. Therefore, we infer the cost, per report, to be $0.53 (= 382/722).

[701] Broadridge Comment Letter. The commenter estimates summary reports are $0.18 cheaper to print and mail. $0.53 − $0.18 = $0.35. Although initial summary prospectuses and updating summary prospectuses are different documents, we do not have specific data regarding how the cost of printing and mailing those two documents would be different. Therefore, we infer the cost, per summary prospectus to be $0.35.

[702] Calculated as $0.18 × 13 million = $2,340,000 for updating summary prospectuses, and $0.18 × 698,000 = $125,640 for initial summary prospectuses. These calculations assume investors do not make ad hoc requests for paper prospectus delivery. As a corollary, insurers that choose to deliver initial summary prospectuses and updating summary prospectuses would incur delivery costs of approximately $4,550,000 for updating summary prospectus delivery, calculated as $0.35 × 13 million, and $244,300 for initial summary prospectus delivery, calculated as $0.35 × 698,000.

[703] Calculated as $2,340,000 + $125,640 = $2,465,640.

[704] 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.

[705] *See infra* note 842.

[706] 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 proposed rule harmonizes certain requirements, this could create efficiencies for contracts organized as UITs.

[707] *See infra* note 848.

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 would 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 proposed requirement to include inter- and intra-document linking and special terms definitions as described above would include 4,138 burden hours and a cost of $552,000 annually.[708]

Finally, funds 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 would be $500 per registrant.[709] We estimate that the aggregate annual costs associated with printing and mailing statutory prospectuses will be $344,850.[710]

ii. Proposed Approach to Portfolio Company Prospectus Delivery

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.[711] 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 would typically be passed along to investors.

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% of investors currently receive paper copies of these documents.[712]

We estimate that printing and mailing expenses for summary prospectuses for underlying portfolio companies to be $0.53 per set of prospectuses.[713] Assuming the 2017 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, would decline by at least $6,890,000,[714] for aggregate cost savings of at least $7,260,000.[715] 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 proposed rule. We estimate the cost of making underlying portfolio summary prospectuses available online to be $478 per registrant.[716] In 2017, there were a total of 721 N–4 and N–6 registrants.[717] Therefore, we estimate the aggregate cost of making the underlying portfolio company summary prospectus, statutory prospectus, SAI, and most recent shareholder reports available online under the conditions set forth in the proposed rule to be $345,000.[718]

Funds may incur costs in connection with the requirement to provide summary prospectuses for underlying portfolio investments upon request of an investor. We estimate that the annual cost associated with printing and mailing these prospectuses would be $500 per registrant.[719] We estimate that the aggregate annual costs associated with printing and mailing portfolio

[708] 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 682. We estimated the burden of including hyperlinks to be between one and four hours with 75% of the burden carried by the registrant internally and 25% 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% of the burden carried by the registrant internally and 25% of the burden carried by outside professionals at an average cost of $400 per hour. We estimate the total burden hours to be 5,518 = (726 registrants) × (95% relying on rule) × (8 burden hours per registrant). We estimate the burden hours carried by the registrants internally to be 4,138 = 5,518 × .75. We estimate the cost of the burden carried by outside professionals to be $552,000 = (5,518 × .25) × $400.

[709] *See infra* note 849.

[710] *See infra* note 850.

[711] *See supra* section II.B. This new delivery option would not be available to Form N–3 registrants because they do not have underlying portfolio companies. As of the end of calendar 2017, 3,385 of 3,422 (99%) registrants were either Form N–4 registrants (2,393) or Form N–6 registrants (992).

[712] 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 proposed rule), there may be a disincentive for mutual funds to produce a summary prospectus, as concerns about costs of printing and mailing the statutory prospectus would be reduced. However, the proposed 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, would be minimal. *See* 2009 Summary Prospectus Adopting Release, *supra* note 33.

[713] We estimate that the cost of printing and mailing a set of summary prospectuses for a variable contract's underlying portfolio companies is, on average, the same as the cost of printing and mailing a single registrant statutory prospectus. *See supra* note 700. Although those documents are different, we do not have specific data regarding how the cost of printing and mailing those two sets of documents would differ and so we have used the same cost for printing and mailing to arrive at a conservative estimate of cost savings associated with the proposed rule. We solicit public feedback to help refine these estimates.

[714] Calculated as $0.53 × 13 million = $6,890,000 for portfolio company summary prospectuses associated with existing contracts, and $0.53 × 698,000 = $369,940 for portfolio company summary prospectuses associated with new sales.

[715] Calculated as $6,890,000 + $369,940 = $7,259,940.

[716] We estimate that the average burden to comply with the proposed website posting requirements would be 2 hours per set of documents. We estimate the average wage based on published rates for webmasters to be $239. $478 = 2 × $239.

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 would be costs associated with the summary prospectus requirement. Those costs would 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 would be small, however. For example, the content of a mutual fund summary prospectus is just Items 2 through 8 of Form N–1A, with the cover page as specified by rule 498.

[717] 721 = (500 N–4 registrants) + (221 N–6 registrants).

[718] $478 × 721 = $344,638.

[719] See *infra* note 854. 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 would be minimal.

summary prospectuses will be $342,475.[720]

Thus, we estimate a reduction of costs related to delivery of portfolio company summary prospectuses of $6,573,000.[721]

2. Treatment of Discontinued Variable Contracts

As discussed above, if the proposed summary prospectus framework is adopted, the Commission would take the position that Alternative Disclosure Contracts (contracts operating in the manner described in the Staff Letters as of the effective date of any final summary prospectus rules) are permitted to continue to operate in such a manner.[722] This position on Alternative Disclosure Contracts would recognize the industry's practice that has developed in light of the Staff Letters, the costs and burdens that issuers of In-Force Alternative Disclosure Contracts currently incur, and the costs and burdens that issuers would incur under the proposed summary prospectus framework. For all other contracts, the Commission's position would not be applicable, and therefore 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.

The Commission's position on Alternative Disclosure Contracts recognizes that the proposed rule and form amendments are expected to significantly reduce certain burdens and costs associated with the current contract and portfolio company prospectus framework.[723] Most notably, we anticipate that registrants that choose to rely on proposed rule 498A could experience significant decreases in printing and mailing costs, compared to their current costs to print and mail the contract statutory prospectus.[724] These decreases in printing and mailing costs would be heightened to the extent that the registrant relies on the proposed rule's new option to satisfy portfolio company prospectus delivery requirements, because paper (or electronic) copies of the portfolio company prospectuses no longer would be required to be delivered to investors. Similar to the proposed rule, issuers of In-Force Alternative Disclosure Contracts currently experience reductions in printing and mailing costs associated with the contract prospectus, compared to other variable contract issuers. Issuers of In-Force Alternative Disclosure Contracts, however, would benefit from the expected reductions in printing and mailing costs associated with portfolio company prospectuses under the proposed rule.

Furthermore, we acknowledge that there are certain other costs and burdens that are currently reduced for issuers of In-Force Alternative Disclosure Contracts, but would not be similarly reduced under the proposed rule and form amendments. For example, a registrant that relies on proposed rule 498A would still bear burdens of maintaining and updating the contract registration statement,[725] preparing and filing updating summary prospectuses, delivering the updating summary prospectus to investors annually, and making the contract statutory prospectus and SAI available online. In addition, while the proposed form amendments would simplify certain current disclosure requirements,[726] in other instances they would result in new or amended disclosures that, in the aggregate, we anticipate would result in a net increase in the burden associated with preparing an initial registration statement and post-effective amendments thereto.[727] The Commission's position on Alternative Disclosure Contracts takes all of the foregoing under consideration, including the significant time period that the industry has operated in the manner that the Staff Letters describe.

We estimate that approximately 2.68 million existing variable annuity contracts were issued pursuant to registration statements for In-Force Alternative Disclosure Contracts.[728] For those contracts whose issuers are currently operating in the manner that the Staff Letters describe as of the effective date of final summary prospectus rules, we believe the Commission's position with respect to Alternative Disclosure Contracts will have minimal impact, compared to the baseline, on either insurers or investors. Under the Commission's position, insurers would continue to provide, and investors would continue to receive, the same alternative disclosures that the Staff Letters describe. We acknowledge, however, that insurers sponsoring Alternative Disclosure Contracts would potentially benefit from the Commission's position, because Commission action provides them with greater certainty about future disclosure obligations than staff no-action letters.

With respect to insurers with variable contracts outstanding and those issuing new contracts, the Commission's position on Alternative Disclosure Contracts 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. The Commission's position may therefore result in those contracts experiencing 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 as adopted, which, as discussed above, may mitigate some of those costs. Many of the burdens that are currently reduced for issuers of In-Force Alternative Disclosure Contracts are also expected to be reduced under the proposed 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.[729] However, to the extent that the option for summary prospectus does not fully mitigate unexpected future costs related to the Commission's position on Alternative Disclosure Contracts, insurers that experience these unexpected costs may seek to extinguish outstanding contracts with few remaining investors and consolidate investor assets. While insurers cannot terminate outstanding contracts, they could encourage investors to exchange old contracts for new ones or they may offer to buy out contracts.

At the same time, we believe that the Commission's position with respect to Alternative Disclosure Contracts will provide investors more pertinent information to monitor their contract,

[720] $500 × 95% × (500 Form N–4 registrants + 221 Form N–6 registrants) = $342,475.

[721] $7,259,940 − $344,638 − $342,475 = $6,572,827.

[722] *See supra* section II.C.

[723] *See supra* section III.C.1; *infra* section III.C.3.

[724] *See supra* section III.C.1.b.

[725] Even when there are not material updates to the contract, the updating process still would 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).

[726] For example, the proposed amendments to Form N–3 and Form N–4 would include certain changes that would significantly reduce burdens related to preparing and disclosing contract accumulation unit values. *See supra* notes 546–554 and accompanying text.

[727] *See infra* section III.C.3.b.

[728] *See supra* note 662.

[729] *See supra* section III.C.1.b.

either under the current regulatory requirements or under the proposed optional summary prospectus regime, compared to the alternative disclosures that they would receive under the circumstances that the Staff Letters identify. For example, investors would either receive, or have access to online, the contract prospectus under the standard prospectus delivery regime or the proposed summary prospectus regime, respectively. Moreover, as explained in detail above, we believe the proposed optional summary prospectus regime, if relied on by insurers, would provide significant benefits for investors in terms of facilitating the review and understanding of available disclosures.[730]

3. Changes to Forms N–3, N–4, and N–6

a. Benefits and Costs for Investors

The proposed 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, under the proposed amendments, the statutory prospectus would include the same Key Information Table, tabular presentation of optional benefits, and tabular appendix of information about underlying portfolio companies that appears in the summary prospectus. This means that all variable contract investors, not just investors in contracts that use the summary prospectus, would have access to information as presented in summary prospectuses. Further, the proposed amendments would require additional information about standard and optional benefits that a contract may offer. There is no current form requirement regarding optional benefits. The proposed amendments would 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 across products that register across 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 proposing amendments to the General Instructions of Forms N–3, N–4, and N–6 regarding the preparation and filing of registration statements. First, these amendments would prescribe the ordering and location of the Overview of the Variable Annuity Contract, the Key Information Table, and the Fee Table. In particular, the proposed amendments would place this information at the beginning of the prospectus, and could benefit 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 proposed changes would 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 proposed presentation of information on these forms.

Second, we are proposing amendments to the General Instructions that would 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 proposed amendments may benefit investors. Similarly, to the extent that the proposed guidance results in presentation of information that investors are unaccustomed to, investors may bear costs associated with adjusting to a new presentation of variable contract information. While we do not have information available to quantify these benefits, we believe that these proposed amendments are consistent with current industry practice and we therefore do not expect these benefits to be substantial.

For Form N–3 and Form N–4 registrants, we propose to relocate the AUV tables from the prospectus to the SAI, and shorten the time period covered by the AUV tables. Further, we propose to include an instruction permitting registrants to omit AUV tables altogether if they provide each investor with an annual account statement that discloses, with respect to each class of accumulation units the investor holds, the actual performance of each subaccount during the prior fiscal year. Accumulation unit values and the number of accumulation units outstanding permit investors to derive summary information about the performance of the variable contracts covered by a statutory prospectus. While shortening the time period covered by the AUV tables could impose costs on investors by reducing the amount of historical AUV information available on a statutory prospectus, we do not believe these costs will be substantial. This is because we believe the proliferation in combinations of contract changes has generated a proliferation in separate classes of accumulation units disclosed on statutory prospectuses, rendering the current AUV tables less useful for investors.[731] To the extent Form N–3 and Form N–4 registrants choose to omit AUV tables altogether and instead provide individual investors with the prescribed annual account statement, this option should benefit investors by providing them with customized annual performance information that reflects the impact of insurance-related costs. However, permitting Form N–3 and N–4 registrants to omit AUV tables may impose costs on current investors and investors who are not currently account holders, 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 decision to choose between insurers or variable products.

b. Benefits and Costs for Insurers

The proposed form amendments would increase consistency of disclosure presentation requirements among variable contracts that register 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 of these registration form types. For example, we anticipate that this would make the production of registration statements simpler, in that form instructions and content requirements would in many cases be the same (except in cases where structural differences or product differences that the different form types indicate would lead to requirements that would differ across the form types).[732]

[730] *See supra* section III.C.1.a.i(a).

[731] *See supra* section II.D.3.d.

[732] In 2017, four of the 62 (6%) insurers that registered separate accounts registered separate accounts on all three forms (N–3, N–4, and N–6).

For Form N–3 and Form N–4 registrants, we propose to relocate the AUV tables from the prospectus to the SAI, where they are more appropriately located with certain detailed information that traditionally appears in the SAI. We also propose to decrease the time periods for which the required information must be presented from 10 years to 5 years. Further, we propose to include an instruction permitting registrants to omit AUV tables altogether if they provide each investor with an annual account statement that discloses, with respect to each class of accumulation units the investor holds, the actual performance of each subaccount during the prior fiscal year. The proposed amendments should reduce the costs related to preparing registration statement disclosure of information relating to the contract's accumulation unit values for Form N–3 and Form N–4 registrants. 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.

Form N–3 Estimates. We estimate that there are currently five insurer separate accounts that file Form N–3. We estimate that these separate accounts will incur, in the aggregate, 152 hours additional internal annual burden hours, at an internal time cost equivalent of $51,072.[733] While we are revising our estimate of the methodology used to estimate external costs associated with Form N–3 as discussed below,[734] these changes in external cost estimates are not attributable to the proposed amendments to Form N–3.

Form N–4 Estimates. We estimate that there are currently 435 insurer separate accounts that file Form N–4. We estimate that these separate accounts will incur, in the aggregate, 13,320 additional internal annual burden hours, at an internal time cost equivalent of $4,475,345.[735] We do not estimate any change to the external costs associated with the proposed amendments to Form N–4.[736]

Form N–6 Estimates. We estimate that there are currently 238 insurer separate accounts that file Form N–6. We estimate that these separate accounts will incur, in the aggregate, 3,048 additional internal annual burden hours, at an internal time cost equivalent of $1,024,128.[737] We do not estimate any change to the external costs associated with the proposed amendments to Form N–6.[738]

In addition to these implementation costs, these proposed changes to forms could impose costs related to proposed changes presentation of information. In particular, the proposed 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.

4. Inline XBRL

The proposed amendments would require 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 proposed Inline XBRL requirement is expected to benefit investors, filers, the Commission, and other data users, including third-party analysts, investment professionals, academic researchers, and other regulators. The availability of information from statutory prospectuses in Inline XBRL could enable variable contract investors, generally through information intermediaries such as third-party data aggregators (or by reviewing the disclosures directly), to capture and analyze disclosure information more quickly and at a lower cost, as well as to search and analyze the information dynamically, facilitate comparison of information across filers and reporting periods, and lead to better-informed investment decisions and potential gains in the efficiency of capital formation and allocation. These improvements could occur as a result of a reduction in the information barriers faced by investors and in the costs of collecting and analyzing disclosures. These benefits are expected to be greatest in instances of forms filed by a large number of registrants and for information from variable contract disclosures that is not aggregated by third-party sources 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 third-party information providers also review disclosures of mutual funds and ETFs, those investors and information providers 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.[739]

Variable contract registrants would incur costs to tag and review the required information in Inline XBRL. Some filers may perform the tagging 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.[740] Inline XBRL is a specification of XBRL that allows filers to embed XBRL data directly into an HTML document, eliminating the need to tag a copy of the information in a separate XBRL exhibit,[741] making Inline XBRL preparation more efficient, of higher quality, and less costly than filing an HTML document and a separate XBRL document duplicating the data. For filers that are required to report information for other investment products they offer, such as open-end funds, in Inline XBRL, before they would be required to file information about variable contracts in Inline XBRL, filing information about variable contracts in Inline XBRL under the proposed amendments would likely incur lower costs of compliance than filers adopting Inline XBRL for the first time.

Similar to the risk/return summary requirements for mutual funds and ETFs, the proposed amendments would 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 (rule 497 forms of

Forty (65%) registered separate accounts on two forms. Overall, 44 (71%) insurers registered separate accounts on more than one form.

[733] *See infra* note 778.

[734] *See infra* note 780.

[735] *See infra* note 789.

[736] *See infra* section IV.B.

[737] *See infra* note 805.

[738] *See infra* section IV.C.

[739] *See* Inline XBRL Adopting Release, *supra* note 613.

[740] *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.'')

[741] Inline XBRL Adopting Release, *supra* note 613, at n.78 and accompanying and following text.

prospectuses or ''stickers'') filed on Forms N–3, N–4, and N–6. Similar to the risk/return summary requirements for mutual funds and ETFs, the Interactive Data File would be submitted as a post-effective amendment to the registration statement. As with risk/return summary Inline XBRL requirements for funds, the Interactive Data File for a post-effective amendment under rule 485(b)(1)(i), (ii), (v), or (vii) would be submitted with the filing, which may make the filing incrementally more efficient.

Nevertheless, we recognize that some registrants affected by the proposed requirement likely would incur initial costs to acquire the necessary expertise and/or software as well as ongoing costs of tagging required information in Inline XBRL, and that any fixed costs of complying with the Inline XBRL requirement may have a relatively greater impact on smaller filers. 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 Inline XBRL preparation. Some registrants would 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, on average we estimate that direct compliance costs for a variable contract registrant on Forms N–3, N–4, and N–6, respectively, will be approximately $21,960, $15,012, and $15,012 per year, respectively, in the first three years under the proposed amendments.[742]

The compliance dates under the proposed 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 appropriate sources of new investors, as discussed in section III.D below.

By making it easier to perform automated comparisons of disclosures across variable contracts, the proposed amendments also might affect sales agents. As we noted in section II.B.2 above, 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 a structured format, which may enable them to select variable contract offerings that are better tailored to investors' demands. Because having the required data in a structured format facilitates the analysis, aggregation, and comparison of information about variable contracts, the proposed 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.[743]

D. Effects on Efficiency, Competition, and Capital Formation

This section describes the effects we expect the proposed rule 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.

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.[744] 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.[745]

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.[746] Rules that reduce costs for investors, insurers, or both, reduce market frictions. The proposed rule 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.[747]

[742] For purposes of the PRA, during the first three years under the proposed Inline XBRL amendments to Form N–3, the average annual internal cost burden is estimated to be $20,160 (the monetized burden of in-house Inline XBRL preparation) and the average annual external cost burden per registrant (the additional cost of services of outside software vendors or filing agents) is estimated to be $1,800 ($900 + ($300 × 3)). $20,160 + $1,800 = $21,960. *See infra* notes 819 and 830.

For purposes of the PRA, during the first three years under the proposed Inline XBRL amendments to Form N–4, the average annual internal cost burden is estimated to be $14,112 and the average annual external cost burden per registrant is estimated to be $900. $14,112 + $900 = $15,012. *See infra* notes 822 and 829 and accompanying text.

For purposes of the PRA, during the first three years under the proposed Inline XBRL amendments to Form N–6, the average annual internal cost burden is estimated to be $14,112 and the average annual external cost burden per registrant is estimated to be $900. $14,112 + $900 = $15,012. *See infra* notes 825 and 829 and accompanying text.

[743] 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.

[744] Insurers who expect the benefits derived from supplying contracts to be equal to the cost of supplying the contract would be indifferent between supplying and not supplying the contract.

[745] *See supra* section III.B.2.

[746] If market frictions are sufficiently large, market frictions could eliminate exchange altogether.

[747] 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.

Similarly, the proposed amendments to registration forms would make key information more salient for investors and would make the presentation of this information more consistent across variable contract types. Additional consistency across forms may also reduce compliance burdens for insurers that are required to file using multiple form types, as would reducing the amount of historical AUV information required to be disclosed. The 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.[748] In addition, requiring variable contract registrants to file certain key information in Inline XBRL would enable investors, third-party information providers, Commission staff, and other data users to capture and analyze that information more quickly and efficiently than is possible using the same information provided in a static, text-based format.

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 proposal may help promote investment in variable contracts by investors who would benefit from them. Second, an increase in the informational efficiency of investor decisions could make it more likely that investors that invest in variable contracts choose the contracts that best meet their needs and reject those that do not. 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 issuing new contracts and issuers with variable contracts outstanding to incur additional costs due to the proposed 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. In particular, insurer resources that are used to encourage exchanges or to buy out contract holders are resources that insurers may have put to other productive uses. However, we believe that this reduction in efficiency may be offset by the expected increase in informational efficiency associated with the enhanced disclosures that would be afforded to contract holders in lieu of the alternative disclosures described in the Staff Letters.

Competition. If the proposed rule increases 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 (*e.g.,* the ongoing printing and mailing expenses passed through to investors from insurers) are too high, then to the extent the proposed 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 proposal. 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 proposed 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 could allow investors to compare information across products. Requiring variable contract registrants to file certain key information in Inline XBRL could further facilitate comparisons of information across registrants by making it easier for investors (directly or through third-party 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 proposed free look period. For example, the proposed rule requires insurers to distill certain key product information into tables. The presentation of this information in a table facilitates comparison across different products. Greater comparison across different variable products could lead to greater competition. Furthermore, by reducing the costs associated with aggregating data across variable contracts, the proposed Inline XBRL requirement 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 insurance products and do not have access to broad comparisons of variable contracts enabled by the proposed Inline XBRL requirements at the time of sale or during the free look period.[749] Agents generally only provide their customers with a subset of all available variable insurance products available in the general marketplace. Thus, while the product information in summary prospectuses would facilitate comparison across products offered by the agent, the effect would 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 proposed 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 IV below, and thus the magnitude of the

[748] 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.

[749] *See* IRI Fact Book, *supra* note 8, at 176.

associated competitive effects, is expected to be modest.

Finally, 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 whose issuers are not operating in the manner described in the Staff Letters as of the effective date of 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 operate in the manner described in the Staff Letters as of the effective date of final summary prospectus rules.

Capital Formation. As discussed in connection with the potential effects of the proposed rule on competition, if the proposed 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 underlie the variable contracts (or held directly by the separate account in the case of a Form N–3 registrant).[750] The increased demand for securities could, in turn, facilitate capital formation. Diminished investment, however, could lead to reduced demand for such securities. We would 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 would be attenuated.

The proposed 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 appropriate sources of 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 proposed rule reduces costs for some variable contract registrants, we would 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 investors or additional capital from existing investors, the proposed rule may result in greater capital formation. We expect this effect to be small. The opposite would be expected to hold for those variable contract registrants that experience cost increases under the proposed rule.

E. Reasonable Alternatives

1. Mandating Summary Prospectuses

Proposed new rule 498A would permit the use of two distinct types of contract summary prospectuses: (1) An initial summary prospectus covering variable contracts currently offered to new investors; and (2) an updating summary prospectus for existing investors. Alternatively, the Commission could mandate the use of summary prospectuses. Summary prospectuses may provide substantial 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.[751]

We believe that insurers will only choose to rely on the optional summary prospectus regime should benefits outweigh the costs. While we believe that reliance on the proposed summary prospectus regime would 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. Imposing a mandatory summary prospectus regime would entail imposing net costs on these insurers.

Based on our analysis of cost savings above, our expectation is that most insurers will choose to rely on summary prospectuses. Based on these factors, we believe making the use of summary prospectuses voluntary for insurers strikes the appropriate balance between offering insurers flexibility in choosing delivery methods on one hand, and making variable contract disclosures more digestible by the majority of investors, on the other.

2. Summary Prospectuses Delivered With Statutory Prospectuses

The proposed rule would require 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 proposed 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 not to propose 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, the proposed summary prospectuses would provide investors with key information relating to the

[750] This would be true to the extent funds invested in variable contracts would not otherwise have been invested in securities.

[751] 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.

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.[752]

3. Contract-Specific Updating Summary Prospectuses

The proposed variable contract summary prospectus regime would require that the initial summary prospectus only describe a single contract that the registrant currently offers for sale, but would permit an updating summary prospectus to describe more than one contract covered in the statutory prospectus to which the updating summary prospectus relates. As an alternative, we could have proposed that the updating summary prospectus describe only a single contract.

Relative to the baseline, this alternative would be no different from the proposal in terms of the economic impacts related to the proposed initial summary prospectus, but would differ in economic effects related to the updating summary prospectus. 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 proposed 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 preliminarily expect this increase in benefits to 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 would cover multiple contracts, the number changes concerning any individual contract is expected to be relatively brief, thus minimizing the amount of inapplicable information the investor would read.

Under this alternative, insurers would be required to produce and deliver to investors a separate updating summary prospectus for each contract. An insurer could limit the costs associated with printing and mailing by only delivering those updating summary prospectuses to an investor that 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.[753]

4. Do Not Provide Updating Summary Prospectuses

We considered two closely-related alternative approaches to the proposed 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 allow investors to better focus their attention on new or updated information relating to the contract. Relatedly, the updating summary prospectus would include certain information required in the initial summary prospectus that we consider most relevant to investors when making additional investment decisions or otherwise monitoring their contracts, and investors would not have access to this concise presentation of key information under either alternative. For these reasons, we have not proposed this alternative.

5. Inline XBRL

The proposed amendments would require variable contract registrants to file certain information from statutory prospectuses with the Commission in Inline XBRL.

As an alternative, we could allow but not require variable contract registrants to file the information in Inline XBRL. Compared to the proposed amendments, a fully voluntary Inline XBRL program would lower costs for those filers, particularly filers that do not already file information in Inline XBRL. However, a voluntary program would reduce the usability of the required data. If the information were 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 do that process themselves. In either scenario, the data would not be usable in as timely a manner if it were made machine-readable. In addition, under a voluntary program, data that is not submitted in Inline XBRL would not be validated, 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 proposed amendments, filing the information in Inline XBRL would be required for Key Information Table, Fee Table, Principal Risks of Investing in the Contract, Other Benefits Available Under the Contract, and/or Portfolio Companies [Investment Options] Available Under the Contract. The information proposed to be filed in Inline XBRL largely parallels the information that is required of mutual funds and ETFs, and we believe is likely to be of greatest utility for investors and

[752] We note that 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.

[753] 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.

others that seek to use the information in a structured format to assist with decisions about variable products. As another alternative, we could require variable contract registrants to file all, or a larger subset, of the information from the statutory prospectus, rather than only the information covered by the proposed amendments, in Inline XBRL. Compared to the proposed amendments, this alternative would improve the timeliness and usability of the required disclosure information, 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 proposed amendments.

The proposed amendments provide 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 an alternative, we could provide filers with a shorter or longer transition period. Compared to the proposed amendments, a longer transition period would cause 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. However, a longer transition period also could defer the benefits of making the information available in a structured format to investors in variable contracts, compared to the proposed amendments. Conversely, compared to the proposed amendments, a shorter transition period would cause filers to incur Inline XBRL compliance costs earlier and may make the transition more difficult for smaller filers and filers that lack expertise and software solutions needed to prepare Inline XBRL filings. It also would allow investors to realize the benefits of access to key information in a structured format earlier than under the proposed amendments. Based on the state of the Inline XBRL standard today, and to allow filers the flexibility of additional time to comply, we are providing all filers with a transition period.

As another alternative, we could require the disclosures to be filed in another structured format, such as the XBRL or XML format. Compared to the proposed 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 proposed requirement to use Inline XBRL, the alternative to requiring the use of XML could result in lower costs for filers. However, compared to the proposed amendments, XML would provide 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 the Inline Viewer when accessing the filing, such as enhanced search features, filtering capabilities, and built-in definitional references. Investors and other data users would need 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 would 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 proposing 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 proposed summary prospectus regime. An alternative would be for the Commission to propose a subset of the proposed 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 proposed form amendments also simplify certain current disclosure requirements, and so the net economic effects of proposing only a subset of the proposed amendments would depend on the particular subset of proposed amendments. As described in Section II.D. above, we believe that the form amendments that we propose promote investor understanding of variable contracts by presenting information in a clear manner and by reflecting industry developments. Proposing only a subset of these amendments could result in less investor understanding relative to the understanding resulting from the proposed amendments. For this reason, we have not proposed this alternative. However, we request comment above about each of the proposed amendments, and will assess, based on the comments we receive, if any of the proposed amendments would not further the goals of this rulemaking proposal.

Additionally, the Commission is proposing a new General Instruction in each of Forms N–3, N–4, and N–6 that is meant to encourage the use of disclosure effectiveness principles in variable contract disclosure. Specifically, proposed General Instruction C.3.(c) in each form would encourage registrants to use, as appropriate, question-and-answer presentations, tables, side-by-side comparisons, captions, bullet points, numeric examples, illustrations or similar presentation methods.[754] As an alternative to this proposed instruction, we could propose to mandate the use of any 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 proposed form amendments would specifically require, about which we request comment above) 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, the Commission is proposing a requirement that the Key Information Table include cross-references to the location in the statutory prospectus where the relevant subject matter is described in greater detail (and the requirement for cross-references in electronic versions of the summary prospectus and/or statutory prospectus to link directly to the location in the statutory prospectus where the topic is discussed in more detail). As an alternative to this proposed instruction, we could propose to require that, where a topic is summarized in the prospectus and is discussed in more detail elsewhere in the prospectus, the summarized topic must include a cross-reference (and a hyperlink in electronic document versions) to the location

[754] *See supra* note 399.

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, we note that the benefits of cross-references and hyperlinks might be limited, given that proposed rule 498A would 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 Currently Discontinued Contracts) To Prepare Updated Registration Statements and Deliver Statutory or Summary Prospectuses

Instead of permitting contracts whose issuers are currently operating in the manner that the Staff Letters describe to continue to operate in such manner, the Commission could require 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 In-Force Alternative Disclosure Contracts would benefit from the increased disclosure, either from receiving the statutory prospectus or the optional initial and updating summary prospectuses, while continuing to have access (either upon request or online, under the summary prospectus regime) to the financial statements they were receiving as part of the Staff Letters' alternative disclosures. Moreover, as explained in detail above, the optional summary prospectus regime, if relied on, could provide significant additional benefits for investors in terms of facilitating the review and understanding of available disclosures.[755] 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 received paper versions of those documents under the Staff Letters.

With respect to the impact on insurers, under this alternative, issuers of In-Force Alternative Disclosure Contracts would incur significant costs to update their registration statements, most of which have not been updated for many years.[756] As noted above, we also believe that amendments to the forms will result in a net increase in the burden associated with preparing an initial registration statement and post-effective amendments, which could further add to the cost of preparing these documents for these contract issuers. We estimated the cost of amendments to the forms above as $2.60 per contract.[757]

In addition, issuers of In-Force Alternative Disclosure Contracts would no longer incur costs to deliver financial statements, which we estimated at $0.27 per contract. However, they would incur printing and mailing costs to deliver the contract statutory prospectus, which we estimated at $0.53 per contract. Still, the proposed optional summary prospectus framework would likely mitigate those increases by only requiring delivery of a shorter summary prospectus, as described above. We estimated the cost of delivering the summary prospectus to be $0.35 per contract. Moreover, the proposed summary prospectus regime also permits electronic delivery of underlying portfolio company prospectuses, which, if relied on, may further mitigate costs that an insurer would incur if it were not able to operate in the manner that the Staff Letters describe. We estimated the cost of delivery of the portfolio company summary prospects to be $0.53 per contract.

On balance, given the burdens associated with preparing an updated registration statement and compliance with either standard prospectus delivery requirements or the proposed optional summary prospectus regime, we believe contracts whose issuers currently are operating in the manner that the Staff Letters describe should be permitted to continue doing so.

8. Alternatives to Commission's Position on Alternative Disclosure Contracts

As discussed above, the Commission is taking the position that, should it adopt the proposed summary prospectus framework, Alternative Disclosure Contracts (contracts operating in the manner described in the Staff Letters as of the effective date of any final summary prospectus rules) would be permitted to continue to operate in such a manner after the final rules' effective date. Under the proposed approach, all other current and future contracts would be subject to the proposed optional summary prospectus regime.[758] We discuss below two alternatives to the Proposed Framework, which would impose different disclosure requirements than either the current baseline (including the contracts whose issuers operate in the manner that the Staff Letters describe) or the Proposed Framework. We have considered the economic effects of these alternatives against the baseline set forth in section III.B. In addition, we also discuss how the economic effects of each alternative would likely differ from those of the Proposed Framework.

If the Commission were to adopt either of these alternatives, the Commission could take the position, as it does in the Proposed Framework, that Alternative Disclosure Contracts would be permitted to continuing operating in the manner described in the Staff Letters. Alternatively, the Commission could determine that the adopted alternative applies to *all* contracts, including contracts that would be Alternative Disclosure Contracts under the Commission's position. In describing the economic effects of each alternative, we take into account the different effects that would occur if the Commission were to determine that the adopted alternative were to replace the Commission's position on Alternative Disclosure Contracts for contracts that otherwise would be subject to that position.

Besides the economic effects described below with respect to existing contracts, to the extent the alternatives create benefits or costs that are different from the benefits and costs of operating in the manner described in the Staff Letters (which would effectively be the same costs and benefits for Alternative Disclosure Contracts under the Proposed Framework), they could affect the creation of new variable contracts in the future. For example, if contract fees

[755] *See supra* section III.C.1.a.i(a).

[756] In addition, we recognize that there are a number of contracts whose registration statements were prepared using predecessor forms to the current disclosure forms (Forms N–4 and N–6). For those contracts, updating a registration statement could be especially burdensome, particularly considering that these contracts are only offered to a limited number of investors.

[757] *See supra* section III.E.6.b.

[758] We refer to this combination of the optional summary prospectus regime and the Commission's position on Alternative Disclosure Contracts as ''the Proposed Framework.''

and charges are established with the expectation that an insurer could provide alternative disclosures if a product launch is unsuccessful or the number of contract investors diminishes over time, then to the extent the benefits and costs of the alternatives are different from the benefits and costs of operating in the manner described in the Staff Letters, the alternatives could affect fees and charges for future variable contracts. Similarly, they may affect insurers' willingness to offer new variable products in the first place.

a. Approach 1 To Applying the Proposed Framework to Discontinued Contracts

As an alternative to applying the Proposed Framework to discontinued contracts, the Commission could adopt final rules providing that a registrant would not have to comply with certain requirements to update the variable contract registration statement and deliver updated contract prospectuses to existing investors, so long as the registrant complies with certain conditions (''Approach 1,'' as discussed in more detail in section II.C above). The Commission could determine that these alternative requirements apply to *all* contracts, including In-Force Alternative Disclosure Contracts, or the Commission could take the position that Alternative Disclosure Contracts would be permitted to continuing operating in the manner described in the Staff Letters, as in the Proposed Framework.

Codification of Approach 1 would be similar to the proposed summary prospectus regime in certain respects, in terms of the information that is either (1) delivered to all investors, (2) made available online, or (3) delivered to those investors who so request.[759] For example, under both the proposed summary prospectus regime and Approach 1, the updated audited financial statements of the registrant would be available online and would be delivered (in paper or electronically) to investors upon request, and also filed with the Commission.[760] Under both frameworks, portfolio company prospectuses and shareholder reports would be delivered to all investors, or (if the insurer were to rely upon the proposed new option to satisfy portfolio company prospectus delivery requirements[761]) made available online and delivered (in paper or electronically) upon request.

As discussed in section II.C, the Staff Letters identified a set of circumstances in which the staff would not recommend enforcement action once the registration statement is no longer updated, including that financial statements, as well as portfolio company prospectuses and shareholder reports, are delivered to all investors. If the Commission were to codify Approach 1 and In-Force Alternative Disclosure Contracts were required to comply with the conditions of Approach 1 (rather than choosing to follow the conditions set forth in the Staff Letters, as in the Proposed Framework), codification of Approach 1 may yield reduced printing and mailing costs compared to the baseline because:

- Unlike the circumstances described in the Staff Letters, under Approach 1, insurers would make financial statements available online and would only deliver them to investors (in paper or electronically) upon request. We estimate that issuers of In-Force Alternative Disclosure Contracts currently incur $0.27 per contract to print and mail financial statements.[762]
- Under Approach 1, insurers could avail themselves of the proposed option to satisfy portfolio company prospectus delivery requirements by making prospectuses and shareholder reports available online and only delivering them to investors on request. This option, however, is not currently available for issuers of In-Force Alternative Disclosure Contracts. We estimate that issuers of In-Force Alternative Disclosure Contracts currently incur $0.53 per contract to deliver portfolio company prospectuses.[763]

Existing contracts that could be discontinued in the future, and that may have anticipated the option to operate in accordance with the Staff Letters, would likewise experience the same reduction in expected future costs.

In addition, if the Commission were to codify Approach 1, a registrant relying on the conditions of Approach 1 would not be required to create and maintain a current registration statement and make the statutory prospectus and SAI available online. This is consistent with the circumstances described in the Staff Letters, and thus would not represent a change for In-Force Alternative Disclosure Contracts or contracts that may become discontinued in the future. However, the Proposed Framework requires that all insurers offering variable contracts (other than In-Force Alternative Disclosure Contracts affected by the Commission's position) must create and maintain a current registration statement and make the statutory prospectus and SAI available online (as well to deliver initial summary prospectuses and updating summary prospectuses). Accordingly, for insurers sponsoring contracts that could be discontinued in the future, these provisions of Approach 1 would produce lower costs for insurers than the Proposed Framework.

However, under Approach 1, insurers are required to deliver an annual notice to investors, which would include information that is comparable to information that would be included in an updating summary prospectus. An equivalent condition is not included in the circumstances that the Staff Letters describe. So, if In-Force Alternative Disclosure Contracts are required to comply with the conditions of Approach 1 (rather than adhering to the conditions set forth in the Staff Letters, as in the Proposed Framework), this would impose new costs on insurers sponsoring In-Force Alternative Disclosure Contracts. Likewise, issuers of contracts that may become discontinued in the future who may have expected that they could operate in the future in the manner described in the Staff Letters may experience unexpected costs compared to the baseline. Because of the similarities between information in this notice and in the updating summary prospectus, however we believe the costs under Approach 1 for issuers of contracts that may become discontinued in the future of producing, printing, and mailing these notices would be approximately equal to the costs associated with producing, printing, and mailing updating summary prospectuses, or about $0.35 per prospectus.[764]

Investors may also incur costs and benefits under Approach 1 compared to both the baseline and the Proposed Framework. Specifically, as noted, investors would receive an annual notice providing disclosure of any material changes, as well as the same key information and portfolio company tables provided in an updating summary prospectus. If In-Force Alternative Disclosure Contracts are required to comply with the conditions of Approach 1 (rather than adhering to the conditions set forth in the Staff Letters, as in the Proposed Framework), this notice would benefit investors in those

[759] *See supra* Table 4.

[760] In the case of variable life insurance contracts, the financial statements instead would be the updated audited financial statements of the depositor. *See supra* note 368.

[761] Under Approach 1, registrants would be permitted to use the optional method to satisfy portfolio company prospectus delivery requirements as provided under proposed rule 498A.

[762] We estimate that financial statements require significantly less be spent on printing and mailing costs than statutory prospectuses given the smaller size of the documents. Accordingly, we estimate that each financial statement requires 50% of the printing and mailing costs associated with statutory prospectuses. $0.53 × 50% = $0.27.

[763] *See supra* note 716.

[764] *See supra* note 702.

contracts, relative to the baseline, by annually providing disclosures that are not delivered to them as part of the alternative disclosures described in the Staff Letters. Likewise, investors in contracts that may be discontinued in the future would incur benefits of enhanced disclosure in the future that they would not have received under the baseline.

Additionally, because the annual notice would be similar in content to the updating summary prospectus, Approach 1 would result in investors in contracts that previously relied on the summary prospectus regime receiving consistent disclosures for the full life of their contract. This represents a benefit to investors relative to the circumstances that the Staff Letters describe, under which investors receive a prospectus annually until the issuer begins to provide the alternative disclosures (and, similarly, investors in contracts that are not In-Force Alternative Disclosure Contracts receive a different set of disclosures than investors in In-Force Alternative Disclosure Contracts). This benefit to investors would similarly be present under the proposed summary prospectus regime, because an insurer choosing to use a summary prospectus would presumably do so for the full life of the contract.

Approach 1 also permits insurers to use the new optional portfolio company prospectus delivery method. To the extent that In-Force Alternative Disclosure Contracts are required to comply with the conditions of Approach 1 and insurers choose this option, the need to go to a website to access portfolio company prospectuses (or request electronic or paper copies) would create a burden for all investors relative to the baseline (including investors in In-Force Alternative Disclosure Contracts, and investors in contracts that could be discontinued in the future) who prefer to use these prospectuses when making allocation decisions. However, the impact of this burden may be mitigated by the inclusion of the portfolio company information table in the annual notice. The summary prospectus regime provides for the same optional approach to portfolio company prospectus delivery, and therefore the impact on investors in contracts that do not operate under the conditions of Approach 1 would be the same under the Proposed Framework.

Similarly, under Approach 1, insurers would not deliver financial statements to investors as they currently do if they are the issuers of In-Force Alternative Disclosure Contracts, but rather would make the statements available online (and deliver electronic or paper copies where requested by an investor). To the extent that In-Force Alternative Disclosure Contracts are required to comply with the conditions of Approach 1, investors in In-Force Alternative Disclosure Contracts who currently choose to rely on those financial statements would therefore face a burden in accessing them that they do not currently face under the baseline. Similarly, investors in contracts that may be discontinued in the future (and that would no longer be permitted to operate in the manner that the Staff Letters describe) may incur a future, unexpected burden to access those statements, though they would face this same burden under the proposed summary prospectus regime. Finally, because insurers under Approach 1 would not maintain an updated registration statement, this alternative may limit the potential liability of insurers to investors under certain liability provisions otherwise available under federal securities laws.[765]

b. Approach 2 To Applying the Proposed Framework to Discontinued Contracts

As a second alternative approach to applying the Proposed Framework to discontinued contract, the Commission could adopt final rules with a different set of conditions for relief from the requirements to update the variable contract registration statement and deliver updated contract prospectuses to existing investors (''Approach 2,'' as discussed in more detail in section II.C above). As with Approach 1, the Commission could determine that these alternative requirements apply to *all* contracts, including In-Force Alternative Disclosure Contracts, or the Commission could take the position that Alternative Disclosure Contracts would be permitted to continue operating in the manner described in the Staff Letters, as in the Proposed Framework.

Approach 2 would be identical to Approach 1 in terms of how financial statements and portfolio company prospectuses are delivered or made available to investors. In addition, Approach 2 and Approach 1 both would involve delivery of an annual notice to investors that includes information that is comparable to information that would be included in an updating summary prospectus. Approach 2 differs from Approach 1 chiefly in that, under Approach 2, a registrant would need to create and maintain a current registration statement and make the statutory prospectus and SAI available online. Under Approach 2, the registrant would only update the registration statement when there are material changes to the offering, since updated financial statements would be permitted to be forward incorporated by reference into the registration statement. We note, however, that updating the registration statement to reflect a material change to the offering[766] would entail some burden relative to the baseline (*i.e.,* the Staff Letters), which is not conditioned on any updating of the registration statement. For example, the registrant (and related service providers) would have to confirm the continued accuracy of the information in the registration statement as would the registrant's auditor as part of the auditor's attestation process.

Accordingly, issuers of contracts that may become discontinued in the future may incur certain unexpected future costs associated with this requirement; likewise, should Approach 2 apply to In-Force Alternative Disclosure Contracts, issuers of those contracts would incur these new costs compared to the baseline. In addition, because issuers of In-Force Alternative Disclosure Contracts do not maintain a current registration statement or make the statutory prospectus and SAI available online, should Approach 2 apply to In-Force Alternative Disclosure Contracts, insurers may incur initial costs to update the registration statement, which may not have been updated in years, and those costs may be significant.

The remaining conditions under Approach 2 are identical to those under Approach 1, and would produce equivalent economic effects, so that the aggregate impact is an increase in costs incurred by registrants under the proposed summary prospectus framework (assuming the effects of the Commission's position on Alternative Disclosure Contracts).

Under Approach 2, investors would receive an annual notice identical to the notice they receive under Approach 1. As described above, investors would benefit from this ongoing disclosure, compared to the alternative disclosures that they receive under the circumstances that the Staff Letters identify, as well as from the consistency with the disclosures provided in an updating summary prospectus. Like the proposed summary prospectus regime, Approach 2 would further benefit investors, relative to both the

[765] *See supra* notes 372 and 373 and accompanying text.

[766] *See supra* note 385.

circumstances that the Staff Letters identify and Approach 1, by requiring an insurer to provide online (and deliver in paper or electronically upon request) copies of the contract statutory prospectus and SAI. Additionally, as under the summary prospectus regime and unlike either Approach 1 or the circumstances that the Staff Letters identify, under Approach 2, insurers would maintain an updated registration statement due to the forward incorporation of the separate account and depositor financial statements. As a result, under Approach 2, investors would benefit from certainty as to the liability of insurers for statements made in the registration statement. The costs for investors under Approach 2 relative to the circumstances that the Staff Letters identify and the summary prospectus regime would be similar to those faced by investors under Approach 1.

F. Request for Comments

Throughout this release, we have discussed the anticipated benefits and costs of the proposed rule and its potential effect on efficiency, competition, and capital formation. While we do not have comprehensive information on all aspects of variable contract industry reporting, we are using the data currently available in considering the effects of the proposed rule. We request comment on all aspects of this initial economic analysis, including on whether the analysis has (1) identified all benefits and costs, including all effects on efficiency, competition, and capital formation; (2) given due consideration to each benefit and cost, including each effect on efficiency, competition, and capital formation; and (3) identified and considered reasonable alternatives to the proposed new rule. We request and encourage any interested person to submit comments regarding the proposed rule, our analysis of the potential effects of the rules and other matters that may have an effect on the proposed rules. We request that commenters identify sources of data and information with respect to variable contracts in general, but also with respect to variable life products in particular, as well as provide data and information to assist us in analyzing the economic consequences of the proposed rules. We are also interested in comments on the qualitative benefits and costs we have identified and any benefits and costs we may have overlooked. We urge commenters to be as specific as possible.

Comments on the following questions are of particular interest.

- We have characterized a goal of variable contract investors as seeking to address the risk that they may outlive their retirement assets. Have we correctly characterized that goal of variable contract investors? What other products or investments, purchased either with or without the aid of investment professionals, are available to investors to achieve that goal?
- Under the proposed rule, to what extent would insurers choose to meet their disclosure obligation by providing investors with summary prospectuses while making statutory and other documents available on a website? The benefits of the proposed rule for insurers are linked to the extent they would be replacing printing and mailing paper statutory prospectuses with summary prospectuses. To what extent do investors currently elect to receive prospectuses via electronic delivery rather in paper? To what extent do investors who elect to receive prospectuses via electronic delivery also request paper copies of prospectuses?
- Should we, as we have proposed, allow insurers to provide summary prospectuses by delivering them, in paper, at no charge? Would investors prefer that these materials be provided in this manner? Would the summary prospectus be more useful if provided in another manner? Would investors be more aware or less aware of the availability of the information in summary prospectuses and other documents if provided only electronically on a website at no charge?
- Would any positive or negative effect of the proposed rule on investors be disproportionately greater for certain investors than for others? If so, which investors would be disproportionately affected, to what extent, and how would such effects manifest? What, if any, additional measures could help mitigate any such disproportionate effects? Please provide supportive data to the extent available.
- Should we require the website on which the statutory prospectus and other documents are made accessible to incorporate safeguards to protect the anonymity of its visitors? For example, should we require similar conditions to those provided in rule 14a–16 under the Exchange Act relating to internet availability of proxy materials? Why or why not? If so, what specific requirements should we consider?
- To what extent would the proposed rule reduce burdens such as printing and mailing costs borne by insurers? Would these burden reductions ultimately accrue to investors in the form of lower total expenses? Please provide supportive data to the extent available.
- To what extent might reduced burdens (*e.g.,* printing and mailing cost savings) borne by insurers be passed on to existing investors? Under what circumstances, and in what form, would insurers pass benefits through to existing investors?
- To what extent would the proposed rule affect the ability of investors to understand the investment risks of variable contracts and to efficiently allocate capital? Would investors be more likely to allocate additional capital to variable products? What would be the effect on insurer competition for investor capital?
- To what extent do investors use statutory prospectus information to compare alternative variable product investments? To what extent should we expect that to change if insurers provide summary prospectuses rather than statutory prospectuses?
- Our estimates rely on several assumptions, such as 95% of insurers will choose to use a summary prospectus, all insurers who use a summary prospectus will choose to use the new optional delivery method for portfolio company prospectuses, and 15% of investors currently elect to receive electronic delivery of disclosure documents. Do commenters agree with these and other assumptions included in our analysis of the economic consequences of the proposed rule? Why or why not? Please provide supportive data to the extent possible.
- We estimate above that a maximum of approximately 2.68 million variable annuity contracts are In-Force Alternative Disclosure Contracts. Do commenters believe this estimate is reasonable? Why or why not? Please provide supportive data to the extent possible.
- This proposed rule would allow insurers and investors to take advantage of a summary disclosure regime designed to increase investor understanding of variable contract products through greater readability of and access to disclosures. Do commenters believe there are effective means by which we could measure the effectiveness of this rule if adopted? Why or why not? Please provide specific suggested methodologies.

IV. Paperwork Reduction Act

Certain provisions of the proposed amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[767] We are submitting the proposed collections of information to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[768] 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) (which we propose to

[767] 44 U.S.C. 3501–3521.

[768] 44 U.S.C. 3507(d); 5 CFR 1320.11.

re-title as ''Registered Investment Company Interactive Data'').

We are also submitting a new collection of information for proposed rule 498A under the Securities Act to be used by separate accounts offering variable annuity or variable life insurance contracts that choose to send or give a summary prospectus (either an initial summary prospectus or an updating summary prospectus) to investors. The title for this new collection of information would be ''Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts.'' The Commission also intends to use a Feedback Flier to obtain information from investors about a sample variable annuity summary prospectus under the proposal.[769]

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 OMB control number.

The proposed amendments to Forms N–3, N–4, and N–6, if adopted, would update and enhance the required disclosures provided to variable contract investors. For example, the proposed amendments would 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 would 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 proposing to amend 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,[770] to require the use of the Inline XBRL format for the submission of certain required disclosures in variable contract statutory prospectuses. This aspect of our proposal is 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, as their particular needs and circumstances may require.

Proposed rule 498A, if adopted, would permit 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 proposed rule also would 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. Registrants would also be required to send these documents to the investor upon request.

Finally, proposed amendments to rule 497, if adopted, would provide the requirements for filing summary prospectuses with the Commission and for submitting information to the Commission in Inline XBRL format. These amendments would not constitute a separate collection of information under rule 497. The burden required by these amendments is part of the collection of information under proposed rule 498A, and—for filings of Interactive Data Files—would be part of the re-titled ''Registered 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, including the proposed amendments, contains collection of information requirements. Compliance with the disclosure requirements of Form N–3 is mandatory. Responses to the disclosure requirements are not confidential. We currently estimate for Form N–3 a total hour burden of 2500 hours, and a total annual external cost burden of $164,144.[771] The hour and cost burden estimates for preparing and filing reports 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 are proposing amendments to Form N–3 to update and enhance the disclosures to investors in variable annuity contracts, and to implement the proposed summary prospectus regime.[772] We propose to amend certain disclosure requirements that Form N–3 currently includes: For example, requirements to disclose 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, Form N–3 as we propose to amend it would require certain new disclosure requirements regarding, among other things: An overview of the contract, key information, principal risks, optional benefits, loans, and the available investment options. We also propose to eliminate or reduce certain disclosures currently required by the form, such as disclosure of condensed financial information for each class of accumulation units of the registrant for the last five fiscal years, as opposed to the last ten fiscal years as is currently required.

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. Based on a review of Form N–3 filings made with the Commission, our staff estimates that there will be no initial filings and that eight post-effective amendments would be made on Form N–3 per year.[773] Commission staff further estimates these filings would be made by five registrants and would

[769] *See* Appendix C. The Commission has determined that this usage is in the public interest and will protect investors, and therefore is not subject to the requirements of the Paperwork Reduction Act of 1995. *See* section 19(e) and (f) of the Securities Act. Additionally, for the purpose of developing and considering any potential rules relating to this rulemaking, the agency may gather information from and communicate with investors or other members from the public. *See* section 19(e)(1) and (f) of the Securities Act.

[770] Specifically, we propose to amend 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. However, the additional collection of information burden that will result from these changes, as well as the burdens that will result from the proposed amendments to the General Instructions of Forms N–3, N–4, and N–6, are included in our burden estimates the ''Registered Investment Company Fund Interactive Data'' collection of information, and do not impose any separate burden aside from that described in our discussion of the burden estimates for this collection of information.

[771] These estimates are based on the last time the rule's information collections were approved, pursuant to a submission for PRA renewal in 2017.

[772] *See supra* section II.D.

[773] Commission staff reviewed initial filings and post-effective amendments for Form N–3 filed with the Commission from January 1, 2015 to December 31, 2017. There were no initial filings of Form N–3 during that time period. There were eleven, seven, and six post-effective amendments filed during 2015, 2016, and 2017, respectively. Averaging those post-effective amendments over three years results in an average of eight post-effective amendments per year. This estimate is based on the following calculation: (11 + 7 + 6)/3 years = 8 per year.

cover an average of three investment options per registration statement or post-effective amendment filing.[774] We separately discuss the additional internal hours and external cost burdens that would apply as a result of the proposed amendments.

Internal Hour Burden

The proposed amendments would include certain disclosure changes and new disclosures, but also would simplify certain current disclosure requirements in Form N–3. Based on this, we estimate that, on a net basis, the proposed amendments to Form N–3 would increase the burden of preparing an initial registration statement on Form N–3 by 5 hours per investment option per filing. Amortizing this burden over a three-year period results in an estimated average annual burden of 1.7 hours per year, at an estimated internal time cost equivalent of $571.[775] However, because Commission staff estimates there would be no initial filings using Form N–3, we estimate that the proposed amendments would result in no change to the total annual hour burden for initial filings on Form N–3.

We further estimate a one-time burden of an additional 20 hours per registration statement to update disclosures that are not related to the contract's investment options the first time the registration statement is amended by post-effective amendment following adoption of the proposed amendments. Subsequently, we estimate an ongoing burden of an additional 5 hours per registration statement per year to prepare and file a post-effective amendment to update these disclosures. 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 the post-effective amendment, at an estimated internal time cost equivalent of $3,360.[776]

In addition, we estimate a further burden of 6 hours per contract investment option to update registration statement disclosures that are related to the contract's investment options, the first time the registration statement is amended by post-effective amendment following adoption of the proposed amendments. Subsequently, we estimate an ongoing burden of an additional 1.5 hours per investment option per year to prepare and file a post-effective amendment to update these disclosures. Amortizing these burdens over a three-year period results in an estimated average annual burden of an additional 3 hours per investment option to prepare and file a post-effective amendment, at an estimated internal time cost equivalent of $3,360.[777]

In the aggregate, we estimate that the proposed amendments to Form N–3 would cause registrants to incur an additional annual burden of 152 hours, at an internal time cost equivalent of $51,072.[778] We estimate the total annual hour burden as a result of the proposed amendments to be 1,402 hours.[779] This decrease in the total annual hour burden is due to the change in our methodology regarding burdens attributable to investment options, notwithstanding the increase in the estimated number of investment options associated with Form N–3 registrants, as well as the increased burden hours per filing as a result of the proposed amendments.[780]

External Cost Burden

Registrants would also bear external costs to prepare and update registration statements and post-effective amendments on Form N–3, such as costs for the services of independent auditors, outside counsel, or consultants.

In our most recently approved Paperwork Reduction Act submission for Form N–3, Commission staff estimated the cost burden for preparing and filing a post-effective amendment to a previously-effective registration statement is $10,259 per investment option, with a total annual approved external cost burden of $164,144.[781] Consistent with the change in our methodology for estimating burdens attributable to investment options, we are revising those estimates.

We estimate that the cost burden for preparing and filing a post-effective amendment to a previously-effective registration statement would be $10,259 per registration statement to update disclosures that are not related to the contract's investment options, and an additional $3,420 per investment option to update disclosures that are related to the contract's investment options.[782] Therefore, we estimate the total external cost burden as a result of the proposed amendments would be $164,152, which would represent an increase due to the change in our methodology for

[774] In our most recently approved Paperwork Reduction Act submission, we used the term ''portfolio'' instead of ''investment option.'' Although these terms have the same meaning in this context, for purposes of this Paperwork Reduction Act analysis, we are using the term ''investment option'' to conform with the term that we propose to use in Form N–3.

Based on a review of filings with the Commission, we are increasing our estimate of the current number of investment options per filing from two to three investment options. There are currently five registration statements filed with the Commission on Form N–3 that cover 14 investment options. For purposes of this Paperwork Reduction Act analysis, we assume each registration statement would cover an average of three investment options. 14 investment options/5 registration statements = 2.8 investment options per registration statement.

[775] The estimate of 1.7 hours is based upon the following calculation: (5 + 0 + 0)/3 years = 1.67. We are assuming 0 hours in years 2 and 3 because, after year 1, the registrant would prepare and file post-effective amendments to the registration statement, and the hour burden of this is captured in the paragraph accompanying *infra* note 776.

The internal time cost equivalent of $571 is calculated by multiplying the hour burden (1.7 hours) by the estimated hourly wage of $336. The estimated wage figure is based on published rates for Compliance Attorneys ($352) and Senior Programmers ($319). These hourly figures are 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 to account for the effects of inflation. The estimated wage rate was further based on the estimate that Compliance Attorneys and Senior Programmers would divide time equally, resulting in a weighted wage rate of $336 (($352 + $319)/2 = 335.5).

[776] The estimate of 15 hours is based upon the following calculation: (20 hours in year 1 + (5 hours in year 2) + (5 hours in year 3)/3 years = 10 hours. The internal time cost equivalent of $3,360 is calculated by multiplying the hour burden (10 hours) by the estimated hourly wage of $336. *See supra* note 775.

[777] The estimate of 3 hours is based upon the following calculation: (6 hours in year 1 + (1.5 hours in year 2) + (1.5 hours in year 3)/3 years = 3 hours. The internal time cost equivalent of $1,008 is calculated by multiplying the hour burden (3 hours) by the estimated hourly wage of $336. *See supra* note 775. In our most recently approved Paperwork Reduction Act 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. Since many of the disclosure requirements of Form N–3 do not depend on the number of investment options offered by the registrant, we have revised that estimate to reflect an incremental burden per investment option, as opposed to a burden that is proportional to the number of investment options that the registrant offers.

[778] The estimate of 152 hours is based upon the following calculation: (10 hours per post-effective amendment × 8 post-effective amendments) + (3 hours per investment option per post-effective amendment × 3 investment options per registration statement × 8 post-effective amendments). The estimate of $51,072 is based upon the following calculation: 152 hours × $336/hour = $51,072.

[779] This estimate is based on the following calculation: 0 initial registration statements + (8 post-effective amendments × (156.2 hours current burden + 10 hours under proposed amendments)) + (8 post-effective amendments × 3 hours per investment option × 3 investment options) = approximately 1,402 hours.

[780] *See supra* note 777.

[781] This estimate is based on the following calculation: 0 initial registration statements + ($10,259 per investment option per post-effective amendment × 8 post-effective amendments per year × 2 investment options per post-effective amendment) = $164,144.

[782] *See supra* note 777. Based on staff experience, we estimate that the external cost burden to update disclosures associated with each investment option would be approximately ⅓ of the cost burden to update disclosures associated with the registration statement. $10,259/3 = $3,420. We request comment on this assumption and this estimate.

estimating burdens attributable to investment options.[783]

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, including the proposed amendments, contains collection of information requirements. Compliance with the disclosure requirements of Form N–4 is mandatory. Responses to the disclosure requirements are not confidential. We currently estimate for Form N–4 a total hour burden of 343,117 hours, and a total annual external cost burden of $36,308,889.[784] The hour and cost burden estimates for preparing and filing reports 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 are proposing amendments to Form N–4 to update and enhance the disclosures to investors in variable annuity contracts, and to implement the proposed summary prospectus regime.[785] We propose to amend certain disclosure requirements that Form N–4 currently requires. In addition, Form N–4 as we propose to amend it would require certain new disclosures regarding, among other things: An overview of the contract, key information, principal risks, optional benefits, loans, and the available portfolio companies. We also propose to eliminate or reduce certain disclosures currently required by the form, such as disclosure of condensed financial information for each class of accumulation units of the registrant for the last five fiscal years, as opposed to the last ten fiscal years as is currently required.

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. Based on a review of Form N–4 filings made with the Commission, our staff estimates 35 initial filings on Form N–4 and 1,326 post-effective amendments would be made on Form N–4 per year.[786] We separately discuss the additional internal hours and external cost burdens that would apply as a result of the proposed amendments.

Internal Hour Burden

The proposed amendments would include certain disclosure changes and new disclosures, but also would simplify certain current disclosure requirements in Form N–4. Based on this, we estimate that, on a net basis, the proposed amendments to Form N–4 would increase the burden of preparing an initial registration statement on Form N–4 by 5 hours per initial registration statement. Amortizing this burden over a three-year period results in an estimated average annual burden of 1.7 hours per year, at an estimated internal time cost equivalent of $571.[787]

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 proposed amendments. Subsequently, we estimate an 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, at an estimated internal time cost equivalent of $3,360.[788]

In the aggregate, we estimate that the proposed amendments to Form N–4 would cause registrants to incur an additional annual burden of 13,320 hours, at an internal time cost equivalent of $4,475,345.[789] We estimate the total annual hour burden as a result of the proposed amendments to be approximately 284,621 hours.[790] This increase is due to the increased burden hours per filing as a result of the proposed amendments.

External Cost Burden

Registrants would also bear external costs to prepare and update registration statements and post-effective amendments on Form N–4, such as the services of independent auditors and outside counsel.

In our most recently approved Paperwork Reduction Act submission for Form N–4, Commission staff estimated the annual cost burden for preparing and filing an initial Form N–4 filing is $23,013 per filing,[791] with a total approved external cost burden of $4,832,730 annually for initial filings on Form N–4.[792] In this same submission, Commission staff estimated that the annual cost burden for preparing and filing a post-effective amendment to a previously-effective registration statement is $21,813 per filing, with a total approved external cost burden of

[783] This estimate is based on the following calculation: 0 initial registration statements + ($10,259 per registration statement per post-effective amendment × 8 post-effective amendments per year) + ($3,420 per investment option × 3 investment options × 8 post-effective amendments) = $164,152.

[784] These estimates are based on the last time the rule's information collections were approved, pursuant to a submission for PRA renewal in 2015.

[785] *See supra* section II.C.

[786] Based on a review of initial filings and post-effective amendments on Form N–4 filed with the Commission from January 1, 2015 to December 31, 2017. There were 34, 44, and 26 initial Form N–4 filings filed during 2015, 2016, and 2017, respectively. Averaging those initial Form N–4 filings over three years results in an average of approximately 35 initial Form N–4 filings per year. This estimate is based on the following calculation: (34 + 44 + 26)/3 years = 34.67 per year.

There were 1,315, 1,415, and 1,247 post-effective amendments filed during 2015, 2016, and 2017, respectively. Averaging those post-effective amendments over three years results in an average of approximately 1,326 post-effective amendments per year. This estimate is based on the following calculation: (1,315 + 1,415 + 1,247)/3 years = 1,325.67 per year.

[787] The estimate of 1.7 hours is based upon the following calculation: (5 + 0 + 0)/3 years = 1.67. We are assuming 0 hours in years 2 and 3 because, after year 1, the registrant would prepare and file post-effective amendments to the registration statement, and the hour burden of this is captured in the paragraph accompanying *infra* note 788. The internal time cost equivalent of $571 is calculated by multiplying the hour burden (1.7 hours) by the estimated hourly wage of $336. *See supra* note 775.

[788] The estimate of 10 hours is based upon the following calculation: (20 hours in year 1 + (5 hours in year 2) + (5 hours in year 3)/3 years = 10 hours. The internal time cost equivalent of $3,360 is calculated by multiplying the hour burden (10 hours) by the estimated hourly wage of $336. *See supra* note 775.

[789] The estimate of 13,320 hours is based upon the following calculation. For initial registration statements: 1.7 hours × 35 initial filings on Form N–4 = approximately 60 hours. For post-effective amendments: 10 hours × 1,326 post-effective amendments = 13,260 hours. 60 + 13,260 = 13,320.

The estimate of $4,475,345 is based upon the following calculation. For initial registration statements: $571 × 35 initial filings on Form N–4 = $19,985. For post-effective amendments: $3,360 × 1,326 post-effective amendments = $4,455,360. $19,985 + $4,455,360 = $4,475,345.

[790] This estimate is based on the following calculation. For initial registration statements: 35 initial filings × (278.5 hours current burden + 1.7 hours under proposed amendments) = 9,807 hours. For post-effective amendments: 1,326 post-effective amendments × (197.25 hours current burden + 10 hours under proposed amendments) = 274,813.5 hours. 9,807 + 274,813.5 = 284,620.5 hours.

[791] The staff estimated this amount per ''portfolio,'' with one portfolio per filing, in the most recently approved Paperwork Reduction Act submission for Form N–4. For purposes of this Paperwork Reduction Act analysis, we now estimate this amount per ''filing'' to conform with the terminology that we use elsewhere in this analysis.

[792] This estimate is based on the following calculation: $23,013 per filing × 210 initial filings per year = $4,832,730.

$31,476,159 annually for post-effective amendments.[793] The total estimated annual cost burden for Form N–4 in this submission is therefore $36,308,889 ($4,832,730 + $31,476,159).

We do not estimate any change to the external costs per filing associated with the proposed amendments to Form N–4. In the aggregate, we estimate registrants on Form N–4 would incur annual external costs of $29,729,493.[794] This decrease reflects a decrease in the estimated numbers 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, including the proposed amendments, contains collection of information requirements. Compliance with the disclosure requirements of Form N–6 is mandatory. Responses to the disclosure requirements are not confidential. We currently estimate for Form N–6 a total hour burden of 85,269 hours, and a total annual external cost burden of $5,316,892.[795] The hour and cost burden estimates for preparing and filing reports 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 are proposing amendments to Form N–6 to update and enhance the disclosures to investors in variable life insurance contracts, and to implement the proposed summary prospectus regime.[796] We propose to amend certain disclosure requirements that Form N–6 currently requires (but to a lesser extent than the proposal would amend the disclosure requirements that are currently in Form N–3 and Form N–4).[797] In addition, Form N–6 as we propose to amend it would require certain new disclosures regarding, among other things: An overview of the contract, key information, principal risks, optional benefits, loans, and the available portfolio companies. We also propose to reduce certain disclosures currently required by the form (but to a lesser extent than the proposal would reduce the disclosure requirements in Form N–3 and N–4).[798]

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. Based on a review of Form N–6 filings made with the Commission, our staff estimates 8 initial filings on Form N–6 and 380 post-effective amendments would be made on Form N–6 per year.[799] We separately discuss the additional internal hours and external cost burdens that would apply as a result of the proposed amendments.

Internal Hour Burden

The proposed amendments would include certain disclosure changes and new disclosures, but also would simplify certain current disclosure requirements in Form N–6. Based on this, we estimate that, on a net basis, the proposed amendments to Form N–6 would increase the burden of preparing an initial registration statement on Form N–6 by 4 hours per registrant.[800] Amortizing this burden over a three-year period results in an estimated average annual burden of 1 hour per year, at an estimated internal time cost equivalent of $336.[801]

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 proposed amendments.[802] Subsequently, we estimate an ongoing burden of an additional 4 hours per registration statement to prepare and file a post-effective amendment.[803] 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, at an estimated internal time cost equivalent of $2,688.[804]

In the aggregate, we estimate that the proposed amendments to Form N–6 would cause registrants to incur an additional annual burden of 3,048 hours, at an internal time cost equivalent of $1,024,128.[805] We estimate the total annual hour burden as a result of the proposed amendments to be 34,860 hours.[806] This increase is due

[793] This estimate is based on the following calculation: $21,813 per filing × 1,443 post-effective amendments per year = $31,476,159.

[794] The estimate of $29,729,493 is based upon the following calculation. For initial registration statements: $23,013 × 35 initial filings on Form N–4 = $805,455. For post-effective amendments: $21,813 × 1,326 post-effective amendments = $28,924,038. $805,455 + $28,924,038 = $29,729,493.

[795] These estimates are based on the last time the rule's information collections were approved, pursuant to a submission for PRA renewal in 2015.

[796] *See supra* section II.C.

[797] *See, e.g.,* section II.D.4.a (discussing proposed amendments to conform Part C items of Forms N–3 and N–4 to current presentation in Form N–6).

[798] Form N–6 does not include the requirement to include AUV tables, whose preparation would be simplified substantially by the proposed amendments to Forms N–3 and N–4. *See* ''Accumulation Unit Value Disclosure'' in *supra* section II.D.3.d.

[799] Based on a review of initial filings and post-effective amendments on Form N–6 filed with the Commission from January 1, 2015 to December 31, 2017. There were ten, seven, and six initial Form N–6 filings filed during 2015, 2016, and 2017, respectively. Averaging those initial Form N–6 filings over three years results in an average of approximately eight initial Form N–6 filings per year. This estimate is based on the following calculation: (10 + 7 + 6)/3 years = 7.67 per year.

There were 373, 420, and 346 post-effective amendments filed during 2015, 2016, and 2017, respectively. Averaging those post-effective amendments over three years results in an average of approximately 380 post-effective amendments per year. This estimate is based on the following calculation: (373 + 420 + 346)/3 years = 379.67 per year.

[800] This is a lower estimate than the parallel estimate used to calculate the increased hour burden of preparing an initial registration statement on Form N–3 or Form N–4, because we are proposing relatively fewer amendments to Form N–6 than we are to Form N–3 or Form N–4 (even taking into account that we do not expect the proposal to reduce the burden associated with current disclosure requirements in Form N–6 to the extent that it would in Form N–3 or Form N–4 (*see supra* note 798 and accompanying text)).

[801] The estimate of 1 hour is based upon the following calculation: (4 + 0 + 0)/3 years = 1.33. We are assuming 0 hours in years 2 and 3 because, after year 1, the registrant would prepare and file post-effective amendments to the registration statement, and the hour burden of this is captured in the paragraph accompanying *infra* note 804. The internal time cost equivalent of $336 is calculated by multiplying the hour burden (1 hour) by the estimated hourly wage of $336. *See supra* note 775.

[802] This is a lower estimate than the parallel estimate used to calculate the increased hour burden of preparing an initial registration statement on Form N–3 or Form N–4 because we are proposing fewer amendments to Form N–6. *See supra* note 800.

[803] *See id.*

[804] The estimate of 8 hours is based upon the following calculation: (15 hours in year 1 + (4 hours in year 2) + (4 hours in year 3)/3 years = 7.67 hours. The internal time cost equivalent of $2,688 is calculated by multiplying the hour burden (8 hours) by the estimated hourly wage of $336. *See supra* note 775.

[805] The estimate of 3,048 hours is based upon the following calculation. For initial registration statements: 1 hour × 8 initial filings on Form N–6 = 8 hours. For post-effective amendments: 8 hours × 380 post-effective amendments = 3,040 hours. 8 + 3,040 = 3,048.

The estimate of $1,024,128 is based upon the following calculation. For initial registration statements: $336 × 8 initial filings on Form N–6 = $2,688. For post-effective amendments: $2,688 × 380 post-effective amendments = $1,021,440. $2,688 + $1,021,440 = $1,024,128.

[806] This estimate is based on the following calculation. For initial registration statements: 8 initial filings × (770.25 hours current burden + 1 hour under proposed amendments) = 6,170 hours. For post-effective amendments: 380 post-effective amendments × (67.5 hours current burden + 8 hours under proposed amendments) = 28,690 hours. 6,170 + 28,690 = 34,860 hours.

to the increased burden hours per filing as a result of the proposed amendments.

External Cost Burden

Registrants would also bear external costs to prepare and update registration statements and post-effective amendments on Form N–6, such as the services of independent auditors and outside counsel.

In our most recently approved Paperwork Reduction Act submission for Form N–6, Commission staff estimated the annual cost burden for preparing and filing an initial Form N–6 filing is $24,169 per portfolio, with one portfolio per filing,[807] with a total approved external cost burden of $1,836,844 annually for initial filings on Form N–6.[808] In this same submission, Commission staff estimated that the annual cost burden for preparing and filing a post-effective amendment to a previously-effective registration statement is $8,788 per portfolio, with one portfolio per filing, with a total approved external cost burden of $3,480,048 annually for post-effective amendments.[809] The total estimated annual cost burden for Form N–6 in this submission is therefore $5,316,892 ($1,836,844 + $3,480,048).

We do not estimate any change to the external costs per filing associated with the proposed amendments to Form N–6. In the aggregate, we estimate registrants on Form N–6 would incur annual external costs of $3,532,792. This decrease reflects a decrease in the estimated numbers of filings on Form N–6.

D. Registered Investment Company Interactive Data

We are proposing amendments to 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,[810] to require the use of Inline XBRL format for the submission of certain required disclosures in variable contract statutory prospectuses. Specifically, registrants would submit the following information in Inline XBRL format in registration statements or post-effective amendments, as well as 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:

- *Form N–3 registrants:* Information provided in response to proposed Items 3, 4, 5, 12, 19, and 20 of Form N–3;
- *Form N–4 registrants:* Information provided in response to proposed Items 3, 4, 5, 11, and 18 of Form N–4; and
- *Form N–6 registrants:* Information provided in response to proposed Items 3, 4, 5, 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 would propose to re-title as ''Registered Investment Company Interactive Data.'' Compliance with these disclosure requirements would be mandatory, and responses would not be confidential. 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.[811]

The proposed amendments would generally impose two types of reporting burdens on investment companies: (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 separately discuss the additional internal hours and external cost burdens that would apply as a result of the proposed amendments.

As a threshold matter, we estimate that registrants on Forms N–3, N–4, and N–6 would 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[812] in the first year, and the same task in subsequent years would require approximately 12 hours for each post-effective amendment.[813] Therefore, we estimate the average annual burden over a three-year period for each post-effective amendment would be 14 hours.[814] We further estimate that the burden for each rule 497 filing would be 25% of that, or 3.5 hours per response.[815] 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.

We estimate 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 one quarter of the burden of a 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 would contain data that would be required to be submitting in Inline XBRL format.[816] Accordingly, for simplicity, we are estimating that

[807] The staff estimated this amount per ''portfolio,'' with one portfolio per filing, in the most recently approved Paperwork Reduction Act submission for Form N–6. For purposes of this Paperwork Reduction Act analysis, we now estimate this amount per ''filing'' to conform with the terminology that we use elsewhere in this analysis.

[808] This estimate is based on the following calculation: $24,169 per filing × 76 initial filings per year = $1,836,844.

[809] This estimate is based on the following calculation: $8,788 per filing × 396 post-effective amendments per year = $3,480,048.

[810] *See supra* note 770.

[811] 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 613.

[812] We are not including estimates for Form N–3 initial registration statements, as none have been filed in the past three years.

[813] Our estimates are based on our prior experience with Inline XBRL. *See, e.g.,* Inline XBRL Adopting Release, *supra* note 613. We are largely following the same approach to estimating hourly burdens for variable contracts as we did in the context of mutual funds in the Inline XBRL Adopting Release.

[814] (18 hours for the first submission + 12 hours for the second submission + 12 hours for the third submission)/3 years = 14 hours.

[815] Because rule 497 filings are typically 1–3 pages in length, we are estimating that the burden would be only 25% of the burden associated with tagging the relevant disclosures in a full registration statement filing.

[816] For Form N–3, we estimate a burden of 2.3 responses per year. This estimate is based on the following calculation: ((0 initial registration statements + 8 post-effective amendments) + (19 rule 497 filings × 0.75 of which will contain data that will need to be tagged × 0.25 weighted burden))/5 Form N–3 registrants = approximately 2.3 responses per year per registrant.

For Form N–4, we estimate a burden of 4.7 responses per year. This estimate is based on the following: ((35 initial registration statements + 1,326 post-effective amendments) + (3,555 rule 497 filings × 0.75 of which will contain data that will need to be tagged × 0.25 weighted burden))/435 Form N–4 registrants = approximately 4.7 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: ((8 initial registration statements + 380 post-effective amendments) + (836 rule 497 filings × 0.75 of which will contain data that will need to be tagged × 0.25 weighted burden))/238 Form N–6 registrants = approximately 2.3 responses per year per registrant.

Overall, we estimate approximately 3 responses per year. This estimate is based upon the following calculation: (2.2 responses per N–3 registrant + 4.7 responses per N–4 registrant + 2.3 responses per N–6 registrant)/3 = 3.1 responses per year.

registrants on each of the 3 forms will file 3 responses per year.

Internal Hour Burden

Form N–3 Registrants. Based on a review of Form N–3 filings made with the Commission, our staff estimates there would be no initial filings each year, eight post-effective amendments, and 19 rule 497 filings made on Form N–3 per year.[817] Accordingly, we estimate that, in the aggregate, adoption of the proposed Inline XBRL requirements would result in 300 burden hours for each of the first three years for Form N–3 registrants.[818] This amounts to a collective internal cost burden of approximately $100,800 to tag and submit the required Form N–3 disclosure information in Inline XBRL.[819]

Form N–4 Registrants. Based on a review of Form N–4 filings made with the Commission, our staff estimates there would be 35 initial filings each year, 1,326 post-effective amendments, and 3,555 rule 497 filings made on Form N–3 per year.[820] Accordingly, we estimate that, in the aggregate, adoption of the proposed Inline XBRL requirements would result in 18,270 burden hours for each of the first three years for Form N–4 registrants.[821] This amounts to a collective internal cost burden of approximately $6,138,720 to tag and submit the required Form N–4 disclosure information in Inline XBRL.[822]

Form N–6 Registrants. Based on a review of Form N–6 filings made with the Commission, our staff estimates there would be 8 initial filings each year, 380 post-effective amendments, and 1,115 rule 497 filings made on Form N–6 per year.[823] Accordingly, we estimate that, in the aggregate, adoption of the proposed Inline XBRL requirements would result in 9,996 burden hours for each of the first three years for Form N–6 registrants.[824] This amounts to a collective internal cost burden of approximately $3,358,656 to tag and submit the required Form N–6 disclosure information in Inline XBRL.[825]

Aggregate Internal Hours Burden for Form N–3, N–4, and N–6 Registrants. In the aggregate, we estimate that the adoption of the proposed Inline XBRL requirements would result in 28,566 burden hours for each of the first three years for Form N–3, N–4, and N–6 registrants.[826] Converted into dollars, this amounts to a collective internal cost burden of approximately $9,598,176 to tag and submit the required Form N–3, N–4, and N–6 disclosure information in Inline XBRL.[827] We therefore estimate the aggregate total hour burden for the re-titled ''Registered Investment Company Interactive Data'' collection of information would be 207,369 hours as a result of the proposed amendments.[828]

External Cost Burden

Compliance with the proposed Inline XBRL requirements would 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 an external cost burden of $900 per registrant for the cost of goods and services purchased to comply with the proposed Inline XBRL requirements, which is based on the estimated average external cost burden associated with the Inline XBRL preparation expenses for mutual funds and ETFs.[829] We understand that annual software licensing costs generally would be included in the cost of hiring external professionals, in which case registrants may receive tagging software at no cost, while others may create their own software in-house. For Form N–3 registrants, we estimate an additional cost of $300 per investment option for the cost of goods and services purchased to comply with the proposed Inline XBRL requirements for an estimated external cost burden of $1,800 per registrant.[830]

Based on the estimate of five Form N–3 registrants,[831] 435 Form N–4 registrants,[832] and 238 Form N–6 registrants,[833] we estimate that, in the aggregate, the total external costs to Form N–3, N–4, and N–6 registrants associated with the proposed requirements to tag and submit certain information in Inline XBRL would be approximately $614,700.[834] We

[817] *See supra* note 773 (discussing initial filings and post-effective amendments on Form N–3). In addition, Commission staff reviewed rule 497 filings for Form N–3 filed with the Commission from January 1, 2015 to December 31, 2017. There were 19, 22, and 16 rule 497 filings during 2015, 2016, and 2017, respectively. Averaging those rule 497 filings over three years results in an average of 19 post-effective amendments per year. This estimate is based on the following calculation: (19 + 22 + 16)/3 years = 19 per year. Commission staff further estimates these filings would include an average of three investment options per registration statement or post-effective amendment filing. *See supra* note 774.

[818] 5 registrants × 3 responses per year per registrant × (14 hours per registrant + (2 hours per investment option × 3 investment options per registrant)) = 300 burden hours/year.

Currently, there are five Form N–3 registrants. *See supra* note 23. We estimate the hourly burden on a per-registrant basis to be 60 hours/year. (300 burden hours per year/5 registrants = 60 burden hours/year).

[819] The internal time cost equivalent of $100,800 is calculated by multiplying the total hour burden (300 hours) by the estimated hourly wage of $336. *See supra* note 775.

On a per registrant basis, the internal cost equivalent associated with Inline XBRL for Form N–3 registrants is estimated to be $20,160/year ($100,800/5 registrants = $20,160/year).

[820] *See supra* note 786 (discussing initial filings and post-effective amendments on Form N–4). In addition, Commission staff reviewed rule 497 filings for Form N–4 filed with the Commission from January 1, 2015 to December 31, 2017. There were 3,098, 3,759, and 3,808 rule 497 filings during 2015, 2016, and 2017, respectively. Averaging those rule 497 filings over three years results in an average of 3,555 post-effective amendments per year. This estimate is based on the following calculation: (3,098 + 3,759 + 3,808)/3 years = 3,555 per year.

[821] 435 registrants × 3 responses per year per registrant × 14 hours per registrant = 18,270 burden hours/year.

Currently, there are 435 Form N–4 registrants. *See supra* note 24. We estimate the hourly burden on a per-registrant basis to be 42 hours/year. (18,270 burden hours per post-effective amendment/435 registrants = 42 burden hours/year).

[822] The internal time cost equivalent of $6,138,720 is calculated by multiplying the total hour burden (18,270 hours) by the estimated hourly wage of $336. *See supra* note 787.

On a per-registrant basis, the internal cost equivalent associated with Inline XBRL is estimated to be $14,112/year ($6,138,720/435 registrants = $14,112/year).

[823] *See supra* note 799 (discussing initial filings and post-effective amendments on Form N–6). In addition, Commission staff reviewed rule 497 filings for Form N–6 filed with the Commission from January 1, 2015 to December 31, 2017. There were 1,095, 1,166, and 1,083 rule 497 filings during 2015, 2016, and 2017, respectively. Averaging those rule 497 filings over three years results in an average of 1,115 post-effective amendments per year. This estimate is based on the following calculation: (1,095 + 1,166 + 1,083)/3 years = 1,115 per year.

[824] 238 registrants × 3 responses per year per registrant × 14 hours per registrant = 9,996 hours per year.

Currently, there are 238 Form N–6 registrants. *See supra* note 25. We estimate the hourly burden on a per-registrant basis to be 42 hours/year (9,996 burden hours per year/238 registrants = 42 burden hours/year).

[825] The internal time cost equivalent of $3,358,656 is calculated by multiplying the total hour burden (9,996 hours) by the estimated hourly wage of $336. *See supra* note 801.

On a per-registrant basis, the internal cost equivalent associated with Inline XBRL is estimated to be $14,112/year ($3,358,656/238 registrants = $14,112/year).

[826] 300 burden hours for Form N–3 registrants + 18,270 burden hours for Form N–4 registrants + 9,996 burden hours for Form N–6 registrants = 28,566 hours.

[827] $100,800 for Form N–3 registrants + $6,138,720 for Form N–4 registrants + $3,358,656 for Form N–6 registrants = $9,598,176.

[828] 178,803 annual burden hours (current estimated annual hour burden) + additional 28,566 burden hours resulting from the proposed amendments = 207,369.

[829] *See* Inline XBRL Adopting Release, *supra* note 613.

[830] $900 per registrant + (3 investment options per registrant × $300 per investment option) = $1,800 per Form N–3 registrant.

[831] *See supra* note 23.

[832] *See supra* note 29.

[833] *See supra* note 25.

[834] (5 Form N–3 registrants + 435 Form N–4 registrants + 238 Form N–6 registrants) × $900 per

therefore estimate the aggregate total external cost burden for the re-titled ''Registered Investment Company Interactive Data'' collection of information would be $10,615,347 as a result of the proposed amendments.[835]

E. Proposed Rule 498A

Proposed rule 498A would contain 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.[836] Under proposed rule 498A, use of the summary prospectus would be voluntary, but the rule's requirements would be mandatory for variable annuity and variable life insurance separate accounts that elect to send or give a summary prospectus in reliance upon proposed rule 498A. The information provided under proposed rule 498A would 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 95% of all separate accounts would choose to use a summary prospectus under proposed rule 498A.[837]

Preparation of Initial Summary Prospectus and Updating Summary Prospectus

For registrants that choose to rely upon proposed rule 498A, 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 for offerings on Forms N–4 or N–6.[838] In addition, we estimate an 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. We estimate that each registration statement filed on Form N–3 would include three investment options.[839]

Because the PRA estimates represent the average burden over a three-year period, we estimate the average annual hour burden per registration statement to prepare initial and updating summary prospectuses would be 20 hours for filings on Form N–4 or N–6.[840] For Form N–3, we estimate the average annual hour burden per registration statement to prepare initial and updating summary prospectuses would be 38 hours.[841]

We estimate the aggregate annual hour burden to prepare initial and updating summary prospectuses for offerings on Forms N–3, N–4, and N–6 would be 14,610 hours, at an internal cost equivalent of $4,908,960.[842]

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 associated with filing the summary prospectuses as exhibits to the registration statements would already be reflected in the external costs associated with those registration statements.

For registrants that choose to rely upon proposed rule 498A, we 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. We estimate that each registration statement filed on Form N–3 would include three investment options.[843]

Because the PRA estimates represent the average burden over a three-year period, we estimate the average annual hour burden per registration statement to prepare and update initial and updating summary prospectuses would be $5,000 for filings on Form N–4 or N–

registrant = 610,200) + (5 Form N–3 registrants × 3 investment options per registrant × $300 per investment option) = $614,700.

[835] $10,000,647 (current estimated external cost burden) + additional $614,700 = $10,615,347.

[836] As drafted, proposed rule 498A could 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) would generally be borne by registrants. We base this expectation in part on the fact that our proposed amendments would require prospectuses and summary prospectuses to include the website address where the documents required to be posted online would be 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.

[837] Given expressed industry support for layered disclosure with summary prospectuses, our experience that approximately 95% of mutual funds have adopted layered disclosure with summary prospectuses, and our anticipation that the proposed rule will provide costs savings to insurers, we believe it is appropriate to assume that 95% of insurers will choose delivery of summary prospectuses. *See supra* note 44.

[838] We are aware that more than one prospectus may be filed as part of a registration statement. Our proposal would provide guidance clarifying the circumstances under which this would be appropriate. *See supra* text preceding and accompanying note 400. We do not have data regarding how many registration statements currently include more than one prospectus, nor are we able to determine how the number of prospectuses per registration statement might be affected by our proposed guidance. For these reasons, we assume one prospectus is filed per registration statement.

[839] *See supra* note 774 and accompanying text.

[840] The estimate of 20 hours is based upon the following calculation: (40 hours to prepare a new initial and updating summary prospectus in year 1) + (10 hours in year 2) + (10 hours in year 3)/3 years = 20 hours.

[841] The estimate of 38 hours is based upon the following calculation: 40 hours to prepare summary prospectuses + (12 hours per investment option × 3 investment options) = 76 hours in year 1. 10 hours + (3 hours per investment option × 3 investment options) = 19 hours in each of year 2 and year 3. (76 hours in year 1) + (19 hours in year 2) + (19 hours in year 3)/3 years = 38 hours.

[842] The estimate of 14,610 hours is based upon the following calculation: ((38 hours × 5 registrants on Form N–3) + (20 hours × 500 registrants on Form N–4) + (20 hours × 221 registrants on Form N–6)) × 95% = 14,610 hours.

The internal time cost equivalent of $4,908,960 is calculated by multiplying the hour burden (14,610 hours) by the estimated hourly wage of $336. *See supra* note 775.

[843] *See supra* note 774 and accompanying text.

6.[844] For Form N–3, we estimate the average annual hour burden per registration statement to prepare and update initial and updating summary prospectuses would be $9,500.[845]

We estimate the aggregate annual external cost burden to prepare and update initial and updating summary prospectuses for offerings on Forms N–3, N–4, and N–6 would be $3,469,875.[846]

Online Availability of Contract Statutory Prospectus and Certain Other Documents Relating to the Contract

Registrants that choose to rely upon proposed rule 498A would be 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 shareholders under rule 30e-1 in the case of a variable annuity contract registered under Form N–3.

We estimate the average burden to comply with the proposed website posting requirements would be 2 hours per set of documents associated with a single registration statement, both in the first year and annually thereafter.[847]

In total, we estimate the annual burden to comply with the proposed website posting requirements of the rule for documents relating to variable contracts would be 1,379 hours, at an internal cost equivalent of $329,581.[848]

Furthermore, we also estimate that registrants may incur external costs in connection with the requirement to provide these documents upon request of a shareholder. We estimate that the average annual costs associated with printing and mailing these documents upon request would be collectively $500 for all documents associated with a single registrant.[849] Accordingly, we estimate that the aggregate annual external costs associated with printing and mailing these documents upon request would be $344,850.[850]

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 would also be required to post online the portfolio company's summary prospectus, statutory prospectus, SAI, and most recent annual and semi-annual shareholder reports.[851]

We estimate the average burden to comply with the proposed website posting requirements would be 2 hours per set of documents associated with a single registration statement, both in the first year and annually thereafter. In total, we estimate the annual burden to comply with the proposed website posting requirements of the rule for documents relating to portfolio companies would be 1,370 hours, at an internal cost equivalent of $327,430.[852]

Furthermore, we also estimate that registrants may incur external costs in connection with the requirement to provide these documents upon investor request. We estimate that the average annual costs associated with printing and mailing these documents upon request would be collectively $500 for all documents associated with a single registrant.[853] Accordingly, we estimate that the aggregate annual external costs associated with printing and mailing these documents upon request would be $342,475.[854]

Total Hour Burden Associated With Proposed Rule 498A

Accordingly, we estimate the total annual hour burden for registrants under proposed rule 498A to prepare, file and update both the initial summary prospectus and updating summary prospectuses, and post the required variable contract and portfolio company documents to a website would be 17,359 hours, at an internal time cost equivalent of $5,565,971.[855] In addition,

[844] The estimate of $5,000 is based upon the following calculation: ($10,000 to prepare a new initial and updating summary prospectuses in year 1) + ($2,500 in year 2) + ($2,500 in year 3)/3 years = $5,000.

[845] The estimate of $9,500 is based upon the following calculation: $10,000 to prepare new initial and updating summary prospectuses + ($3,000 per investment option × 3 investment options) = $19,000 in year 1. $2,500 + ($750 per investment option × 3 investment options) = $4,750 in each of year 2 and year 3. ($19,000 in year 1) + ($4,750 in year 2) + ($4,750 in year 3)/3 = $9,500.

[846] The estimate of $3,469,875 is based upon the following calculation: (($9,500 × 5 registrants on Form N–3) + ($5,000 × 500 registrants on Form N–4) + ($5,000 × 221 registrants on Form N–6)) × 95% = $3,469,875.

[847] We note that 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 would not experience any burdens associated with developing a website.

[848] The estimate of 1,379 hours is based on the following calculation: 95% reliance on the rule × ((2 hours per registration statement × 5 registration statements on Form N–3) + (2 hours per registration statement × 500 registration statements on Form N–4) + (2 hours per registration statement × 221 registration statements on Form N–6)) = approximately 1,379 hours.

The internal time cost equivalent of $329,581 is calculated by multiplying the hour burden (1,379 hours) by the estimated hourly wage based on published rates for webmasters ($239). This hourly figure is 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 overhead; and adjusted to account for the effects of inflation.

[849] We do not have specific data regarding how the cost of printing and mailing the two sets of proposed documents would differ, nor are we able to specifically identify how the cost of printing and mailing the documents at issue here might be affected by the amendments to the forms we are proposing today. For these reasons, we are continuing to use the estimate of $500 per year to collectively print and mail upon request all documents associated with a single registrant for purposes of our analysis. However, we are requesting comment on this estimate.

Investors could also request to receive these documents electronically. We estimate that there would be negligible external costs associated with emailing electronic copies of these documents.

[850] This estimate is based upon the following calculations: 95% reliance on the rule × $500 per registrant × (5 registration statements on Form N–3 + 500 registration statements on Form N–4 + 221 registration statements on Form N–6)) = $344,850.

[851] The obligation to post these documents online would fall upon the party that has the prospectus delivery obligation for the portfolio company prospectus. For purposes of this Paperwork Reduction Act analysis, we assume that delivery of portfolio company prospectuses would 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 Paperwork Reduction Analysis, we still assume that the registrant would bear the burden of posting those documents since we expect the registrant would repost those documents to make them available on a single website. *See supra* note 836.

[852] The estimate of 1,370 hours is based on the following calculation: 95% reliance on the rule × 2 hours per registration statement × (500 registration statements on Form N–4 + 221 registration statements on Form N–6) = approximately 1,370 hours.

The internal time cost equivalent of $327,430 is calculated by multiplying the hour burden (1,370 hours) by the estimated hourly wage based on published rates for Webmasters ($239).

[853] Investors could also request to receive these documents electronically. We estimate that there would be negligible external costs associated with emailing electronic copies of these documents.

[854] This estimate is based upon the following calculations: 95% reliance on the rule × $500 per printing and mailing × (500 registration statements on Form N–4 + 221 registration statements on Form N–6) = $342,475. For purposes of this Paperwork Reduction Act analysis, based upon our experience, we assume that the burden of emailing these documents would be outsourced to third-party service providers and therefore would be included within these external cost estimates.

[855] The internal hours estimate is based upon the following calculation: 14,610 hours to prepare, file, and update initial and updating summary prospectuses for offerings on Forms N–3, N–4, and N–6 + 1,379 hours to comply with the proposed website posting requirements for documents relating to variable contracts + 1,370 hours to comply with the proposed website posting requirements for documents relating to portfolio companies = 17,359 hours.

This internal time cost equivalent estimate is based upon the following calculation: $4,908,960 to prepare, file, and update initial and updating summary prospectuses for offerings on Forms N–3,

we estimate the total external cost to the variable contract industry would be $4,157,200 to prepare and update both the initial summary prospectus and the updating summary prospectus and print and mail the required variable contract and portfolio company documents upon request.[856]

F. Request for Comments

Pursuant to 44 U.S.C. 3506(c)(2)(B), we request comments to: (1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of our estimate of the burden of the proposed collections of information; (3) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) determine whether there are ways to minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

In addition to these general requests for comment, we also request comment specifically on the following issues:

- Our analysis relies upon certain assumptions, such as all registrants on Forms N–3, N–4, and N–6 already have websites, and 95% of these registrants would choose to use a summary prospectus under proposed rule 498A. Do commenters agree with these assumptions?
- We also assume that 100% of registrants that rely on 498A to deliver contract summary prospectuses also would rely on the rule for the new delivery option for portfolio company prospectuses. Do commenters agree with these assumptions?

Persons wishing to submit comments on the collection of information requirements of the proposed rules and amendments should direct them to the OMB, Attention Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy to, Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File No. S7–23–18. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–23–18, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release.

V. Regulatory Flexibility Certification

Section 3(a) of the Regulatory Flexibility Act of 1980 (''RFA'') [857] requires us to undertake an initial regulatory flexibility analysis (''IRFA'') of the proposed rule and proposed form amendments on small entities unless we certify that the rule and form amendments, if adopted, would not have a significant economic impact on a substantial number of small entities.[858] Pursuant to 5 U.S.C. 605(b), we hereby certify that proposed new rule 498A under the Securities Act and proposed amendments to Forms N–3, N–4, and N–6 under the Securities Act and the Investment Company Act, would not, if adopted have a significant economic impact on a substantial number of small entities.

We are proposing new 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]. Proposed rule 498A would provide a new option that would permit 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 would 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 the 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. The proposed rule would require 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 proposed rule would permit satisfaction of any 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.[859]

Investors would also be able to request and receive those documents in paper or electronically at no cost. No variable contract separate accounts would be required to send or give a summary prospectus.

We are also proposing amendments to Forms N–3, N–4, and N–6 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 proposed 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 proposed amendments would 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 proposed amendments also would standardize presentation requirements across registration statement forms to make the information more accessible to retail investors. We are also proposing to require variable contracts to use the

N–4, and N–6 + $329,581 to comply with the proposed website posting requirements for documents relating to variable contracts + $327,430 to comply with the proposed website posting requirements for documents relating to portfolio companies = $5,565,971.

[856] This estimate is based on the following calculation: $3,469,875 to prepare and update initial and updating summary prospectuses for offerings on Forms N–3, N–4, and N–6 + $344,850 to comply with the proposed printing and mailing requirements for documents relating to variable contracts + $342,475 to comply with the proposed printing and mailing requirements for documents relating to portfolio companies = $4,157,200.

[857] 5 U.S.C. 603(a).

[858] 5 U.S.C. 605(b).

[859] This option would 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 would 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 would be done by registrants, rather than portfolio companies or financial intermediaries such as broker-dealers. *See supra* note 851 (making the same assumption for purposes of the Paperwork Reduction Act analysis).

Inline XBRL format for the submission of certain required disclosures in the variable contract statutory prospectus.[860] All insurance company separate accounts offering variable annuity and variable life insurance contracts would be subject to the proposed disclosure and reporting requirements, regardless of size.

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.[861] 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.[862] As a result, the Commission expects few, if any, separate accounts to be treated as small entities.

For this reason, we believe the new proposed rule 498A and the proposed amendments to Forms N–3, N–4, and N–6, would not, if adopted, have a significant economic impact on a substantial number of small entities.

We encourage written comments regarding this certification. We solicit comment as to whether new rule 498A and the proposed amendments to Forms N–3, N–4, and N–6 could have an effect on small entities that has not been considered. We ask that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of such impact.

VI. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,'' [863] the Commission must advise OMB whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results in or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We request comment on whether our proposal would be a ''major rule'' for purposes of SBREFA. We solicit comment and empirical data on:

- The potential effect on the U.S. economy on an annual basis;
- Any potential increase in costs or prices for consumers or individual industries; and
- Any potential effect on competition, investment, or innovation.

Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VII. Statutory Authority and Text of Proposed Amendments

The Commission is proposing the rules and forms 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 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 Proposed Rule and Form Amendments

For reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. 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.

■ 2. 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;

* * * * *

■ 3. Amend § 230.421 by adding paragraph (e) to read as follows:

§ 230.421 Presentation of information in prospectuses.

* * * * *

(e) 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 rule 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:

■ 4. 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 rule shall be

[860] *See supra* note 615.

[861] 17 CFR 270.0–10(a).

[862] Rule 0–10(b).

[863] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

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:

* * * * *

■ 5. 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 rule 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), § 230.498A(g), or § 230.498A(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 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.

* * * * *

■ 6. 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.

* * * * *

■ 7. Amend § 230.497 by revising paragraphs (c), (e), and (k) 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) Summary Prospectus filing requirements. This paragraph (k), and not the other provisions of § 230.497, 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.

■ 8. 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;

* * * * *

■ 9. 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:

(1) *Class* means a class of a Contract that varies principally with respect to distribution-related fees and expenses.

(2) *Contract* means a Variable Annuity Contract or a Variable Life Insurance Contract as defined in paragraphs (a)(14) and (a)(15) of this section, respectively.

(3) *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.

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

(5) *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.

(6) *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.

(7) *Portfolio Company Prospectus* means the Statutory Prospectus of a Portfolio Company and a summary prospectus of a Portfolio Company permitted by § 230.498 of this chapter.

(8) *Prospectus Supplement* means a correction or update to a prospectus filed with the Commission pursuant to § 230.497(e) of this chapter.

(9) *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 (Form N–3), §§ 239.17b and 274.11c (Form N–4), or §§ 239.17c and 274.11d (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)).

(10) *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.

(11) *Statutory Prospectus* means a prospectus that satisfies the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)).

(12) *Summary Prospectus* refers to both the Initial Summary Prospectus and the Updating Summary Prospectus.

(13) *Updating Summary Prospectus* means the updating summary prospectus described in paragraph (c) of this section.

(14) *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.

(15) *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 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 Registrant's name.

(iii) The name of the Contract, and the Class or Classes if any, to which the Initial Summary Prospectus relates.

(iv) A statement identifying the document as a ''Summary Prospectus for New Investors.''

(v) The approximate date of the first use of the Initial Summary Prospectus.

(vi) The following legend:

This Summary Prospectus summarizes key features of the [name of Contract]. You should read this Summary Prospectus carefully, particularly the section titled Important Information You Should Consider About the [Contract].

Before you invest, you should review the prospectus for the [name of Contract], which contains more information about the [Contract], including its features, benefits, and risks. You can find the 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 [____].

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 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 information, request other information about the Contract, and to make investor inquiries. The internet 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.

(C) If a Registrant 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 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.

(vii) The following legend that indicates 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. The legend may be in one of the following or other clear and concise language:

Example A to paragraph (b)(2)(vii): The Securities and Exchange Commission has not approved or disapproved the [Contract] or passed upon the adequacy of this summary prospectus. Any representation to the contrary is a criminal offense.

Example B to paragraph (b)(2)(vii): The Securities and Exchange Commission has not approved or disapproved of the [Contract] or determined if this summary prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

(3) *Back Cover Page or Last Page of Initial Summary Prospectus.* 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) of this chapter.

(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 below.

(i) Under the heading ''Overview of the [Variable Annuity/Life Insurance 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 ''Important Information You Should Consider About 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 Benefit,'' the information required by Item 11(a) of Form N–3, Item 10(a) of Form N–4, or Item 10(a) of Form N–6.

(iv) Under the heading ''Other Benefits Available Under the [Contract],'' the information required by Item 12(a) of Form N–3, Item 11(a) of Form N–4, or Item 11(a) of Form N–6.

(v) Under the heading ''Buying the [Contract],'' the information required by Item 13(a) of Form N–3, Item 12(a) of Form N–4, or Items 9(a) through 9(e) of Form N–6.

(vi) Under the heading ''How Your [Contract] Can Lapse,'' the information required by Item 14 of Form N–6.

(vii) Under the heading ''Surrendering Your [Contract] or Making Withdrawals: Accessing the Money in Your [Contract],'' the information required by Item 14(a) of Form N–3, Item 13(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 19 of Form N–3, Item 18 of Form N–4, or Item 18 of Form N–6. If the appendix includes the information required by Item 19 of Form N–3, the appendix shall 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 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].'' This introductory legend also may indicate, if applicable, that the prospectus 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. Alternatively, an Initial Summary Prospectus for a Contract registered on Form N–3 may include the information required by Item 20 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 Registrant's name.

(iii) The name of the Contract(s) and the Class or Classes, if any, to which the Updating Summary Prospectus relates.

(iv) A statement identifying the document as an ''Updating Summary Prospectus.''

(v) The approximate date of the first use of the Updating Summary Prospectus.

(vi) The following legend, which must meet the requirements of paragraphs (b)(2)(vi)(A) through (C) of this section:

You should read this Summary Prospectus carefully, particularly the section titled Important Information You Should Consider About the [Contract].

An updated prospectus for the [Contract] is currently available online, which contains more information about the [Contract], including its features, benefits, and risks. You can find the 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.*

(vii) The legend required by paragraph (b)(2)(vii) of this section.

(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 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) of this chapter.

(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 below.

(i) If any changes have been made with respect to the Contract after the Registrant has sent or given its most recent Updating Summary Prospectus or Statutory Prospectus 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 4 (Fee Table), Item 11 (Standard Death Benefit), or Item 12 (Other Benefits Available Under the Contract) of Form N–3 ; Item 4 (Fee Table), Item 10 (Standard Death Benefit), or Item 11 (Other Benefits Available Under the Contract) of Form N–4; and Item 4 (Fee Table), Item 10 (Standard Death Benefit), or Item 11 (Other Benefits Available Under the Contract) 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.

(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 change with respect to the Contract within the time period that paragraph (c)(6)(i) of this section specifies, under the same heading that paragraph (c)(6)(i) of this section specifies. Any additional information included pursuant to this paragraph 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 3 of Form N–3, Item 3 of Form N–4, or Item 3 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 19 of Form N–3, Item 18 of Form N–4, or Item 18 of Form N–6. If the appendix includes the information required by Item 19 of Form N–3, the appendix shall 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 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].'' This introductory legend also may indicate, if applicable, that the prospectus 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. 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 20 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 (Rule 30e–1) that the Registrant has incorporated by reference into the Registrant's Statutory Prospectus, provided that:

(i) The conditions of paragraphs (b)(2)(vi)(B), (c)(3)(vi), 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) *Definitions.* Define special terms used in the Initial Summary Prospectus and Updating Summary Prospectus using any presentation style that clearly conveys their meaning to investors.

(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 paragraph (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 paragraph (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) of this chapter or contains the same section headings as the table of contents required by § 230.481(c) of this chapter; 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), (h)(2), and (h)(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), (h)(2), and (h)(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), (h)(2), and (h)(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)(1), (h)(2), and (h)(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), (h)(2), and (h)(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, 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 and Cross-References.* Any website address or cross-reference that is included in an electronic version of the Summary Prospectus must be an active hyperlink. This requirement does not apply to electronic versions of a Summary Prospectus that are filed on the EDGAR system. Rule 105 of Regulation S–T (§ 232.105 of this chapter) prohibits hyperlinking to websites, locations, or other documents that are outside of the EDGAR system.

(5) *Compliance with paragraph (i) not a condition to reliance on paragraphs (f) or (g).* 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 comply with paragraph (i) does not negate the ability to rely on paragraph (f) or (g) of this section.

(j) *Portfolio Company Prospectuses.* (1) *Delivery.* Any obligation under section 5(b)(2) of the Act to deliver a Statutory Prospectus for a Portfolio Company available as an investment option under a Contract is satisfied if:

(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 website address specified on the cover page or beginning of the Contract Summary Prospectuses, and are accessible under the conditions set forth in paragraphs (h)(1), (h)(2)(i) and (ii), (h)(3), and (h)(4) of this section, and paragraphs (i)(1) and (i)(3) 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.

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 10. 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.

* * * * *

■ 11. 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.

* * * * *

■ 12. Amend § 232.405 by revising the introductory text, paragraphs (a)(2), (a)(3)(i) introductory text, (a)(3)(ii), (a)(4), (b)(1) introductory text, (b)(2), (f)(1)(i) introductory text and the Note to § 232.405 to 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;

(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)(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 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 risk/return summary information set forth in (i) Items 2, 3, and 4 of §§ 239.15A and 274.11A of this chapter (Form N–1A), (ii) Items 3, 4, 5, 12, 19 and 20 of §§ 239.17a and 274.11b of this chapter (Form N–3), (iii) Items 3, 4, 5, 11 and 18 of §§ 239.17b and 274.11c of this chapter (Form N–4), or (iv) Items 3, 4, 5, 11 and 18 §§ 239.17c and 274.11d of this chapter (Form N–6) as applicable.

* * * * *

(f) * * * (1) * * *

(i) In the manner specified in paragraph (f)(2) of this section rather than as specified by paragraph (a)(3)(i) of this section: Any electronic filer that 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) registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), if it is within one of the following categories, provided, however, that an Interactive Data File first is required to be submitted in the manner specified by paragraph (a)(3)(i) of this section for a periodic report on § 249.308a of this chapter (Form 10–Q) if the filer reports on Form 10–Q:

* * * * *

Note 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 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 13. The authority citation for part 240 continues to read in part 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, 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; and Pub. L. 111–203, 939A, 124 Stat. 1887 (2010); and secs. 503 and 602, Pub. L. 112–106, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

■ 14. 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), § 230.498A(b), or § 230.498A(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 the rules thereunder; and

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 15. The general authority citation for part 270 continues to read, and sectional authority for § 270.6e–3 is added to read, 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).

* * * * *

■ 16. 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–3, 270.22e–1, 270.26a–1, 270.27i–1, and 270.32a–2 of this chapter.

* * * * *

(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–3, 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.

■ 17. Amend § 270.6c–7 by revising the introductory text 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:

* * * * *

■ 18. Amend § 270.6c–8 by revising paragraphs (b) and (c) 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.

■ 19. 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 rules and regulations promulgated thereunder 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 (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;

(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;

(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;

(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;

(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;

(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;

(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;

(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 above;

(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 (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 (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 rule, *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:

(i) A death benefit and cash surrender value which vary to reflect the investment experience of the separate account;

(ii) 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

(iii) 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.

■ 20. 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 the rules under it that apply to a registered investment company issuing periodic payment play 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 (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;

(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;

(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;

(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;

(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;

(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;

(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; and

(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;

(iii) Necessary to comply with this Rule 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)(A) 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 paragraph (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 those paragraphs as if it were a separate account.

(c) When used in this Rule:

(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.

■ 21. Amend § 270.11a–2 by revising paragraph (c) 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.

* * * * *

■ 22. 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 rules 15a–3, 16a–1, and 32a–2 under the Act (17 CFR 270.15a–3, 270.16a–1, and 270.32a–2), provided that such investment company complies with the conditions set forth in those rules as if it were a separate account.

■ 23. 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]

■ 24. Remove § 270.26a–2.

§ 270.27a–1 [Removed]

■ 25. Remove § 270.27a–1.

§ 270.27a–2 [Removed]

■ 26. Remove § 270.27a–2.

§ 270.27a–3 [Removed]

■ 27. Remove § 270.27a–3.

■ 28. Redesignate § 270.27c–1 as § 270.27i–1 and revise newly redesignated § 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.

§ 270.27c–1 [Removed and reserved]

■ 29. Remove and reserve § 270.27c–1.

§ 270.27d–2 [Removed and reserved]

■ 30. Remove and reserve § 270.27d–2.

§ 270.27e–1 [Removed and reserved]

■ 31. Remove and reserve § 270.27e–1.

§ 270.27f–1 [Removed and reserved]

■ 32. Remove and reserve § 270.27f–1.

§ 270.27g–1 [Removed and reserved]

■ 33. Remove and reserve § 270.27g–1.

§ 270.27h–1 [Removed and reserved]

■ 34. Remove and reserve § 270.27h–1.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 35. 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.

* * * * *

§§ 239.15 and 274.11 [Removed and reserved]

■ 36. Remove and reserve § 239.15 and 274.11.

■ 37. 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)
[ ] pursuant to paragraph (a)(2) of rule 485

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" and "Title of Securities Being Registered" 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 in Form N-3 in its regulatory, disclosure review, inspection, and policy making roles.

A Registrant is required to disclose the information specified by Form N-3, and the Commission will make this information public. A Registrant is not required to respond to the collection of information contained in Form N-3 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–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.

"Contractowner Account" means any account of a contractowner, participant, annuitant, or beneficiary to which (net) purchase payments under a variable annuity contract are added and from which administrative or transaction charges may be subtracted.

"Insurance Company" means the person primarily responsible for the organization of the Registrant and the person, other than the trustee or 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 contractowner.

"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 1940 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)(12) of rule 498A under the Securities Act [17 CFR 230.498A(a)(12)].

''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, 11, and 18), B, and C (except Items 34(e), (m), (n), and (o)), and the required signatures.

3. What are the fees for Form N–3?

No registration fees are required with the filing of Form N–3 to register as an investment company under the Investment Company Act or to register securities under the Securities Act. If Form N–3 is filed 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 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 480–485 and 495–498A of Regulation C.

(b) For registration statements and amendments filed only under the Investment Company Act, the general provisions in rules 8b–1–8b–32 [17 CFR 270.8b–l to 8b–32] apply to the filing of registration statements on Form N–3.

(c) The plain English requirements of rule 421 under the Securities Act [17 CFR 230.421] apply to prospectus disclosure in Part A of Form N–3.

(d) Regulation S–T [17 CFR 232.10–232.903] 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. Also avoid lengthy sentences and paragraphs that may make the prospectus difficult for many investors to understand and detract from its usefulness.

(d) The requirements for prospectuses included in 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 (Overview of the Contract), Item 3 (Key Information), 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 those items.

(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.

(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) *Definitions.* Define the special terms used in the prospectus (*e.g.,* accumulation unit, contractowner, 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).

(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. Similarly, group and individual Contracts would not be essentially identical. However, Contracts that vary only due to state regulatory requirements would be essentially identical.

(ii) Similarly, multiple prospectuses may be combined in a single registration statement on Form N–3 when the prospectuses describe Contracts that are essentially identical. 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 underlying Investment Options offered; or (iii) the prospectuses describe both the original and an ''enhanced'' version of the same Contract (where the ''enhanced'' version modifies the features or options that the Registrant offers under that Contract).

(iii) 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 Variable Annuity Contract, or for Contracts sold in both the group and individual markets, 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 Variable Annuity Contracts, 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.

(f) *Dates.* Rule 423 under the Securities Act [17 CFR 230.423] applies to the dates of the prospectuses 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 the placement of the sales literature does not obscure essential disclosure.

(h) *Interactive Data File*

(i) An Interactive Data File (§ 232.11 of this chapter) is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) for any registration statement or post-effective amendment thereto on Form N–3 that includes or amends information provided in response to Items 3, 4, 5, 12, 19, or 20.

(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 3, 4, 5, 12, 19 or 20 that varies from the registration statement. 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 and Cross-References.* Any website address or cross-reference that is included in an electronic version of the Statutory Prospectus must be an active hyperlink. This requirement does not apply to electronic Statutory Prospectuses that are filed on the EDGAR system. Rule 105 of Regulation S–T [17 CFR 232.405] prohibits hyperlinking to websites, locations, or other documents that are outside of the EDGAR system.

D. Incorporation by Reference

1. 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.

2. General Requirements

All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: Rule 10(d) of Regulation S–K under the Securities Act [17 CFR 229.10(d)] (general rules on incorporation by reference, which, among other things, prohibit, unless specifically required by this Form, incorporating by reference a document that includes incorporation by reference to another document, and limits incorporation to documents filed within the last 5 years, with certain exceptions); 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 rules 0–4, 8b–23, and 8b–32 [17 CFR 270.0–4, 270.8b–23, and 270.8b–32] (additional rules on incorporation by reference for investment companies).

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.

(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) 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.''

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, in plain English under rule 421(d) under the Securities Act [17 CFR 230.421(d)], 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 contractowners 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 contractowner inquiries.

Instructions.

1. A Registrant may indicate, if applicable, that the SAI and other information are available on its internet site 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 internet site 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. 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 contractowner accumulate assets through an investment portfolio, to provide or supplement the contractowner'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 general (fixed) account options.

Instructions.

1. Prominently disclose that additional information about each Investment Option is provided elsewhere in the prospectus (see Items 19 and 20), and provide cross-references as appropriate.

2. A detailed explanation of the separate account and Investment Options is not necessary and should be avoided.

(2) State, if applicable, that if a contractowner 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 contractowner will incur an additional fee for selecting a particular benefit.

Item 3. Key Information

Include the following information:

Important Information You Should Consider About the Contract

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.

Fees and Expenses	
Surrender Charge (charges for early withdrawal).	
Transaction Charges (charges for certain transactions).	
Ongoing Fees and Expenses (annual charges).	
Risks	
Risk of Loss	
Not a Short-Term Investment.	
Risks Associated with Investment.	
Insurance Company Risks.	
Restrictions	
Investments	
Optional Benefits	
Taxes	
Tax Implications	
Conflicts of Interest	
Investment Professional Compensation.	
Exchanges	

Instructions.

1. General.

(a) A Registrant should 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.

(b) A Registrant should 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. 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 3 should be short and succinct, consistent with the limitations of a tabular presentation.

2. *Fees and Expenses*

(a) *Surrender Charges (charges for early withdrawal).* Include a statement that if the contractowner 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 a contractowner 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 (charges for certain transactions).* State that in addition to surrender charges (if applicable), the contractowner 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 (excluding optional benefit expenses)	[ ]%	[ ]%
Optional benefits (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.

(E) The Minimum Annual Fee means the lowest available current fee for each annual fee category (*i.e.,* the least expensive annual contract expenses, and the least expensive optional benefit available for an additional charge). The Maximum Annual Fee means the highest available current fee for each annual fee category (*i.e.,* the most expensive annual contract 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.* 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 annual contract expenses ..... • No optional benefits ..... • No sales charges ..... • No additional contributions, transfers or withdrawals	Assumes: • Investment of $100,000. • 5% annual appreciation. • Most expensive combination of annual contract expenses and optional benefits. • No sales charges. • No additional contributions, 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, may be excluded from the Lowest and Highest Annual Cost estimates.

d. Amounts of any premium bonus may be excluded from the Lowest and Highest Annual Cost estimates.

e. 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. If a different combination of annual contract expenses and optional benefits available for an additional charge would result in different Minimum or Maximum fees in different years, use the least expensive or most expensive combination of annual contract expenses and optional benefits each year.

3. *Risks*

(a) *Risk of Loss.* State that a contractowner can lose money by investing in the Contract

(b) *Not a Short-Term Investment.* State that a Contract is not a short-term investment vehicle and is not appropriate for an investor who needs ready access to cash, accompanied by a brief explanation.

(c) *Risks Associated with Investment.* 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 (as well as any fixed account Investment Option), that each Investment Option will have its own unique risks, and that the contractowner should review prospectus disclosures regarding the 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 Insurance Company, including that any obligations, guarantees, or benefits are subject to the claims-paying ability of the Insurance Company. If applicable, further state that more information about the Insurance Company, including its financial strength ratings, is available upon request from the Registrant.

Instruction. A Registrant may include the Insurance Company's financial strength rating(s) and omit the disclosures contemplated by the last sentence of Instruction 3.(d).

4. *Restrictions.*

(a) *Investments.* Briefly state whether there are any restrictions that may limit the investments that a contractowner 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 may affect the availability of optional benefits by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate a benefit.

5. *Taxes—Tax Implications.* State that a contractowner 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 contractowner 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 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 for which the investment professional is not compensated (or compensated less).

(b) *Exchanges.* State that some investment professionals may have a financial incentive to offer a contractowner a new contract in place of the one he or she already owns, and that a contractowner 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 4. Fee Table

Include the following information:

The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering 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 the contract, or transfer cash value between [Investment Options]. State premium taxes may also be deducted.

ANNUAL 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	____%
_____	____%
_____	____%
_____	____%

ANNUAL CONTRACT EXPENSES—Continued

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 and may result in higher taxes when Registrant shares are held in a taxable account. 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 annuity 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 the fees or expenses covered by the captions. A Registrant may modify or add captions if the captions shown do not provide an accurate description of the Registrant's fees and expenses.

4. Round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.

5. In the Annual 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, in a Contract with more than one Class, provide a separate response for each Class.

Administrative [Expenses]

8. Administrative expenses include any contract, account, or similar fee imposed on all Contractowner Accounts on any recurring basis.

Annual Transaction [Expenses]

9. ''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.

10. ''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.

11. ''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.

12. 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.

Base Contract [Expenses]

13. Base Contract expenses includes 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) that are deducted from separate account assets or charged to all Contractowner Accounts.

14. 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 [17 CFR 210.6–07] of Regulation S–X).

(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 were expense reimbursement or fee waiver arrangements that reduced any operating expenses and will continue to reduce them in the current fiscal year: (a) Revise the appropriate caption by adding ''After Expense Reimbursements'' or some similar phrase; (b) state the amount of the actual expenses incurred, (*i.e.,* net of the amount reimbursed or waived); and (c) disclose in the narrative following the table the amount the expenses would have been absent the reimbursement or waiver.

(f)(i) If the Registrant 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 Expenses.'' Title the additional subcaption: ''Acquired Fund Fees and Expenses.'' Disclose in the subcaption fees and expenses incurred indirectly by the Registrant 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 Registrant invests that (i) is an investment company or (ii) would be an investment company under section 3(a) of the 1940 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 1940 Act (15 U.S.C. 80a–3(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. In the event the fees and expenses incurred indirectly by the Registrant as a result of investment in shares of one or more Acquired Funds do not exceed 0.01 percent (one basis point) of average net assets of the Registrant, the Registrant may include these fees and expenses under the subcaption ''Other Expenses'' in lieu of this disclosure requirement.

(ii) Determine the ''Acquired Fund Fees and Expenses'' according to the following formula:

$$AFFE = [(F_1/FY) * AI_1 * D_1] + [(F_2/FY) * AI_2 * D_2] + [(F_3/FY) * AI_3 * D_3] + \text{Transaction Fees} + \text{Incentive Allocations Average Net Assets of the Registrant}$$

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, . . . = 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 Registrant 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 Registrant 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 Registrant (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).

Optional Benefits [Expenses]

15. Optional Benefits expenses include any optional features (*e.g.,* enhanced death benefits and living benefits) offered under the Contract for an additional charge.

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 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 ''Base Contract [Expenses]'' remain the same in each year of the 1-, 3-, 5-, and 10-year periods, except that an appropriate adjust to reflect reduced annual expenses from completion of organization expense amortization may be made;

(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 [annual] contract expenses by dividing the total amount of [annual] contract expenses collected during the year that are attributable to the contract offered by the prospectus by the total average net assets that are attributable to the contract offered by the prospectus. 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 contingent deferred sales load by assuming a complete surrender on the last day of the year;

(h) 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; and

(i) Include in the Example the information provided by the caption ''If you annuitize at the end of the applicable time period'' only if the Registrant charges fees upon annuitization that are different from those charged upon 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 contractowners 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) expense ratio, and (v) performance is available elsewhere in the prospectus (*see* Items 19 and 20), 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 contractowners 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 contractowners, 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(s') compensation, other accounts managed by the Portfolio Manager(s), and the Portfolio Manager's(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 charges deducted from purchase payments, Contractowner 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, Contractowner Accounts, or the Registrant's assets, the proceeds of withdrawals or surrenders, or some other source. When possible, specify the amount of any current 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, please 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 partial surrender). 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 explicit 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 the 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 contractowner, 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, or (3) after the death of the annuitant or contractowner.

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 values 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 of variable annuity contracts, including interests or participations therein.

(c) *General Account.* Describe the obligations under the contract that are funded by the insurer'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 insurer'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 contractowner 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 contractowners 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 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 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 adopted 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 Statement of Additional Information in response to Item 31.

(g) If applicable, state that the contractowner will not be able to withdraw any contract value amounts after the annuity commencement date.

Item 11. Standard Death Benefit

Briefly describe the standard death benefit provided under the Contract during the accumulation and the annuity periods.

Include:

(a) The operation of the standard death benefit, including the amount of the death benefit and how the death 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.

(b) When the death benefit is calculated and payable and the effect of choosing a specific method of payment on calculation of the death benefit.

(c) The forms the benefit may take, including the effect of not choosing a payment option and the period, if any, during which payments must begin under any annuity option.

Item 12. Other Benefits Available Under the Contract

(a) Include the following information:

In addition to the standard death benefit associated with your contract, other [standard and/or optional] benefits may also be available to you. The purposes, fees, and restrictions/limitations of these additional benefits are briefly summarized in the following table[s].

Name of benefit	Purpose	Statement of whether benefit is standard or optional	Fee	Brief description of restrictions/limitations
			[ ]% [ ]%	

Instructions.

1. *General.*

(a) The table required by this Item 12(a) is meant to provide a tabular summary overview of the benefits described in Item 12(b) (*e.g.,* optional death benefits, optional or standard 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 this Item 12(a), if doing so might better permit comparisons of different benefits of the same type.

(c) The Registrant should include appropriate titles, headings, or other information to promote clarity and facilitate understanding of the table(s) presented in response to this Item 12(a). For example, if certain optional benefits are only available to certain contractowners (*e.g.,* contractowners 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. In addition, 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 ''Statement of Whether Benefit is Standard or Optional'' column in the table(s).

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. *Statement of Whether Benefit is Standard or Optional.* State whether the benefit is standard or optional.

5. *Fee.* State the 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. *Brief Description of Restrictions/Limitations.* For each benefit for which the Registrant has stated that there are restrictions or 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 benefit, *e.g.,* optional death benefits, optional or standard living benefits, etc.) offered under a Contract, including:

(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.

(c) Briefly describe any limitations, restrictions and risks associated with any benefit (other than the standard death benefit) offered under the contract (*e.g.,* restrictions on which Investment Options 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 13. 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; and (C) how the number of accumulation units credited to a contract is determined.

(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 variable annuity 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 14. Surrenders and Withdrawals

(a) *Surrender.* Briefly describe how a contractowner or annuitant (if the annuity option chosen by the annuitant is not based on a life contingency) can surrender (or partially surrender or make withdrawals from) a Contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable.

(b) *Partial Surrender and Withdrawal.* Indicate generally whether and under what circumstances partial surrenders and partial 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 Partial Surrender and Withdrawal.* Indicate generally whether and under what circumstances partial surrenders or partial 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 partial surrenders and partial withdrawals will be allocated to the Investment Options.

Instruction. The Registrant should generally describe the terms and conditions that apply to these 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 15. 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 earned on the loaned amount 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 cash value and how they are allocated among the Investment Options. 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 16. Taxes

(a) *Tax Consequences.* Describe the material tax consequences to the contractowner 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 17. 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 18. Financial Statements

If all of the required financial statements of the Registrant and the Insurance Company (*see* Item 32) are not in the prospectus (*see* 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 19. Investment Options Available Under the Contract

Include as an Appendix under the heading ''Appendix: [Investment Options] Available Under [the Contract]'' the following information, in the format specified below:

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 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 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*]	Annual contract expenses (expenses/average assets, 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) A Statutory Prospectus may omit the appendix described in this Item if the appendix is not included in a Summary Prospectus. The second sentence of the first paragraph of the legend preceding the table is only required in the case of a Summary Prospectus.

(b) Only include those Investment Options that are currently offered under the Contract.

(c) If the availability of one or more Investment Options varies by benefit offered under the Contract, include as another Appendix a separate table that indicates which Investment Options are available under each of the benefits offered under the Contract. This Appendix could incorporate a 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 concerning 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.

4. *Expense ratio.* For purposes of this Item, ''expense ratio'' means the ''Total Annual Fund Operating Expenses'' as calculated pursuant to Item 3 of Form N–1A for open-end funds, before waivers and reimbursements that reduce the Investment Option's rate of return.

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 30(b)(1).

Item 20. 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 23(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 contractowners 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 website 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 fund)	10 years (or life of fund)
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 shares 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 30(a) and the Investment Option's average annual total return under Item 30(b)(1).

(c) An Investment Option's 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 30(b)(2). Any Investment Option may include its tax-equivalent yield calculated under Item 30. If a 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 21. 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 22. 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 no 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 [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 23. 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 20(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 33.

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 shares, 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 Registrant contractowners, including procedures to address conflicts between the interests of Registrant contractowners, 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–Q 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 hyper link (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 §§ 270.2a–7(c)(2)(i) and/or (ii) of this chapter pursuant to § 270.2a–7(c)(2)(iii) of this chapter, and has not chosen to rely on the ability to impose liquidity fees and suspend redemptions consistent with the requirements of §§ 270.2a–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 § 270.2a–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 § 270.2a–7(c)(2)(ii) and/or temporarily suspend the Registrant's redemptions pursuant to § 270.2a–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 § 270.2a–7(c)(2)(i)) and the Registrant's board of directors has determined to impose a liquidity fee pursuant to § 270.2a–7(c)(2)(i) and/or temporarily suspend the Registrant's redemptions pursuant to § 270.2a–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 § 270.2a–7(c)(2)(i) or § 270.2a–7(c)(2)(ii), and/or temporarily suspend the Registrant's redemptions pursuant to § 270.2a–7(c)(2)(i); and the size of any liquidity fee imposed pursuant to § 270.2a–7(c)(2)(i) or § 270.2a–7(c)(2)(ii).

2. The disclosure required by paragraph (e)(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 (e)(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 internet site 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 § 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 internet site at *http://www.sec.gov.*''

Item 24. 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 1940 Act (15 U.S.C. 80a–2(a)(19)), 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) (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.

(3) 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.

(4) 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.

(5) 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.

(6) 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) (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.

(7) 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.

(8) 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.

(9) 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 shares. 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 contractowners, 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, 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 25. 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 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 contractowners.

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 shares.

(f) *Rule 12b–1 Plans.* If the Registrant has adopted a plan under rule 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 contractowners;

(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 26. 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 27. 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 [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 28. 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 variable annuity contracts offered by the Registrant.

Instruction. Explain fully any difference in the price at which variable annuity 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 Registrant's 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 1940 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 1940 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 29. 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 the 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 full or partial surrender of 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 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 30. 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 Contractowner 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 Contractowner 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 Contractowner 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.

(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 payment of $1,000.
T = average annual total return.
n = number of years.
ERV = ending redeemable value of a hypothetical $1,000 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 payments) is deducted from the initial $1,000 payment.

2. Include all recurring fees that are charged to all Contractowner 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 Contractowner 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.

(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:

$$YIELD = 2\left[\left(\frac{a - b}{cd} + 1\right)^6 - 1\right]$$

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 1940 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 Contractowner 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 [17 CFR 210.1–02(b) of Regulation S–X) 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 of 1934 [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.

(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 31. 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 32. 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:

1. An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

2. 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];

3. An audited statement of cash flows for the most recent fiscal year if necessary to comply with generally accepted accounting principles; and

4. 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) *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 1933 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.

Item 33. Condensed Financial Information

Furnish the following information for each class of accumulation units of the Registrant.

ACCUMULATION UNIT VALUES (for an accumulation unit outstanding throughout the period)

1. accumulation unit value at beginning of period;
2. accumulation unit value at end of period;
3. number of accumulation units outstanding at the end of period;
4. portfolio turnover rate.

Instructions.

1. For purpose of this Item, ''class of accumulation units'' means any variation that affects accumulation units, including variations related to contract class, optional benefits, and sub-accounts.

2. The above information must be provided for each class of accumulation units of the Registrant derived from contracts offered by means of this prospectus and each class derived from contracts no longer offered for sale, but for which registrant may continue to accept payments. Information need not be provided for any class of accumulation units of the Registrant derived from contracts that are currently offered for sale by means of a different prospectus. Also, information need not be provided for any class of accumulation units that is no longer offered for sale but for which Registrant may continue to accept payments, if the information is provided in a different, but current prospectus of the Registrant.

3. The information shall be presented in comparative columns for each of the last five fiscal years of the Registrant (or for life of the Registrant and its immediate predecessors, if less) but only from the later of the effective date of Registrant's first 1933 Act Registration Statement. In addition, the information shall be presented for the period between the end of the latest fiscal year and the date of the latest balance sheet or statement of assets and liabilities furnished.

4. Accumulation unit amounts shall be given at least to the nearest cent. If the computation of the offering price is extended to tenths of a cent or more, then the amounts on the table should be given in tenths of a cent.

5. Accumulation unit values should only be given for Investment Options that fund obligations of the Registrant under variable annuity contracts offered by means of this prospectus.

6. The portfolio turnover rate to be shown at caption 4 shall be calculated as follows:

(a) The rate of portfolio turnover shall be calculated by dividing (A) the lesser of purchases or sales of portfolio securities for the particular fiscal year by (B) the monthly average of the value of the portfolio securities owned by the Registrant during the particular fiscal year. Such monthly average shall be calculated by totaling the values of the portfolio securities as of the beginning and end of the first month of the particular fiscal year and as of the end of each of the succeeding eleven months, and dividing the sum by 13.

(b) For the purposes of this Item, exclude from both the numerator and the denominator all securities, including options whose maturities or expiration dates at the time of acquisition were one year or less. All long-term securities, including United States Government securities, should be included. Purchases shall include any cash paid upon the conversion of one portfolio security into another. Purchases shall also include the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants. Sales shall also include the net proceeds of portfolio securities which have been called, or for which payment has been made through redemption or maturity.

(c) If during the fiscal year the Registrant acquired the assets of another separate account in exchange for its own accumulation units, it shall exclude from purchases the value of securities so acquired, and from sales all sales of such securities made following a purchase-of-assets transaction to realign the Registrant's portfolio. In such event, the Registrant shall also make appropriate adjustment in the denominator of the portfolio turnover computation. The Registrant must disclose such exclusions and adjustments in its answer to this Item.

(d) Short sales which the Registrant intends to maintain for more than one year and put and call options where the expiration date is more than one year from date of acquisition are included in purchases and sales for purposes of this Item. The proceeds from a short sale should be included in the value of the portfolio securities which the Registrant sold during the reporting period and the cost of covering a short sale should be included in the value of the portfolio securities which the Registrant purchased during the period. The premiums paid to purchase options should be included in the value of the portfolio securities which the Registrant purchased during the reporting period and the premiums received from the sale of options should be included in the value of the portfolio securities which the Registrant sold during the period.

(e) A Registrant that holds itself out as a Money Market Fund is not required to provide a portfolio turnover rate in response to this Item.

7. Registrants may, but are not required to, omit the AUV tables, if the registrant provides an annual account statement to each individual contract owner that discloses, with respect to each class of accumulation units held by the contractowner, the actual performance of each Investment Option reflecting all contract charges incurred by the contract owner. For accounts held less than one year, the annual account statement must disclose the actual performance of each sub-account for the length of time the investor has owned the sub-account.

Part C—Other Information

Item 34. 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 Agreement.* 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 contract between the Registrant or Insurance Company and a principal underwriter and agreements between principal underwriters and dealers 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; any such plan that 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 1933 Act.

(o) *Omitted Financial Statements.* Financial statements omitted from Item 32.

(p) *Initial Capital Agreement.* Any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, Insurance Company, underwriter, or initial contractowners and written assurances from the Insurance Company or initial contractowners 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) *Preliminary Summary Prospectuses.* The form of any Initial Summary Prospectus and Updating 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.

Instruction. Registrants are required to provide the preliminary Summary Prospectus exhibits 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.

Item 35. 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 address	(2) Positions and offices with insurance company	(3) Positions and offices with 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 36. Persons Controlled by or Under Common Control With the Insurance Company or 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 37. 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 38. 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 39. 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 with respect to 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)	(2)	(3)	(4)	(5)
Name of principal underwriter	Net underwriting discounts and commissions	Compensation on redemption or annuitization	Brokerage commissions	Other compensation

Instructions.

1. Disclose the type of services rendered in consideration for the compensation listed in 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 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 40. 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) [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 41. 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 25(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 42. 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 the City of _____ and State of ____, on this ____d day of _____, ____.

_____
(Registrant)
By _____
(Signature)

_____
(Title)

_____
(Insurance Company)
By _____
(Name of officer of Insurance Company)

_____
(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

■ 38. 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, D.C. 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

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 in 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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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.

"Contractowner Account" means any account of a contractowner, participant, annuitant, or beneficiary to which (net) purchase payments under a variable annuity contract are added and from which administrative or transaction charges may be subtracted.

"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.

"Portfolio Company" means any company in which the Registrant invests and which may be selected as an option by the contractowner.

"Registrant" means the separate account (as defined in Section 2(a)(37) of the 1940 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)(12) of rule 498A under the Securities Act [17 CFR 230.498A(a)(12)].

"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, 10, and 17), B, and C (except Items 28(c), (k), (l), and (m)), and the required signatures.

3. What are the fees for Form N–4?

No registration fees are required with the filing of Form N–4 to register as an investment company under the Investment Company Act or to register securities under the Securities Act. If Form N–4 is filed 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 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 480–485 and 495–498A of Regulation C.

(b) For registration statements and amendments filed only under the Investment Company Act, the general provisions in rules 8b–1—8b–32 [17 CFR 270.8b–l to 8b–32] apply to the filing of registration statements on Form N–4.

(c) The plain English requirements of rule 421 under the Securities Act [17 CFR 230.421] apply to prospectus disclosure in Part A of Form N–4.

(d) Regulation S–T [17 CFR 232.10–232.903] 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. Also avoid lengthy sentences and paragraphs that may make the prospectus difficult for many investors to understand and detract from its usefulness.

(d) The requirements for prospectuses included in 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 (Overview of the Contract) and Item 3 (Key Information), 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 those items.

(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.

(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) *Definitions.* Define the special terms used in the prospectus (*e.g.,* accumulation unit, contractowner, 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).

(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. Similarly, group and individual Contracts would not be essentially identical. However, Contracts that vary only due to state regulatory requirements would be essentially identical.

(ii) Similarly, multiple prospectuses may be combined in a single registration statement on Form N–4 when the prospectuses describe Contracts that are essentially identical. 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 underlying funds offered; or (iii) the prospectuses describe both the original and an ''enhanced'' version of the same Contract (where the ''enhanced'' version modifies the features or options that the Registrant offers under that Contract).

(iii) 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 Variable Annuity Contract, or for Contracts sold in both the group and individual markets, 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 Variable Annuity Contracts, 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.

(f) *Dates.* Rule 423 under the Securities Act [17 CFR 230.423] applies to the dates of the prospectuses 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 (§ 232.11 of this chapter) is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) for any registration statement or post-effective amendment thereto on Form N–4 that includes or amends information provided in response to Items 3, 4, 5, 11, or 18.

(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 3, 4, 5, 11, or 18 that varies from the registration statement. 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 and Cross-References.* Any website address or cross-reference that is included in an

electronic version of the Statutory Prospectus must be an active hyperlink. This requirement does not apply to Statutory Prospectuses that are filed on the EDGAR system. Rule 105 of Regulation S–T [17 CFR 232.405] prohibits hyperlinking to websites, locations, or other documents that are outside of the EDGAR system.

D. Incorporation by Reference

1. 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.

2. General Requirements

All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: Rule 10(d) of Regulation S–K under the Securities Act [17 CFR 229.10(d)] (general rules on incorporation by reference, which, among other things, prohibit, unless specifically required by this Form, incorporating by reference a document that includes incorporation by reference to another document, and limits incorporation to documents filed within the last 5 years, with certain exceptions); 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 rules 0–4, 8b–23, and 8b–32 [17 CFR 270.0–4, 270.8b–23, and 270.8b–32] (additional rules on incorporation by reference for investment companies).

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.

(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) 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.''

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 contractowners 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 contractowner inquiries.

Instructions.

1. A Registrant may indicate, if applicable, that the SAI and other information are available on its internet site 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 internet site 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. 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 contractowner accumulate assets through an investment portfolio, to provide or supplement the contractowner'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 of brief overview of the investment options available under the Contract (*e.g.,* any Portfolio Companies, as well as any general (fixed) account 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 relevant appendix.

2. A detailed explanation of the separate account, sub-accounts, and Portfolio Companies is not necessary and should be avoided.

(2) State, if applicable, that if a contractowner 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 contractowner will incur an additional fee for selecting a particular benefit.

Item 3. Key Information

Include the following information:

Important Information You Should Consider About the Contract

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.

Fees and Expenses	
Surrender Charge (charges for early withdrawal).	
Transaction Charges (charges for certain transactions).	
Ongoing Fees and Expenses (annual charges).	
Risks	
Risk of Loss.	
Not a Short-Term Investment.	
Risks Associated with Investment Options.	
Insurance Company Risks.	
Restrictions	
Investment Options.	
Optional Benefits.	
Taxes	
Tax Implications.	
Conflicts of Interest	
Investment Professional Compensation.	
Exchanges.	

Instructions.

1. *General.*

(a) A Registrant should 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.

(b) A Registrant should 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. 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 3 should be short and succinct, consistent with the limitations of a tabular presentation.

2. *Fees and Expenses.*

(a) *Surrender Charges (charges for early withdrawal).* Include a statement that if the contractowner 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 a contractowner 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 (charges for certain transactions).* State that in addition to surrender charges (if applicable) the contractowner 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 (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) If a Registrant offers multiple Portfolio Companies, it should disclose the minimum and maximum ''Total Annual [Portfolio Company] Operating Expenses'' calculated in accordance with Item 3 of Form N–1A (before expense reimbursements or fee waiver arrangements).

(E) The Minimum Annual Fee means the lowest available current fee for each annual fee category (*i.e.,* the least expensive contract class, the lowest Total Annual Portfolio Company Operating Expense, and the least expensive optional benefit available for an additional charge). The Maximum Annual Fee means the highest available current fee for each annual fee category (*i.e.,* the most expensive contract class, the highest Portfolio Company Total Operating Expense, 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.* 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	Assumes: • Investment of $100,000. • 5% annual appreciation.

Lowest annual cost: $[ ]	Highest annual cost: $[ ]
• Least expensive combination of contract classes and Portfolio Company fees and expenses. • No optional benefits ..... • No sales charges ..... • No additional contributions, transfers or withdrawals.	• Most expensive combination of classes, optional benefits, and Portfolio Company fees and expenses. • No sales charges. • No additional contributions, 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, may be excluded from the Lowest and Highest Annual Cost estimates.

d. Amounts of any premium bonus may be excluded from the Lowest and Highest Annual Cost estimates.

e. Unless otherwise stated, the least and most expensive combination of contract classes, Portfolio Company fees and expenses, and optional benefits available for an additional charge should be based on the disclosures provided in the Example in Item 4. If a different combination of contract classes, Total Annual Portfolio Company Operating Expenses, and/or optional benefits available for an additional charge would result in different Minimum or Maximum fees in different years, use the least expensive or most expensive combination of contract classes, Total Annual Portfolio Company Operating Expenses, and optional benefits each year.

3. *Risks.*

(a) *Risk of loss.* State that a contractowner can lose money by investing in the Contract.

(b) *Not a Short-Term Investment.* State that a Contract is not a short-term investment vehicle 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, as well as any fixed account investment option), that each investment option will have its own unique risks, and that the contractowner should review a Portfolio Company's prospectus 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, guarantees, or benefits are subject to the claims-paying ability of the Depositor. If applicable, further state that more information about the Depositor, including its financial strength ratings, is available upon request from the Registrant.

Instruction. A Registrant may include the Depositor's financial strength rating(s) and omit the disclosures contemplated by the last sentence of Instruction 3.(d).

4. *Restrictions.*

(a) *Investment Options.* State whether there are any restrictions that may limit the investment options that a contractowner 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 may affect the availability of optional benefits by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate a benefit.

5. *Taxes—Tax Implications.* State that a contractowner 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 contractowner 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 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 for which the investment professional is not compensated (or compensated less).

(b) *Exchanges.* State that some investment professionals may have a financial incentive to offer a contractowner a new contract in place of the one he or she already owns, and that a contractowner 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 4. Fee Table

Include the following information:

The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering 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 the contract, or transfer cash value between investment options. State premium taxes may also be deducted.

ANNUAL TRANSACTION EXPENSES

Sales Load Imposed on Purchases (as a percentage of purchase payments)	____%

ANNUAL TRANSACTION EXPENSES—Continued

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. A complete list of [Portfolio Companies] available under the Contract, including their annual expenses, may be found at the back of this document.

	Minimum	Maximum
Total Annual [Portfolio Company] Operating Expenses (expenses that are deducted from [Portfolio Company] assets, including management fees, distribution [and/or (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 [Portfolio Company] 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 [Portfolio Company] 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 $____

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 annuity 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 the fees or expenses covered by the captions. A Registrant may modify or add captions if the captions shown do not provide an accurate description of the Registrant's fees and expenses.

4. Round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.

5. In the Annual 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. In a Contract with more than one class, provide a separate response for each class.

Administrative [Expenses]

8. Administrative expenses include any contract, account, or similar fee imposed on all Contractowner Accounts on any recurring basis.

Annual Transaction [Expenses]

9. ''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.

10. ''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.

11. ''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.

12. 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.

Base Contract [Expenses]

13. Base Contract expenses includes 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 Contractowner Accounts.

Other Annual Expenses

14. If the Registrant (or any other party pursuant to an agreement with the Registrant) imposes any other recurring charge (other than Total Annual [Portfolio Company] Operating Expenses), add another caption describing it and list the (maximum) amount or basis on which the charge is deducted.

Optional Benefits [Expenses]

15. Optional Benefits expenses include any optional features (*e.g.,* enhanced death benefits and living benefits) offered under the Contract for an additional charge.

Total Annual [Portfolio Company] Operating Expenses

16. If a Registrant offers multiple Portfolio Companies, it should disclose the minimum and maximum ''Total Annual [Portfolio Company] Operating Expenses'' for any Portfolio Company calculated in accordance with Item 3 of Form N–1A (before expense reimbursements or fee waiver arrangements).

17. A Registrant may also reflect minimum and maximum Total [Portfolio Company] Operating Expenses that include expense reimbursement or fee waiver arrangements in an additional line-item to the range of Portfolio Company operating expenses. If the Registrant provides this disclosure, also disclose the period for which the expense reimbursement 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.

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 ''Base 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 [annual] contract expenses by dividing the total amount of [annual] contract expenses collected during the year that are attributable to the contract offered by the prospectus by the total average net assets that are attributable to the contract offered by the prospectus. 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 contingent deferred sales load by assuming a complete surrender on the last day of the year;

(h) 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; and

(i) Include in the Example the information provided by the caption ''If you annuitize at the end of the applicable time period'' only if the Registrant charges fees upon annuitization that are different from those charged upon 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 contractowners 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) expense ratio, and (v) performance is available in the appendix to the prospectus (*see* Item 18), and provide cross-references. State conspicuously 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 contractowners 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 charges deducted from purchase payments, Contractowner 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, Contractowner Accounts, or the Registrant's assets, the proceeds of withdrawals or surrenders, or some other source. When possible, specify the amount of any current 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), please 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 partial surrender). 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 the 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 contractowner, 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, or (3) after the death of the annuitant or contractowner.

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 of variable annuity contracts, including interests or participations therein.

(c) *General Account.* Describe the obligations under the contract that are funded by the insurer'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 insurer'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 contractowner 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 pursuant to section 26(c) of the Investment Company Act. 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 contractowners 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)(i) through (f)(iv) 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 contractowner will not be able to withdraw any contract value amounts after the annuity commencement date.

Item 10. Standard Death Benefit

Briefly describe the standard death benefit provided under the Contract during the accumulation and the annuity periods. Include:

(a) The operation of the standard death benefit, including the amount of the death benefit and how the death 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.

(b) When the death benefit is calculated and payable and the effect of choosing a specific method of payment on calculation of the death benefit.

(c) The forms the benefit may take, including the effect of not choosing a payment option and the period, if any, during which payments must begin under any annuity option.

Item 11. Other Benefits Available Under the Contract

(a) Include the following information:

In addition to the standard death benefit associated with your contract, other [standard and/or optional] benefits may also be available to you. The purposes, fees, and restrictions/limitations of these additional benefits are briefly summarized in the following table[s].

Name of benefit	Purpose	Statement of whether benefit is standard or optional	Fee	Brief description of restrictions/limitations
			[ ]% [ ]%	

Instructions.

1. *General.*

(a) The table required by this Item 11(a) is meant to provide a tabular summary overview of the benefits described in Item 11(b) (*e.g.,* optional death benefits, optional or standard 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 this Item 11(a), if doing so might better permit

comparisons of different benefits of the same type.

(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 this Item 11(a). For example, if certain optional benefits are only available to certain contractowners (*e.g.,* contractowners 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. In addition, 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 ''Statement of Whether Benefit is Standard or Optional'' column in the table(s).

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. *Statement of Whether Benefit Is Standard or Optional.* State whether the benefit is standard or optional.

5. *Fee.* State the 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. *Brief Description of Restrictions/Limitations.* For each benefit for which the Registrant has stated that there are restrictions or 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 benefit, *e.g.,* optional death benefits, optional or standard living benefits, etc.) offered under a Contract, including:

(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.

(c) Briefly describe any limitations, restrictions and risks associated with any benefit (other than the standard death benefit) 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. 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; and (C) how the number of accumulation units credited to a contract is determined.

(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 variable annuity 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 13. Surrenders and Withdrawals

(a) *Surrender.* Briefly describe how a contractowner or annuitant (if the annuity option chosen by the annuitant is not based on a life contingency) can surrender (or partially surrender or make withdrawals from) a Contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable.

(b) *Partial Surrender and Withdrawal.* Indicate generally whether and under what circumstances partial surrenders and partial 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 Partial Surrender and Withdrawal.* Indicate generally whether and under what circumstances partial surrenders or partial 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 partial surrenders and partial withdrawals will be allocated to the sub-accounts.

Instruction. The Registrant should generally describe the terms and conditions that apply to these 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 earned on the loaned amount is credited to the Contract and allocated to the sub-accounts.

(d) *Effect on Contract Value and Death Benefit.* Describe how loans and loan repayments affect cash value and

how they are allocated among the sub-accounts. 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 15. Taxes

(a) *Tax Consequences.* Describe the material tax consequences to the contractowner 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, 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 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 18. Portfolio Companies Available Under the Contract

Include as an Appendix under the heading ''Appendix: [Portfolio Companies] Available Under [the Contract]'' the following information, in the format specified below:

The following is a list of [Portfolio Companies] currently available under [the Contract], which is subject to change as discussed in [the Statutory Prospectus for the Contract]. Before you invest, you should review the prospectuses for the [Portfolio Companies]. These prospectuses contain more information about the [Portfolio Companies] and their risks and may be amended from time to time. You can find the prospectuses and other information about the [Portfolio Companies] online at [____]. You can also request this information at no cost by calling [____] or by sending an email request to [____].

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.

[Type/investment objective]	[Portfolio company and *adviser/subadviser]*	Expense ratio (expenses/ average assets)	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 those Portfolio Companies that are currently offered under the Contract.

(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. 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. 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.

(c) If the availability of one or more Portfolio Companies varies by benefit offered under the Contract, include as another Appendix a separate table that indicates which Portfolio Companies are available under each of the benefits offered under the Contract. This Appendix could incorporate a 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 concerning 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.

4. *Expense ratio.* For purposes of this Item 18, ''expense ratio'' means ''Total Annual Fund Operating Expenses'' as calculated pursuant to Item 3 of Form N–1A for open-end funds, before waivers and reimbursements that reduce the Portfolio Company's rate of return.

5. *Average Annual Total Returns.* For purposes of this Item 18, ''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 for open-end funds.

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.,* ''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 [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. 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 variable annuity contracts offered by the Registrant.

Instruction. Explain fully any difference in the price at which variable annuity 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 Registrant's 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 Item 22(c) 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 the 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 full or partial surrender of 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 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 Contractowner 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 Contractowner 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 Contractowner 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.

(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 payment of $1,000

T = average annual total return

n = number of years

ERV = ending redeemable value of a hypothetical $1,000 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 payments) is deducted from the initial $1,000 payment.

2. Include all recurring fees that are charged to all Contractowner 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 Contractowner 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.

(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:

$$\text{YIELD} = 2\left[\left(\frac{a-b}{cd}+1\right)^{6}-1\right]$$

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 Contractowner 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 [17 CFR 210.1–02(b) of Regulation S–X) 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 of 1934 [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.

(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 1933 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 27. Condensed Financial Information

Furnish the following information for each class of accumulation units of the Registrant.

ACCUMULATION UNIT VALUES (for an accumulation unit outstanding throughout the period)

1. accumulation unit value at beginning of period;
2. accumulation unit value at end of period;
3. number of accumulation units outstanding at the end of period.

Instructions:

1. For purpose of this Item, ''class of accumulation units'' means any variation that affects accumulation units, including variations related to contract class, optional benefits, and sub-accounts.

2. The above information must be provided for each class of accumulation units of the Registrant derived from contracts offered by means of any prospectus (and each class derived from contracts no longer offered for sale) to which the SAI relates, but for which registrant may continue to accept payments. Information need not be provided for any class of accumulation units of the Registrant derived from contracts that are currently offered for sale by means of a different prospectus. Also, information need not be provided for any class of accumulation units that is no longer offered for sale but for which Registrant may continue to accept payments, if the information is provided in a different, but current prospectus of the Registrant.

3. The information shall be presented in comparative columns for each of the last five fiscal years of the Registrant (or for life of the Registrant and its immediate predecessors, if less) but

only from the later of the effective date of Registrant's or the relevant Portfolio Company's first 1933 Act Registration Statement. In addition, the information shall be presented for the period between the end of the latest fiscal year and the date of the latest balance sheet or statement of assets and liabilities furnished.

4. Accumulation unit amounts shall be given at least to the nearest cent. If the computation of the offering price is extended to tenths of a cent or more, then the amounts on the table should be given in tenths of a cent.

5. Accumulation unit values should only be given for sub-accounts that fund obligations of the Registrant under variable annuity contracts offered by means of this prospectus.

6. Registrants may, but are not required to, omit the AUV tables, if the registrant provides an annual account statement to each individual contractowner that discloses, with respect to each class of accumulation units held by the contractowner, the actual performance of each subaccount reflecting all contract charges incurred by the contractowner. For accounts held less than one year, the annual account statement must disclose the actual performance of each sub-account for the length of time the investor has owned the sub-account.

Part C—Other Information

Item 28. 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 Agreement.* All agreements for custody of securities and similar investments of the Registrant, including the schedule of remuneration.

(c) *Underwriting Contracts.* Underwriting or distribution contract between the Registrant or Depositor and a principal underwriter and agreements between principal underwriters and dealers 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 1933 Act.

(m) *Omitted Financial Statements.* Financial statements omitted from Item 26.

(n) *Initial Capital Agreement.* Any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, Depositor, underwriter, or initial contractowners and written assurances from the Depositor or initial contractowners that purchases were made for investment purposes and not with the intention of redeeming or reselling.

(o) *Preliminary Summary Prospectuses.* The form of any Initial Summary Prospectus and Updating 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.

Instruction. Registrants are required to provide the preliminary Summary Prospectus exhibits 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.

Item 29. Directors and Officers 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 30. Persons Controlled by or Under Common Control With the Depositor or 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 31. 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 32. 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 with respect to 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)	(2)	(3)	(4)	(5)
Name of principal underwriter	Net underwriting discounts and commissions	Compensation on redemption	Brokerage commissions	Other compensation

Instructions:

1. Disclose the type of services rendered in consideration for the compensation listed in 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 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 33. 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) [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 34. 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) of this Form 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 35. 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

■ 39. 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, D.C. 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

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 in 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 must be provided for each Depositor.

"Portfolio Company" means any company in which the Registrant invests and which may be selected as an option by the contractowner.

"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)(12) of rule 498A under the Securities Act [17 CFR 230.498A(a)(12)].

"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 with the filing of Form N–6 to register as an investment company under the Investment Company Act or to register securities under the Securities Act. If Form N–6 is filed 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 regarding the filing of registration statements in Regulation C under the Securities Act [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 480–485 and 495–498A of Regulation C.

(b) For registration statements and amendments filed only under the Investment Company Act, the general provisions in rules 8b–1—8b–32 [17 CFR 270.8b–1 to 270.8b–32] apply to the filing of registration statements on Form N–6.

(c) The plain English requirements of rule 421 under the Securities Act [17 CFR 230.421] apply to prospectus disclosure in Part A of Form N–6.

(d) Regulation S–T [17 CFR 232.10–232.903] 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. Also avoid lengthy sentences and paragraphs that may make the prospectus difficult for many investors to understand and detract from its usefulness.

(d) The requirements for prospectuses included in 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 Variable Life Insurance 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 Variable Life Insurance 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 (Overview of the Contract) and Item 3 (Key Information), 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 those items.

(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.

(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) *Definitions.* Define the special terms used in the prospectus (*e.g.,* accumulation unit, contractowner, 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).

(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. Similarly, group and individual Contracts would not be essentially identical. However, Contracts that vary only due to state regulatory requirements would be essentially identical.

(ii) Similarly, multiple prospectuses may be combined in a single registration statement on Form N–6 when the prospectuses describe Contracts that are essentially identical. 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 underlying funds offered; or (iii) the prospectuses describe both the original and an ''enhanced'' version of the same Contract (where the ''enhanced'' version modifies the features or options that the Registrant offers under that Contract).

(iii) 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 Variable Life Contract, or for Contracts sold in both the group and individual markets, 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 Variable Life Contracts, 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.

(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 (§ 232.11 of this chapter) is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) for any registration statement or post-effective amendment thereto on Form N–6 that includes or amends information provided in response to Items 3, 4, 5, 11, or 18.

(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 3, 4, 5, 11, or 18 that varies from the registration statement. 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 and Cross-References.* Any website address or cross-reference that is included in an electronic version of the Statutory Prospectus must be an active hyperlink. This requirement does not apply to Statutory Prospectuses that are filed on the EDGAR system. Rule 105 of Regulation S–T [17 CFR 232.405] prohibits hyperlinking to websites, locations, or other documents that are outside of the EDGAR system.

D. Incorporation by Reference

1. 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.

2. General Requirements

All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: Rule 10(d) of Regulation S–K under the Securities Act [17 CFR 229.10(d)] (general rules on incorporation by reference, which, among other things, prohibit, unless specifically required by this Form, incorporating by reference a document that includes incorporation by reference to another document, and limits incorporation to documents filed within the last 5 years, with certain exceptions); 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 rules 0–4, 8b–23, and 8b–32 [17 CFR 270.0–4, 270.8b–23, and 270.8b–32] (additional rules on incorporation by reference for investment companies).

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.

(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) 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.''

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 contractowners 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 contractowner inquiries.

Instructions.

1. A Registrant may indicate, if applicable, that the SAI and other information are available on its internet site 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 internet site 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. 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 contractowner accumulate assets through an investment portfolio, to provide or supplement the contractowner'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 premium payments (*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 general (fixed) account 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 relevant appendix.

2. A detailed explanation of the separate account, sub-accounts, and Portfolio Companies 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 contractowner will incur an additional fee for selecting a particular benefit.

Item 3. Key Information

Include the following information:

Important Information You Should Consider About the Contract

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.

Fees and Expenses	
Surrender Charge (charges for early withdrawal).	
Transaction Charges (charges for certain transactions).	
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	
Investment Options	
Optional Benefits	
Taxes	
Tax Implications.	
Conflicts of Interest	
Investment Professional Compensation.	
Exchanges	

Instructions.

1. *General.*

(a) A Registrant should 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.

(b) A Registrant should 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. 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 3 should be short and succinct, consistent with the limitations of a tabular presentation.

2. *Fees and Expenses.*

(a) *Surrender Charges (charges for early withdrawal).* Include a statement that if the contractowner 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 a contractowner 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 (charges for certain transactions).* State that in addition to surrender charges (if applicable) the contractowner 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 contractowners should view the policy specifications page of their Contract for rates applicable to their Contract.

(ii) Briefly state that contractowners 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) Explain, in a parenthetical or footnote to the table or the caption, the basis for the percentage (*e.g.,* % of net asset value).

(B) If a Registrant offers multiple Portfolio Companies, it should disclose the minimum and maximum ''Total Annual [Portfolio Company] Operating Expenses'' calculated in accordance with Item 3 of Form N–1A (before expense reimbursements or fee waiver arrangements).

(C) The Minimum Annual Fee means the lowest available current fee for each annual fee category (*i.e.,* the lowest Total Annual Portfolio Company Operating Expense). The Maximum Annual Fee means the highest available current fee for each annual fee category (*i.e.,* the highest Portfolio Company Total Operating Expense).

3. *Risks.*

(a) *Risk of Loss.* State that a contractowner can lose money by investing in the Contract.

(b) *Not a Short-Term Investment.* State that a Contract is not a short-term investment vehicle 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, as well as any fixed account investment option), that each investment option will have its own unique risks, and that the contractowner should review a Portfolio Company's prospectus 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, guarantees, or benefits are subject to the claims-paying ability of the Depositor. If applicable, further state that more information about the Depositor, including its financial strength ratings, is available upon request from the Registrant.

Instruction. A Registrant may include the Depositor's financial strength rating(s) and omit the disclosures contemplated 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) *Investment Options.* State whether there are any restrictions that may limit the investment options that a contractowner 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 may affect the availability of optional benefits by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate a benefit.

5. *Taxes—Tax Implications.* State that a contractowner 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 contractowner 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 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 for which the investment professional is not compensated (or compensated less).

(b) *Exchanges.* State that some investment professionals may have a financial incentive to offer a contractowner a new contract in place of the one he or she already owns, and that a contractowner 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 4. Fee Table

Include the following information:

The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering 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 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 [PORTFOLIO COMPANY] OPERATING EXPENSES

Charge	When charge is deducted	Amount deducted
Base Contract Charge:		
Cost of Insurance: *.		
Minimum and Maximum Charge.		
Charge for a [Representative Contractowner].		
Annual Maintenance Fee.		
Mortality and Expense Risk Fees.		
Administrative Fees.		
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. A complete list of [Portfolio Companies] available under the Contract, including their annual expenses, may be found at the back of this document.

	Minimum	Maximum
Total Annual [Portfolio Company] Operating Expenses (expenses that are deducted from [Portfolio Company] assets, including management fees, distribution [and/or (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 the fees or expenses covered by the captions. A Registrant may modify or add captions if the captions shown do not provide an accurate description of the Registrant's fees and expenses.

(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 partial surrender, 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) In 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 partial surrender, other than sales charges imposed upon surrender or partial surrender.

(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 [Portfolio Company] Operating 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 contractowner 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 contractowner, 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 contractowner will pay; and (iii) how the contractowner 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 contractowner characteristics for a representative contractowner, 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 contractowner 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 contractowner 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 contractowners.

(c) ''[Annual] Maintenance Fee'' includes any Contract, account, or similar fee imposed 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) A Registrant may consolidate any charges that are assessed on a similar basis (*e.g.,* Administrative charges and Mortality and Expense Risk Fees).

(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) If the Registrant (or any other party pursuant to an agreement with the Registrant) imposes any other recurring charge other than annual Portfolio Company Operating Expenses, add

another caption describing it and complete the other columns of the table for that charge.

4. *Total Annual [Portfolio Company] Operating Expenses.*

(a) If a Registrant offers multiple Portfolio Companies, it should disclose the minimum and maximum ''Total Annual [Portfolio Company] Operating Expenses'' for any Portfolio Company calculated in accordance with Item 3 of Form N–1A (before expense reimbursements or fee waiver arrangements).

(b) A Registrant may also reflect minimum and maximum Total [Portfolio Company] Operating Expenses that include expense reimbursement or fee waiver arrangements in an additional line-item to the range of portfolio company operating expenses. If the Registrant provides this disclosure, also disclose the period for which the expense reimbursement 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.

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 contractowners 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) expense ratio; and (v) performance is available in an appendix to the prospectus (*see* Item 18), and provide cross-references. State conspicuously 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 contractowners 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 charges deducted from premiums, cash value, 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 rider charges). Indicate whether each charge will be deducted from premium payments, cash value, the Registrant's assets, the proceeds of withdrawals or surrenders, or some other source. When possible, specify the amount of any current 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), please 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 premium 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, partial surrender, 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(T) [17 CFR 270.6e–2, 17 CFR 270.6e–3(T)]) are offered along with the Contract, state that charges also will be made for those benefits.

(e) *Operating Expenses.* Describe the 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 contractowner, 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 insurer'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 insurer'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 contractowner 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 pursuant to section 26(c) of the Investment Company Act. 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 contractowners 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) whether payment of certain levels of premiums will guarantee that the Contract will not lapse regardless of the Contract's cash value;

(4) 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;

(5) if applicable, under what circumstances nonpayment of a required premium will not cause the Contract to lapse;

(6) if applicable, under what circumstances premiums in addition to the required premiums will be permitted; and

(7) 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.

(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 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.

(d) *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.

(e) *Automatic Premium Loans.* If applicable, briefly describe the circumstances under which required premiums may be paid by means of an automatic premium loan.

(f) *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 Benefit

(a) *Standard Death Benefit.* Briefly describe the standard death benefit available under the Contract.

Instruction. Include:

(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; and

(vi) whether there is a minimum death benefit guarantee associated with the Contract.

Also describe if and how a contractowner may increase or decrease the face amount, including the minimum and the maximum amounts, any requirement of additional evidence of insurability, and whether charges, including sales load, are affected.

(b) *Charges and Contract Values.* Explain how the investment performance of the Portfolio Companies, expenses, and deduction of charges affect contract values and death benefits.

Item 11. Other Benefits Available Under the Contract

(a) Include the following information:

In addition to the standard death benefit associated with your contract, other [standard and/or optional] benefits may also be available to you. The purposes, fees, and restrictions/limitations of these additional benefits are briefly summarized in the following table[s].

Name of benefit	Purpose	Statement of whether benefit is standard or optional	Fee	Brief description of restrictions/limitations
			[ ]% [ ]%	

Instructions.

1. *General.*

(a) The table required by this Item 11(a) is meant to provide a tabular summary overview of the benefits described in Item 11(b) (*e.g.,* optional death benefits, optional or standard 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 this Item 11(a), if doing so might better permit comparisons of different benefits of the same type.

(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 this Item 11(a). For example, if certain optional benefits are only available to certain contractowners (*e.g.,* contractowners 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. In addition, 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 ''Statement of Whether Benefit is Standard or Optional'' column in the table(s).

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. *Statement of Whether Benefit Is Standard or Optional.* State whether the benefit is standard or optional.

5. *Fee.* State the 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. *Brief Description of Restrictions/Limitations.* For each benefit for which the Registrant has stated that there are restrictions or 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 benefit, *e.g.,* optional death benefits, optional or standard living benefits, etc.) offered under a Contract, including:

(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.

(c) Briefly describe any limitations, restrictions and risks associated with any benefit (other than the standard death benefit) 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.* Briefly describe how a contractowner can surrender (or partially surrender or make withdrawals from) a Contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable.

(b) *Partial Surrender and Withdrawal.* Indicate generally whether and under what circumstances partial surrenders and partial 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 Partial Surrender and Withdrawal.* Indicate generally whether and under what circumstances partial surrenders or partial withdrawals will affect a Contract's cash value or death benefit and whether any charge(s) will apply.

(d) *Sub-Account Allocation.* Describe how partial surrenders and partial withdrawals will be allocated among the sub-accounts.

Instruction. The Registrant should generally describe the terms and conditions that apply to these 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 earned on the loaned amount is credited to the Contract and allocated among the sub-accounts.

(d) *Effect on Cash Value and Death Benefit.* Describe how loans and loan repayments affect cash value and how they are allocated among the sub-accounts. 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) *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.

(c) *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.

(d) *Reinstatement.* State under what circumstances a Contract may be reinstated. Explain any requirements for reinstatement, including charges to be paid by the contractowner, outstanding loan repayments, and evidence of insurability.

Item 15. Taxes

(a) *Tax Consequences.* Describe the material tax consequences to the contract owner 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 in which the proceedings are 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 legal 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 27 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 information, in the format specified below:

The following is a list of [Portfolio Companies] currently available under [the Contract], which is subject to change as discussed in [the Statutory Prospectus for the Contract]. Before you invest, you should review the prospectuses for the [Portfolio Companies]. These prospectuses contain more information about the [Portfolio Companies] and their risks and may be amended from time to time. You can find the prospectuses and other information about the [Portfolio Companies] online at [____]. You can also request this information at no cost by calling [____] or by sending an email request to [____].

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.

[Type/investment objective]	[Portfolio company and *adviser/subadviser*]	Expense ratio (expenses/average assets)	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 those Portfolio Companies that are currently offered under the Contract.

(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. 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. 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.

(c) If the availability of one or more Portfolio Companies varies by benefit offered under the Contract, include as another Appendix a separate table that indicates which Portfolio Companies are available under each of the benefits offered under the Contract. This Appendix could incorporate a 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 concerning 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.

4. *Expense ratio.* For purposes of this Item 18, ''expense ratio'' means ''Total Annual Fund Operating Expenses'' as calculated pursuant to Item 3 of Form N–1A for open-end funds, before waivers and reimbursements that reduce the Portfolio Company's rate of return.

5. *Average Annual Total Returns.* For purposes of this Item 18, ''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 for open-end funds.

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 of 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 [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. 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 this 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 that person.

(4) If an affiliated person of the Registrant or the Depositor, or an affiliated person of the 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. 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 23. 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 Item 23(d) 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 24. 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 full or partial surrender of 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 $5,000 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 25. 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 premium payments between the original Contract and incremental Contracts.

Item 26. 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, partial 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 27. 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 for 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 and 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 28. 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 contractowner 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 reimbursement 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, cost of insurance) as well as the actual timing of the deduction of those charges (*e.g.,* daily, monthly, 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.

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 28.

Part C—Other Information

Item 29. 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 28, 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 28, 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.* Any other opinions, appraisals, or rulings, and related consents 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 27.

(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 contractowners and written assurances from the Depositor or initial contractowners 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(T)(b)(12)(iii) under the Investment Company Act.

(r) *Preliminary Summary Prospectuses.* The form of any Initial Summary Prospectus and Updating 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.

Instruction. Registrants are required to provide the preliminary Summary Prospectus exhibits 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.

Item 30. Directors and Officers of the Depositor

Provide the following information about each director or officer of the Depositor:

(1)	(2)
Name and principal business address	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 31. 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 32. 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 33. 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 24:

(1)	(2)
Name and principal business address	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)	(2)	(3)	(4)	(5)
Name of principal underwriter	Net underwriting discounts and commissions	Compensation on redemption	Brokerage commission	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 34. 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) [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 35. 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 21 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 36. 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.

§ 274.127e–1 [Removed]

■ 40. Remove § 274.127e–1.

§ 274.127f–1 [Removed]

■ 41. Remove § 274.127f–1.

§ 274.302 [Removed]

■ 42. Remove § 274.302.

§ 274.303 [Removed]

■ 43. Remove § 274.303.

By the Commission.

Dated: October 30, 2018.

Brent J. Fields,

Secretary.

Appendices

Note: The Appendices will not appear in the Code of Federal Regulations.

Appendix A

Hypothetical Initial Summary Prospectus Prepared by SEC Staff—For Illustrative Purposes Only

[GRAPHIC: XYZ Insurance: a hypothetical company]

VARIABLE ANNUITY CONTRACT

Issued through: XYZ Separate Account A
Contract Classes: Class B, Class X

Summary Prospectus for New Investors
May 1, 2018

This Summary Prospectus summarizes key features of the XYZ Variable Annuity Contract. You should read this Summary Prospectus carefully, particularly the section titled Important Information You Should Consider About the Contract.

Before you invest, you should review the prospectus for the XYZ Variable Annuity Contract, which contains more information about the contract, including its features, benefits, and risks. You can find the prospectus and other information about the contract online at *XYZInsuranceCo.com/VAdocuments.* You can also obtain this information at no cost by calling 888–555–1234 or by sending an email request to *email@XYZInsuranceCo.com.*

This Summary Prospectus incorporates by reference the XYZ Variable Annuity Contract's prospectus and Statement of Additional Information (SAI), both dated May 1, 2018, as amended or supplemented. The SAI may be obtained, free of charge, in the same manner as the prospectus.

* * * * *

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, has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

The Securities and Exchange Commission has not approved or disapproved this contract or passed upon the adequacy of this summary prospectus. Any representation to the contrary is a criminal offense.

Contents

Special Terms
Overview of the Variable Annuity Contract
Important Information You Should Consider About the Contract
Standard Death Benefit
Other Benefits Available Under the Contract
Buying the Contract
Surrendering Your Contract or Making Withdrawals: Accessing the Money in Your Contract
Additional Information About Fees
Appendix: Portfolio Companies Available Under the Contract

Special Terms

Accumulation Phase	The phase of your contract where you make premium payments and invest those payments seeking to increase your contract value.
Benefit Base	If you elect certain Optional Benefits under the Contract, the Benefit Base is used to determine the amount available to withdraw under the Optional Benefit. This figure is separate from your contract value and cannot be withdrawn as a lump sum.
Contract	The legal document between you and XYZ that describes the terms of the variable annuity. The contract has two phases, the accumulation (savings) phase and the payout (annuitization or income) phase. "Contract value" is the total value of your investment options (your separate account value plus your fixed account value).
Death Benefit	The amount paid to your designated beneficiaries (the persons or organizations you select to receive payments) upon your death.
Fixed Account	An investment option that earns a stated amount of interest. "Fixed account value" is the value of your investments in your fixed account.
Investment Options	This includes the portfolio companies and the fixed account.
Optional Benefits	Provisions that you can choose to add to your contract, typically for an additional cost. These include the additional death benefits, living benefits, and other benefits such as the liquidity rider.
Payout Phase	The phase of your contract after you elect to convert your contract value into a stream of income payments.
Portfolio Company	One of many mutual funds available for investment through your contract.
Separate Account	XYZ Separate Account A, through which premium payments under the contract may be allocated to portfolio companies. "Separate account value" is the total value of your investments in the portfolio companies.
Surrender Charge	A charge you pay if you withdraw money from your contract during a set time period (the surrender charge period) after you contributed money to your contract.

Overview of the Variable Annuity Contract

Q. What is this contract, and what is it designed to do?

A. The XYZ Variable Annuity Contract is designed to provide long-term accumulation of assets through investments in a variety of investment options during the accumulation phase. It can supplement your retirement income by providing a stream of income payments during the payout phase. It also offers death benefits to protect your designated beneficiaries. This contract may be appropriate if you have a long investment time horizon. It is not intended for people who may need to make early or frequent withdrawals or intend to engage in frequent trading in the portfolio companies.

Q. How do I accumulate assets in this contract and receive income from the contract?

A. Your contract has two phases: (1) An accumulation (savings) phase; and (2) a payout (income) phase.

(1) Accumulation (Savings) Phase

To help you accumulate assets, you can invest your premium payments in:

• Portfolio companies (mutual funds), each of which has its own investment strategies, investment advisers, expense ratios, and returns; and

• a fixed account option, which offers a guaranteed interest rate during a selected period.

A list of portfolio companies in which you can invest is provided in the back of this Summary Prospectus. **See Appendix: Portfolio Companies Available Under the Contract**.

(2) Payout (Income) Phase

You can elect to annuitize your contract and turn your contract value into a stream of income payments (sometimes called annuity payments) from XYZ, at which time the accumulation phase of the contract ends. These payments may continue for a fixed period of years, for your entire life, or for the longer of a fixed period or your life. The payments may also be fixed or variable. Variable payments will vary based on the performance of the investment options you select.

Please note that if you annuitize, your investments will be converted to income payments and you may no longer be able to choose to withdraw money at will from your contract. All benefits (including guaranteed minimum death benefits and living benefits) terminate upon annuitization.

Q. What are the primary features and options that this contract offers?

A. Contract classes. You can purchase one of several contract classes that have different ongoing fees and surrender charges. For example, this contract offers Class B with an 8-year surrender charge period or Class X with a 9-year surrender charge period and higher ongoing fees. If you purchase a Class X contract, XYZ will add an additional lump sum amount to your premiums.

Accessing your money. Until you annuitize, you have full access to your money. You can choose to withdraw your contract value at any time (although if you withdraw early, you may have to pay a surrender charge and/or income taxes, including a tax penalty if you are younger than age 59½).

Tax treatment. You can transfer money between investment options without tax implications, and earnings (if any) on your investments are generally tax-deferred. You are taxed only when: (1) You make a withdrawal; (2) you receive an income payment from the contract; or (3) upon payment of a death benefit.

Death benefits. Your contract includes a basic death benefit that will pay your designated beneficiaries the contract value at the time of your death. You can purchase additional death benefits for an additional fee. These additional provisions may increase the amount of money payable to your designated beneficiaries upon your death.

Optional benefits that occur during your lifetime. For an additional fee, you can purchase principal guarantees to help protect your retirement income from declining markets (Principal Protection Rider) and/or income guarantees to help protect you from outliving your assets (Lifetime Minimum Payout Rider), while still maintaining access to your money.

Optional liquidity rider. For an additional fee, you can reduce the number of years that each premium payment is subject to surrender charges.

Portfolio rebalancing and dollar cost averaging. At no additional charge, you may select portfolio rebalancing, which automatically rebalances the investment options you select to maintain your chosen mix of investment options. Alternately, at no additional charge, you may select dollar cost averaging, which automatically transfers a specific amount of money from the fixed account to the investment options you have selected, at set intervals over a specific period of time.

Important Information You Should Consider About the Contract

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.

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<table>
<tr><th colspan="2">FEES AND EXPENSES</th><th>LOCATION IN PROSPECTUS</th></tr>
<tr><td>Surrender Charge
(charges for early withdrawal)</td><td>If you withdraw money from your contract within 9 years following your last premium payment, you will be assessed a surrender charge of up to 9% on the value of the withdrawal, declining to 0% over 9 years.

For example, if you purchased a Class X contract and were to withdraw $100,000 during the surrender charge period, you would be assessed a charge of up to $9,000 on the amount withdrawn.</td><td>Charges (Surrender Charge)</td></tr>
<tr><td>Transaction Charges
(charges for certain transactions)</td><td>In addition to surrender charges, you also may be charged for other transactions (such as when you transfer cash value between investment options, or for special requests such as wire transfers).</td><td>Charges (Transfer Fee; Surrender Charge)</td></tr>
<tr><td>Ongoing Fees and Expenses
(annual charges)</td><td>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.
<table>
<tr><th>ANNUAL FEE</th><th>MIN.</th><th>MAX.</th></tr>
<tr><td>1. Base contract (varies by contract class)</td><td>1.15%[1]</td><td>1.55%[1]</td></tr>
</table></td><td>Fee Table and Expense Examples

Charges</td></tr>
</table>

2. Investment options (Portfolio Company fees and expenses)	0.35%[2]	2.71%[2]
3. Optional benefits (if elected)	0.15%[3]	5.05%[3]

[1] As a percentage of separate account value.
[2] As a percentage of portfolio company assets.
[3] As a percentage of contract value or benefit base depending on the optional benefits selected.

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**.

LOWEST ANNUAL COST ESTIMATE: $1,518	**HIGHEST ANNUAL COST ESTIMATE: $9,134**
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 contributions, transfers, or withdrawals	Assumes: • Investment of $100,000 • 5% annual appreciation • Most expensive combination of classes, optional benefits, and portfolio company fees and expenses • No sales charges • No additional contributions, transfers, or withdrawals

RISKS		LOCATION IN PROSPECTUS
Risk of Loss	You can lose money by investing in this contract, including loss of principal.	Principal Risks
Not a Short-Term Investment	This contract is not designed for short-term investing and is not appropriate for an investor who needs ready access to cash. Surrender charges apply for up to 9 years following your last premium payment. They will reduce the value of your contract if you withdraw money during that time. The benefits of tax deferral and living benefit protections also mean the contract is more beneficial to investors with a long time horizon.	Principal Risks
Risks Associated with Investment Options	• An investment in this contract is subject to the risk of poor investment performance of the investment options you choose. • Each investment option has its own unique risks. • You should review the prospectuses for the available portfolio companies before making an investment decision.	Principal Risks
Insurance Company Risks	Any obligations, guarantees, and benefits of the contract are subject to the claims-paying ability of XYZ. If XYZ experiences financial distress, it may not be able to meet its obligations to you. More information about XYZ, including its financial strength ratings, is available upon request from XYZ Separate Account A.	Principal Risks
RESTRICTIONS		**LOCATION IN PROSPECTUS**
Investment Options	• There is a $10 charge for each transfer when you transfer money between investment options in excess of 12 times a year.	Principal Risks

	• XYZ reserves the right to remove or substitute portfolio companies as investment options that are available under the contract.	
Optional Benefits	• Many optional benefits limit or restrict the investment options you may select under the contract. We may change these restrictions in the future. • You are required to have a certain contract value for some optional benefits. If withdrawals reduce your contract value below this value, your optional benefits may be reduced or terminated. • We may stop offering an optional benefit at any time.	Other Benefits Available Under the Contract
TAXES		**LOCATION IN PROSPECTUS**
Tax Implications	• Consult with a tax professional to determine the tax implications of an investment in and payments received under this contract. • If you purchase the contract through a tax-qualified plan or individual retirement account (IRA), you do not get any additional tax deferral. • Earnings on your contract are taxed at ordinary income tax rates when you withdraw them, and you may have to pay a penalty if you take a withdrawal before age 59 ½.	Taxes
CONFLICTS OF INTEREST		**LOCATION IN PROSPECTUS**
Investment Professional Compensation	Your investment professional may receive compensation for selling this contract to you, both in the form of commissions and because XYZ may share the revenue it earns on this contract with the professional's firm. This conflict of interest may influence your investment professional to recommend this contract over another investment.	Other Information (Distribution)
Exchanges	Some investment professionals may have a financial incentive to offer you	Other Information (Contract Provisions and

	a new contract in place of the one you own. You should only exchange your contract if you determine, after comparing the features, fees, and risks of both contracts, that it is better for you to purchase the new contract rather than continue to own your existing contract.	Limitations)

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Standard Death Benefit

Q. What happens to my money in the contract when I die?

A. Accumulation (savings) phase. Your contract includes a standard death benefit for no additional charge. The standard death benefit is equal to the value of your investment options during the asset accumulation (savings) phase of the contract. The value of the standard death benefit may increase (if you make additional purchase payments or your investment performs well) or decrease (if you take withdrawals or your investment options perform poorly). For an additional charge, you can purchase additional optional death benefits. This benefit terminates upon full surrender or annuitization of the contract.

Payout (income) phase. The amount payable upon your death is based on the payout option you select (*e.g.,* income for a guaranteed period of lifetime payments).

Other Benefits Available Under the Contract

Q. Are there other benefits I can select that will affect how much money that my designated beneficiaries or I will receive under the contract, or otherwise will affect my rights under the contract? What are the features, costs, and any limitations associated with these other benefits?

A. In addition to the standard death benefit associated with your contract, other optional benefits may also be available to you. The purposes, fees, and restrictions/limitations of these additional benefits are briefly summarized in the following tables.

OPTIONAL DEATH BENEFITS

These optional death benefits are available during the accumulation phase:

Name of benefit	Purpose	Annual fee (as a percent of separate account value)	Brief description of restrictions/limitations
Return of Premium Death Benefit.	Guarantees your beneficiaries will receive a benefit at least equal to your purchase payments.	0.15	• Available only at contract purchase. • Withdrawals could significantly reduce the benefit.
Annual Step-Up Death Benefit ..	Provides a new locked-in higher death benefit on each contract anniversary, if your investments increase in value.	0.35	• Available only at contract purchase. • Benefit limits investment options available. • Withdrawals could significantly reduce the benefit.
Earnings Enhancement Death Benefit.	Pays an additional death benefit amount to help offset any taxes due on contract earnings.	0.55	• Available only at contract purchase. • Available only to contract owners ages 0–75.

OPTIONAL LIVING BENEFITS

Name of benefit	Purpose	Annual fee (as a percentage of benefit base)	Brief description of restrictions/limitations
Principal Protection Rider	Protects your initial investment from loss. If at the time of your 10th contract anniversary your initial investment loses value due to market losses, we will make a one-time payment to erase those investment losses.	1.5	• Available only at contract purchase. • Benefit limits available investment options. • Withdrawals could significantly reduce or terminate benefit. • Protection only applies to first year's premium payments. • Protection applies only until 10th contract anniversary. • Available only to contract owners ages 0–80.
Lifetime Minimum Payout Rider	Enables you to take steady, lifetime withdrawals, no matter how markets perform or how long you live, while still maintaining access to your money.	2.5	• Benefit limits investment options available. • Withdrawals before age 60 or greater than the minimum payout amount could significantly reduce or terminate benefit. • Available only to contract owners ages 0–85.

OTHER OPTIONAL BENEFITS

Name of benefit	Purpose	Annual fee (as a percentage of contract value)	Brief description of restrictions/limitations
Liquidity Rider	Reduces the surrender period from 9 to 4 years	0.5% per year for the first 4 years.	Available only at contract purchase.
Portfolio Rebalancing	Automatically rebalances the investment options you select (either monthly, quarterly or annually) to maintain your chosen mix of investment options.	None	Cannot use with the dollar cost averaging option.
Dollar Cost Averaging	Automatically transfers a specific amount of money from the Fixed Account to the investment options you have selected, at set intervals over a specific period of time.	None	Cannot use with the portfolio rebalancing option.

Buying the Contract

Q. How do I purchase the XYZ Variable Annuity Contract?

A. Complete our application and submit it, along with your initial premium payment, to our Administrative Office, at [Purchase Payment Processing, XYZ Insurance Company, 100 F Street NE, Washington, DC 20549]. Once we approve your application, we will send you your contract and a statement confirming your investments.

Q. How much can I contribute and how are my contributions invested?

A. Your premium payments will be invested in the investment options that you choose.

	Non-qualified policies (policies purchased using after-tax dollars)	Qualified policies (policies purchased using pre-tax dollars)
Minimum Initial Premium	$10,000	$5,000
Minimum Subsequent Premiums	$50	
Maximum Subsequent Premiums (per contract year after 1st contract anniversary)	$50,000	Lesser of $50,000 or IRS contribution limit.
Maximum Total Premiums	$1,000,000 (Up to age 80) $500,000 (Over age 80)	

*We can reject any premium payments for any reason. We may also permit you to invest more than the maximum amounts list above if you obtain our prior approval.

After your initial premium payment, you are not required to make any additional premium payments under your contract.

Q. When will any premium payments that I make be credited to my account?

A. Initial contract purchase: Your financial professional must determine that the contract is suitable for you and transmit your application to XYZ. If your application and purchase payment are complete when received by XYZ, or once it becomes complete, we will issue your contract within 2 business days. If some information is missing from your application, we may delay issuing your contract and crediting your account while we obtain the missing information. However, we will not hold your initial purchase payment for more than 5 business days without your permission.

Subsequent premium payment: If we receive a payment before the close of the NYSE (typically 4:00 p.m. EST), we will credit your purchase payment that day. If we receive your subsequent purchase payment after the close of the NYSE, your payment will be applied on the next business day.

Surrendering Your Contract or Making Withdrawals: Accessing the Money in Your Contract

Q. Can I access the money in my account during the asset accumulation (savings) phase?

A. You can access the money in your contract by making a withdrawal, which will reduce the value of your contract (including the amount of the death benefit). You may withdraw all or a portion of the cash value of your contract (minus applicable charges and other adjustments, discussed below). **However, withdrawing the entire cash value of your contract will terminate your contract.**

Certain withdrawals may reduce the value of any optional living benefits you elected. Some optional living benefits provide withdrawal options.

Q. Are there any limitations associated with taking money out of my contract during the asset accumulation (savings) phase?

A. Yes. These limitations are as follows:

Limitations on withdrawal amounts	• The minimum withdrawal amount is the lesser of $500 or your entire contract value.
Surrender charges and taxes	• As described above, there may be surrender charge and tax implications when you take out money.
Negative impact of withdrawal on other benefits and guarantees of your contract.	• A partial withdrawal may have a negative impact on certain optional benefits that you may elect. It may reduce the value of or even terminate certain benefits.

Q. What is the process to request a withdrawal of money from my contract?

A. You can request to withdraw all or a portion of the cash value of your contract (that is your contract value less any surrender charges and any prorated contract fees) on any business day through your financial intermediary, through our website, or by calling us or mailing a request to [Withdrawal Processing, XYZ Insurance Company, 100 F Street NE, Washington, DC 20549]. Generally, for withdrawal or surrender requests received before the close of the New York Stock Exchange (typically 4:00 p.m. EST), we will process your request that day. If we receive your request after the close of the New York Stock Exchange, your request payment will be processed the next

business day. You will generally receive the amount withdrawn or surrendered within seven days.

Q. Can I access the money in my account during the annuity (income) phase?

A. You will receive payments under the annuity payment option you select. However, you generally may not take any other withdrawals.

Additional Information About Fees

The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering 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.

ANNUAL TRANSACTION EXPENSES

The first table describes the fees and expenses that you will pay at the time that you buy the contract, surrender the contract, or transfer cash value between investment options. State premium taxes may also be deducted.

Front-End Load:	None
Surrender Charge (% of amount surrendered)	

	Year since contribution received									
Contract Class	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10+**
Class B	8%	8%	7%	6%	5%	4%	3%	0%	0%	0%
Class X	9%	8%	7%	6%	5%	4%	3%	2%	1%	0%

Transfer Fee (after 12th transfer is a year)	$10
Special Service Fee (*e.g.,* overnight delivery, duplicate policies; duplicate 1099 and 5498 tax forms; check copies; and printing and mailing previously submitted forms)	50

ANNUAL CONTRACT EXPENSES

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.

Base contract	Class B	Class X
Annual Administrative Charge	$50	$50
Base Contract Charge (% of average separate account value)	1.15%	1.50%

Optional benefits	Maximum charges
Liquidity Rider (only available with Class B) (% of separate account value)	0.50%
Death Benefits:	
Return of Premium Death Benefit (% of separate account value)	0.15
Annual Step-Up Death Benefit (% of separate account value)	0.35
Earnings Enhancement Death Benefit (% of contract value)	0.55
Minimum Accumulation Benefits:	
Principal Protection Rider (% of benefit base)	1.50
Lifetime Withdrawal Benefits:	
Lifetime Minimum Payout Rider (% of benefit base)	2.50

TOTAL ANNUAL PORTFOLIO COMPANY OPERATING EXPENSES

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. A complete list of portfolio companies available under the contract, including their annual expenses, may be found at the back of this Summary Prospectus.

	Minimum (%)	Maximum (%)
Range of total annual portfolio operating expenses *before* any waivers or expense reimbursements	0.35	2.71
Range of total annual portfolio operating expenses *after* any waivers or expense reimbursements *	0.33	1.85

* Any expense waivers or reimbursements will remain in effect until at least April 30, 2019 and can only be terminated early with approval by the Portfolio Company's board of directors.

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 Portfolio Company 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 portfolio company 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:

	Class B	Class X
1 Year	$15,015	$16,776
3 Years	31,630	33,249

	Class B	Class X
5 Years	41,181	43,623
10 Years	67,585	69,466

If you annuitize at the end of the applicable time period or if you do not surrender your contract:

	Class B	Class X
1 Year	$7,651	$7,868
3 Years	23,323	22,943
5 Years	36,268	37,118
10 Years	67,585	69,466

APPENDIX: Portfolio Companies Available Under the Contract

The following is a list of portfolio companies currently available under the contract, which is subject to change, as discussed in the prospectus for the contract. Before you invest, you should review the prospectuses for the portfolio companies. These prospectuses contain more information about the portfolio companies and their risks and may be amended from time to time. You can find the prospectuses and other information about the portfolio companies online at *XYZInsuranceCo.com/VAdocuments.* You can also request this information at no cost by calling 888–555–1234 or by sending an email request to *email@XYZInsuranceCo.com.*

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.

Investment type	[Portfolio company and *adviser/subadviser*]	Expense ratio (expenses/average assets) (%)	Average annual total returns *(as of 12/31/2017)*		
			1 year (%)	5 year (%)	10 year (%)
Allocation	XYZ Aggressive Allocation Portfolio	0.97	17.49	11.68	5.87
Allocation	XYZ Balanced Portfolio	0.81	14.80	10.06	5.89
Allocation	XYZ Conservative Allocation Portfolio	0.97	8.06	6.25	5.36
Allocation	XYZ Moderate Allocation Portfolio	0.97	11.77	8.28	5.73
Allocation	XYZ Target Date 2020 Portfolio	1.03	11.69	5.52	
Allocation	XYZ Target Date 2030 Portfolio	1.03	13.14	6.14	
Allocation	XYZ Target Date 2040 Portfolio	1.02	14.69	6.96	
Allocation	XYZ Target Date 2050 Portfolio	1.02	18.91	9.10	
Allocation	XYZ Target Date 2060 Portfolio	1.02	24.09		
Allocation	XYZ Target Date Income Portfolio	1.01	4.02	5.88	
Alternative	Long/Short Equity Portfolio *(Subadviser: 123 Asset Management).*	2.53	10.93		
Alternative	XYZ Alternative Growth Portfolio	2.71	1.75	3.81	1.75
Alternative	XYZ Multimanager Alternative Portfolio *(Subadvisers: 123 Asset Management; 456 Asset Management; 789 Advisers).*	2.03	2.11		
Global Bond	QRS Global Bond Portfolio *(Subadviser: 456 Asset Management).*	1.31			
Global Bond	XYZ Unconstrained Bond Portfolio	1.27	1.81	0.62	2.91
Global Equity	ABCD Total Return Portfolio	1.05	6.02	0.43	
Global Equity	QRS Emerging Market Debt Portfolio *(Subadviser: 456 Asset Management).*	1.31	12.48	3.58	
Global Equity	QRS Emerging Markets Portfolio *(Subadviser: 456 Asset Management).*	1.29	37.87	7.24	
Global Equity	QRS Global Growth Portfolio *(Subadviser: 456 Asset Management).*	1.22	31.77	11.56	6.30
Money Market	XYZ Government Money Market Portfolio	0.37	0.31	0.06	0.19
Sector	XYZ Capital Appreciation Portfolio *(Subadviser: 789 Advisers).*	0.66	31.69	16.75	8.33
Sector	XYZ Consumer Products Portfolio *(Subadviser: 789 Advisers).*	0.76	8.95	11.10	8.86
Sector	XYZ Financial Services Portfolio *(Subadviser: 789 Advisers).*	0.76	23.53	6.75	7.73
Sector	XYZ Healthcare Portfolio *(Subadviser: 789 Advisers)*	0.78	22.04	19.28	11.87
Sector	XYZ Homebuilders Portfolio *(Subadviser: 789 Advisers).*	0.76			
Sector	XYZ Real Estate Portfolio *(Subadviser: 789 Advisers).*	0.75	14.60		
Sector	XYZ Technology Portfolio *(Subadviser: 789 Advisers).*	0.84	50.16	23.51	
Sector	XYZ Transportation & Infrastructure Portfolio *(Subadviser: 789 Advisers).*	0.75	18.24		
Sector	XYZ Utilities Portfolio *(Subadviser: 789 Advisers)*	0.76	7.34	10.59	
U.S. Bond	ABCD Aggregate Bond Index Portfolio	0.41	3.20	2.35	3.83
U.S. Bond	ABCD High Yield Bond Portfolio	0.97	6.18	4.70	7.25
U.S. Bond	ABCD Total Return Bond Portfolio	1.14	11.17	9.72	
U.S. Bond	ABCD U.S. Treasury Portfolio	0.38	0.76	0.22	
U.S. Bond	Intermediate-Term Bond Portfolio	0.41	4.14	2.81	4.58
U.S. Bond	Long-Term Bond Portfolio	0.41	9.73	4.78	
U.S. Bond	Short-Term Bond Portfolio	0.39	2.85	2.44	
U.S. Equity	ABCD Contrarian Portfolio	0.91	15.20	12.82	
U.S. Equity	ABCD Diversified Equity Portfolio	0.87	22.70	15.05	8.23
U.S. Equity	ABCD Equity and Income Portfolio	0.79	19.66		

Investment type	[Portfolio company and *adviser/subadviser*]	Expense ratio (expenses/ average assets) (%)	Average annual total returns *(as of 12/31/2017)*		
			1 year (%)	5 year (%)	10 year (%)
U.S. Equity	ABCD Focused Portfolio	0.76	26.43	13.02	.....
U.S. Equity	ABCD Managed-Risk Equity Portfolio	1.02	14.11	.....	.....
U.S. Equity	ABCD Russell 2000 Index Portfolio	0.37	14.61	14.07	.....
U.S. Equity	ABCD S&P 500 Index Portfolio	0.35	21.26	15.23	8.00
U.S. Equity	ABCD U.S. Large-Cap Portfolio	0.81	23.54	11.66	6.21
U.S. Equity	ABCD U.S. Micro-Cap Growth Portfolio	0.88	28.91	.....	.....
U.S. Equity	ABCD U.S. Mid-Cap Portfolio	0.81	12.14	10.19	7.91
U.S. Equity	ABCD U.S. Small-Cap Growth Portfolio	0.81	13.64	13.90	18.02

The table below identifies the portfolio companies available for use with the **Annual Step-Up Death Benefit** and the **Principal Protection Rider.**

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Portfolio Company	Annual Step-Up Death Benefit	Principal Protection Rider
ABCD Aggregate Bond Index Portfolio	☑	☑
ABCD Contrarian Portfolio		
ABCD Diversified Equity Portfolio	☑	☑
ABCD Equity and Income Portfolio	☑	
ABCD Focused Portfolio		
ABCD High Yield Bond Portfolio	☑	☑
ABCD Managed-Risk Equity Portfolio	☑	☑
ABCD Russell 2000 Index Portfolio		
ABCD S&P 500 Index Portfolio	☑	☑
ABCD Total Return Bond Portfolio	☑	☑
ABCD Total Return Portfolio		
ABCD U.S. Large-Cap Portfolio	☑	
ABCD U.S. Micro-Cap Growth Portfolio		
ABCD U.S. Mid-Cap Portfolio		
ABCD U.S. Small-Cap Growth Portfolio		
ABCD U.S. Treasury Portfolio	☑	☑
Intermediate-Term Bond Portfolio	☑	☑
Long/Short Equity Portfolio		
Long-Term Bond Portfolio	☑	☑
QRS Emerging Market Debt Portfolio		
QRS Emerging Markets Portfolio		
QRS Global Bond Portfolio	☑	☑
QRS Global Growth Portfolio		
Short-Term Bond Portfolio	☑	☑
XYZ Aggressive Allocation Portfolio	☑	☑
XYZ Alternative Growth Portfolio		
XYZ Balanced Portfolio	☑	☑
XYZ Capital Appreciation Portfolio	☑	
XYZ Conservative Allocation Portfolio	☑	☑
XYZ Consumer Products Portfolio		
XYZ Financial Services Portfolio		
XYZ Government Money Market Portfolio	☑	☑
XYZ Healthcare Portfolio		
XYZ Homebuilders Portfolio		
XYZ Moderate Allocation Portfolio	☑	☑
XYZ Multimanager Alternative Portfolio		
XYZ Real Estate Portfolio		
XYZ Target Date 2020 Portfolio	☑	☑

Portfolio Company	Annual Step-Up Death Benefit	Principal Protection Rider
XYZ Target Date 2030 Portfolio	☑	☑
XYZ Target Date 2040 Portfolio	☑	☑
XYZ Target Date 2050 Portfolio	☑	☑
XYZ Target Date 2060 Portfolio	☑	☑
XYZ Target Date Income Portfolio	☑	☑
XYZ Technology Portfolio		
XYZ Transportation & Infrastructure Portfolio		
XYZ Unconstrained Bond Portfolio	☑	☑
XYZ Utilities Portfolio	☑	☑
Fixed Account	☑	☑

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The table below identifies which portfolio companies are available for use with the **Lifetime Minimum Payout Rider.**

Investment Type:	Limitation *
Alternative, Global Equity.	Up to 20% of your contract value.
U.S. Equity, Sector, Global Bond.	Up to 50% of your contract value.
Allocation, U.S. Bond, and Money Market.	No Limits.
Fixed Account	Unavailable.

*You must enroll in automatic quarterly rebalancing.

Appendix B

Hypothetical Updating Summary Prospectus Prepared by SEC Staff—For Illustrative Purposes Only

[GRAPHIC: XYZ Insurance: a hypothetical company]

VARIABLE ANNUITY CONTRACT

Issued through: XYZ Separate Account A

Contract Classes: Class B, Class X

Updating Summary Prospectus

May 1, 2018

You should read this Summary Prospectus carefully, particularly the section titled Important Information You Should Consider About the Contract.

An updated prospectus for the XYZ Variable Annuity Contract is currently available online, which contains more information about the contract, including its features, benefits, and risks. You can find the prospectus and other information about the contract online at *XYZInsuranceCo.com/VAdocuments.* You can also obtain this information at no cost by calling 888–555–1234 or by sending an email request to *email@XYZInsuranceCo.com.*

This Summary Prospectus incorporates by reference the XYZ Variable Annuity Contract's prospectus and Statement of Additional Information (SAI), both dated May 1, 2018, as amended or supplemented. The SAI may be obtained, free of charge, in the same manner as the prospectus.

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.*

The Securities and Exchange Commission has not approved or disapproved this contract or passed upon the adequacy of this summary prospectus. Any representation to the contrary is a criminal offense.

Contents

Special Terms
Updated Information About Your Contract
Important Information You Should Consider About the Contract
Appendix: Portfolio Companies Available Under the Contract

Special Terms

Accumulation Phase	The phase of your contract where you make premium payments and invest those payments seeking to increase your contract value.
Benefit Base	If you elect certain Optional Benefits under the Contract, the Benefit Base is used to determine the amount available to withdraw under the Optional Benefit. This figure is separate from your contract value and cannot be withdrawn as a lump sum.
Contract	The legal document between you and XYZ that describes the terms of the variable annuity. The contract has two phases, the accumulation (savings) phase and the payout (annuitization or income) phase. "Contract value" is the total value of your investment options (your separate account value plus your fixed account value).
Death Benefit	The amount paid to your designated beneficiaries (the persons or organizations you select to receive payments) upon your death.
Fixed Account	An investment option that earns a stated amount of interest. "Fixed account value" is the value of your investments in your fixed account.
Investment Options	This includes the portfolio companies and the fixed account.
Optional Benefits	Provisions that you can choose to add to your contract, typically for an additional cost. These include the additional death benefits, living benefits, and other benefits such as the liquidity rider.
Payout Phase	The phase of your contract after you elect to convert your contract value into a stream of income payments.
Portfolio Company	One of many mutual funds available for investment through your contract.
Separate Account	XYZ Separate Account A, through which premium payments under the contract may be allocated to portfolio companies. "Separate account value" is the total value of your investments in the portfolio companies.
Surrender Charge	A charge you pay if you withdraw money from your contract during a set time period (the surrender charge period) after you contributed money to your contract.

Updated Information About Your Contract

Q. Have my contract features changed during the previous year?

A. Yes. Please see below for a summary of changes that have been made to the contract. As described below, these changes may or may not affect you, depending on when you purchased your contract.

The information in this updating summary prospectus is a summary of certain contract features that have changed since the Updating Summary Prospectus dated May 1, 2017. This may not reflect all of the changes that have occurred since you entered into your Contract.

- Fee Table
  - Only for contracts purchased before Jan. 1, 2014: we have increased the transfer fee from $10 to $15.
- Standard Death Benefit
  - We have changed the terms associated with the standard death benefit to clarify that a surviving spouse may include a surviving domestic partner.
- Optional Benefits
  - We have changed the investment restrictions associated with the Annual Step-Up Death Benefit, Principal Protection Rider, and Lifetime Minimum Income Rider. Current investors that were previously in compliance with the restrictions do not need to update their allocation. However, future allocation instructions must comply with the new restrictions. *See* Appendix: Portfolio Companies Available Under the Contract.
  - We have changed the withdrawal rates for new purchases of the Lifetime Minimum Payout Rider. Current contract owners will be subject to the rate in effect when you elected the Riders.
  - **Only for contracts purchased before Jan. 1, 2014:** We have changed the current fee associated with the Lifetime Minimum Income Rider. In no case will the fees exceed the maximum amount shown in the fee table in the contract prospectus.
  - The Lifetime Minimum Payout Rider is now available to new contract owners and existing contract owners that do not own any other living benefits. The Lifetime Minimum Payout Rider provides longevity protection through lifetime benefit payments.
- Portfolio Companies
  - The XYZ Blue Chip Portfolio has liquidated.
  - The ABCD Equity Portfolio has been renamed the ABCD Equity and Income Portfolio.
  - The ABCD U.S. Mid-Cap Value Portfolio and ABCD U.S. Mid-Cap Growth Portfolio merged into the ABCD U.S. Mid-Cap Portfolio.

Important Information You Should Consider About the Contract

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.

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<table>
<tr><th colspan="2">FEES AND EXPENSES</th><th>LOCATION IN PROSPECTUS</th></tr>
<tr><td>Surrender Charge
(charges for early withdrawal)</td><td>If you withdraw money from your contract within 9 years following your last premium payment, you will be assessed a surrender charge of up to 9% on the value of the withdrawal, declining to 0% over 9 years.

For example, if you purchased a Class X contract and were to withdraw $100,000 during the surrender charge period, you would be assessed a charge of up to $9,000 on the amount withdrawn.</td><td>Charges (Surrender Charge)</td></tr>
<tr><td>Transaction Charges
(charges for certain transactions)</td><td>In addition to surrender charges, you also may be charged for other transactions (such as when you transfer cash value between investment options, or for special requests such as wire transfers).</td><td>Charges (Transfer Fee; Surrender Charge)</td></tr>
<tr><td>Ongoing Fees and Expenses
(annual charges)</td><td>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.
<table>
<tr><th>ANNUAL FEE</th><th>MIN.</th><th>MAX.</th></tr>
<tr><td>1. Base contract (varies by contract class)</td><td>1.15%[1]</td><td>1.55%[1]</td></tr>
<tr><td>2. Investment options (Portfolio Company fees and expenses)</td><td>0.35%[2]</td><td>2.71%[2]</td></tr>
<tr><td>3.</td><td>0.15%[3]</td><td>5.05%[3]</td></tr>
</table></td><td>Fee Table and Expense Examples

Charges</td></tr>
</table>

Optional benefits (if elected)		

[1] As a percentage of separate account value.
[2] As a percentage of portfolio company assets.
[3] As a percentage of contract value or benefit base depending on the optional benefits selected.

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**.

LOWEST ANNUAL COST ESTIMATE: $1,518	**HIGHEST ANNUAL COST ESTIMATE: $9,134**
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 contributions, transfers, or withdrawals	Assumes: • Investment of $100,000 • 5% annual appreciation • Most expensive combination of classes, optional benefits, and portfolio company fees and expenses • No sales charges • No additional contributions, transfers, or withdrawals

RISKS		**LOCATION IN PROSPECTUS**
Risk of Loss	You can lose money by investing in this contract, including loss of principal.	**Principal Risks**
Not a Short-Term Investment	This contract is not designed for short-term investing and is not appropriate	**Principal Risks**

	for an investor who needs ready access to cash. Surrender charges apply for up to 9 years following your last premium payment. They will reduce the value of your contract if you withdraw money during that time. The benefits of tax deferral and living benefit protections also mean the contract is more beneficial to investors with a long time horizon.	
Risks Associated with Investment Options	• An investment in this contract is subject to the risk of poor investment performance of the investment options you choose. • Each investment option has its own unique risks. • You should review the prospectuses for the available portfolio companies before making an investment decision.	**Principal Risks**
Insurance Company Risks	Any obligations, guarantees, and benefits of the contract are subject to the claims-paying ability of XYZ. If XYZ experiences financial distress, it may not be able to meet its obligations to you. More information about XYZ, including its financial strength ratings, is available upon request from XYZ Separate Account A.	**Principal Risks**
RESTRICTIONS		**LOCATION IN PROSPECTUS**
Investment Options	• There is a $10 charge for each transfer when you transfer money between investment options in excess of 12 times a year. • XYZ reserves the right to remove or substitute portfolio companies as investment options that are available under the contract.	**Principal Risks**
Optional Benefits	• Many optional benefits limit or restrict the investment options you may select under the contract. We may change these restrictions in the	**Other Benefits Available Under the Contract**

	future. • You are required to have a certain contract value for some optional benefits. If withdrawals reduce your contract value below this value, your optional benefits may be reduced or terminated. • We may stop offering an optional benefit at any time.	
TAXES		**LOCATION IN PROSPECTUS**
Tax Implications	• Consult with a tax professional to determine the tax implications of an investment in and payments received under this contract. • If you purchase the contract through a tax-qualified plan or individual retirement account (IRA), you do not get any additional tax deferral. • Earnings on your contract are taxed at ordinary income tax rates when you withdraw them, and you may have to pay a penalty if you take a withdrawal before age 59 ½.	**Taxes**
CONFLICTS OF INTEREST		**LOCATION IN PROSPECTUS**
Investment Professional Compensation	Your investment professional may receive compensation for selling this contract to you, both in the form of commissions and because XYZ may share the revenue it earns on this contract with the professional's firm. This conflict of interest may influence your investment professional to recommend this contract over another investment.	**Other Information (Distribution)**
Exchanges	Some investment professionals may have a financial incentive to offer you a new contract in place of the one you own. You should only exchange your contract if you determine, after comparing the features, fees, and risks of both contracts, that it is better for you to purchase the new contract rather than continue to own your existing contract.	**Other Information (Contract Provisions and Limitations)**

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Appendix: Portfolio Companies Available Under the Contract

The following is a list of portfolio companies currently available under the contract, which is subject to change, as discussed in the prospectus for the contract. Before you invest, you should review the prospectuses for the portfolio companies. These prospectuses contain more information about the portfolio companies and their risks and may be amended from time to time. You can find the prospectuses and other information about the portfolio companies online at *XYZInsuranceCo.com/VAdocuments.* You can also request this information at no cost by calling 888–555–1234 or by sending an email request to *email@XYZInsuranceCo.com.*

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.

Investment type	[Portfolio company and *adviser/subadviser*]	Expense ratio (expenses/average assets) (%)	Average annual total returns (as of 12/31/2017)		
			1 year (%)	5 year (%)	10 year (%)
Allocation	XYZ Aggressive Allocation Portfolio	0.97	17.49	11.68	5.87
Allocation	XYZ Balanced Portfolio	0.81	14.80	10.06	5.89
Allocation	XYZ Conservative Allocation Portfolio	0.97	8.06	6.25	5.36
Allocation	XYZ Moderate Allocation Portfolio	0.97	11.77	8.28	5.73
Allocation	XYZ Target Date 2020 Portfolio	1.03	11.69	5.52	.....
Allocation	XYZ Target Date 2030 Portfolio	1.03	13.14	6.14	.....
Allocation	XYZ Target Date 2040 Portfolio	1.02	14.69	6.96	.....
Allocation	XYZ Target Date 2050 Portfolio	1.02	18.91	9.10	.....
Allocation	XYZ Target Date 2060 Portfolio	1.02	24.09	.....	.....
Allocation	XYZ Target Date Income Portfolio	1.01	4.02	5.88	.....
Alternative	Long/Short Equity Portfolio *(Subadviser: 123 Asset Management).*	2.53	10.93	.....	.....
Alternative	XYZ Alternative Growth Portfolio	2.71	1.75	3.81	1.75
Alternative	XYZ Multimanager Alternative Portfolio *(Subadvisers: 123 Asset Management; 456 Asset Management; 789 Advisers*).	2.03	2.11	.....	.....
Global Bond	QRS Global Bond Portfolio *(Subadviser: 456 Asset Management).*	1.31	.....	.....	.....
Global Bond	XYZ Unconstrained Bond Portfolio	1.27	1.81	0.62	2.91
Global Equity	ABCD Total Return Portfolio	1.05	6.02	0.43	.....
Global Equity	QRS Emerging Market Debt Portfolio *(Subadviser: 456 Asset Management).*	1.31	12.48	3.58	.....
Global Equity	QRS Emerging Markets Portfolio *(Subadviser: 456 Asset Management).*	1.29	37.87	7.24	.....
Global Equity	QRS Global Growth Portfolio *(Subadviser: 456 Asset Management).*	1.22	31.77	11.56	6.30
Money Market	XYZ Government Money Market Portfolio	0.37	0.31	0.06	0.19
Sector	XYZ Capital Appreciation Portfolio *(Subadviser: 789 Advisers).*	0.66	31.69	16.75	8.33
Sector	XYZ Consumer Products Portfolio *(Subadviser: 789 Advisers).*	0.76	8.95	11.10	8.86
Sector	XYZ Financial Services Portfolio *(Subadviser: 789 Advisers).*	0.76	23.53	6.75	7.73
Sector	XYZ Healthcare Portfolio *(Subadviser: 789 Advisers)*	0.78	22.04	19.28	11.87
Sector	XYZ Homebuilders Portfolio *(Subadviser: 789 Advisers).*	0.76	.....	.....	.....
Sector	XYZ Real Estate Portfolio *(Subadviser: 789 Advisers).*	0.75	14.60	.....	.....
Sector	XYZ Technology Portfolio *(Subadviser: 789 Advisers).*	0.84	50.16	23.51	.....
Sector	XYZ Transportation & Infrastructure Portfolio *(Subadviser: 789 Advisers).*	0.75	18.24	.....	.....
Sector	XYZ Utilities Portfolio *(Subadviser: 789 Advisers)*	0.76	7.34	10.59	.....
U.S. Bond	ABCD Aggregate Bond Index Portfolio	0.41	3.20	2.35	3.83
U.S. Bond	ABCD High Yield Bond Portfolio	0.97	6.18	4.70	7.25
U.S. Bond	ABCD Total Return Bond Portfolio	1.14	11.17	9.72	.....
U.S. Bond	ABCD U.S. Treasury Portfolio	0.38	0.76	0.22	.....
U.S. Bond	Intermediate-Term Bond Portfolio	0.41	4.14	2.81	4.58
U.S. Bond	Long-Term Bond Portfolio	0.41	9.73	4.78	.....
U.S. Bond	Short-Term Bond Portfolio	0.39	2.85	2.44	.....
U.S. Equity	ABCD Contrarian Portfolio	0.91	15.20	12.82	.....
U.S. Equity	ABCD Diversified Equity Portfolio	0.87	22.70	15.05	8.23
U.S. Equity	ABCD Equity and Income Portfolio	0.79	19.66	.....	.....
U.S. Equity	ABCD Focused Portfolio	0.76	26.43	13.02	.....
U.S. Equity	ABCD Managed-Risk Equity Portfolio	1.02	14.11	.....	.....
U.S. Equity	ABCD Russell 2000 Index Portfolio	0.37	14.61	14.07	.....
U.S. Equity	ABCD S&P 500 Index Portfolio	0.35	21.26	15.23	8.00
U.S. Equity	ABCD U.S. Large-Cap Portfolio	0.81	23.54	11.66	6.21
U.S. Equity	ABCD U.S. Micro-Cap Growth Portfolio	0.88	28.91	.....	.....

Investment type	[Portfolio company and *adviser/subadviser*]	Expense ratio (expenses/ average assets) (%)	Average annual total returns *(as of 12/31/2017)*		
			1 year (%)	5 year (%)	10 year (%)
U.S. Equity	ABCD U.S. Mid-Cap Portfolio	0.81	12.14	10.19	7.91
U.S. Equity	ABCD U.S. Small-Cap Growth Portfolio	0.81	13.64	13.90	18.02

The table below identifies the portfolio companies available for use with the **Annual Step-Up Death Benefit, the Principal Protection Rider, and the Lifetime Minimum Income Rider.**

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Portfolio Company	Annual Step-Up Death Benefit	Principal Protection Rider	Lifetime Minimum Income Rider
ABCD Aggregate Bond Index Portfolio	☑	☑	☑
ABCD Contrarian Portfolio			
ABCD Diversified Equity Portfolio	☑	☑	
ABCD Equity and Income Portfolio	☑		
ABCD Focused Portfolio			
ABCD High Yield Bond Portfolio	☑	☑	☑
ABCD Managed-Risk Equity Portfolio	☑	☑	☑
ABCD Russell 2000 Index Portfolio			
ABCD S&P 500 Index Portfolio	☑	☑	
ABCD Total Return Bond Portfolio	☑	☑	☑
ABCD Total Return Portfolio			
ABCD U.S. Large-Cap Portfolio	☑		
ABCD U.S. Micro-Cap Growth Portfolio			
ABCD U.S. Mid-Cap Portfolio			
ABCD U.S. Small-Cap Growth Portfolio			
ABCD U.S. Treasury Portfolio	☑	☑	☑
Intermediate-Term Bond Portfolio	☑	☑	☑
Long/Short Equity Portfolio			
Long-Term Bond Portfolio	☑	☑	☑
QRS Emerging Market Debt Portfolio			
QRS Emerging Markets Portfolio			
QRS Global Bond Portfolio	☑	☑	☑
QRS Global Growth Portfolio			
Short-Term Bond Portfolio	☑	☑	☑
XYZ Aggressive Allocation Portfolio	☑	☑	☑
XYZ Alternative Growth Portfolio			
XYZ Balanced Portfolio	☑	☑	☑
XYZ Capital Appreciation Portfolio	☑		
XYZ Conservative Allocation Portfolio	☑	☑	☑
XYZ Consumer Products Portfolio			
XYZ Financial Services Portfolio			
XYZ Government Money Market Portfolio	☑	☑	☑
XYZ Healthcare Portfolio			
XYZ Homebuilders Portfolio			
XYZ Moderate Allocation Portfolio	☑	☑	☑
XYZ Multimanager Alternative Portfolio			
XYZ Real Estate Portfolio			
XYZ Target Date 2020 Portfolio	☑	☑	☑

Portfolio Company	Annual Step-Up Death Benefit	Principal Protection Rider	Lifetime Minimum Income Rider
XYZ Target Date 2030 Portfolio	☑	☑	☑
XYZ Target Date 2040 Portfolio	☑	☑	☑
XYZ Target Date 2050 Portfolio	☑	☑	☑
XYZ Target Date 2060 Portfolio	☑	☑	☑
XYZ Target Date Income Portfolio	☑	☑	☑
XYZ Technology Portfolio			
XYZ Transportation & Infrastructure Portfolio			
XYZ Unconstrained Bond Portfolio	☑	☑	☑
XYZ Utilities Portfolio	☑	☑	
Fixed Account	☑	☑	☑

BILLING CODE 8011–01–C

The table below identifies which portfolio companies are available for use with the **Lifetime Minimum Payout Rider.**

Investment type:	Limitation *
Alternative, Global Equity.	Up to 20% of your contract value.
U.S. Equity, Sector, Global Bond.	Up to 50% of your contract value.
Allocation, U.S. Bond, and Money Market.	No Limits.
Fixed Account	Unavailable.

*You must enroll in automatic quarterly rebalancing.

Appendix C

[GRAPHIC: ''VARIABLE ANNUITY SUMMARY PROSPECTUS: Tell us what you think'']

We require insurance companies to give you—in one long document called a *prospectus*—a lot of information when you purchase a variable annuity. We are now proposing a different approach. Under the proposed approach, insurance companies may instead choose to give you a short summary document. The longer document would still be available online (and you could receive a paper copy of it at no charge if you ask for it). We call the short summary document a *summary prospectus.*

We would like to know what you think about the summary prospectus. Please take a few minutes to review this sample summary prospectus, which is available at *https://www.sec.gov/rules/proposed/2018/33-10569-appendix-a.pdf* and answer any or all of these questions. Thank you for your feedback!

Questions

1. Have you ever considered purchasing a variable annuity? [ ] Yes [ ] No [ ] Don't know

2. The sample summary prospectus is divided into eight sections. Please indicate which two sections you found to be the **most** useful, and which two sections you found to be the **least** useful, in describing the variable annuity.

Name of the section	Most useful	Least useful	Why?
a. Overview of the Variable Annuity Contract.	[ ]	[ ]	
b. Important Information You Should Consider About the Contract.	[ ]	[ ]	
c. Standard Death Benefit	[ ]	[ ]	
d. Other Benefits Available Under the Contract.	[ ]	[ ]	
e. Buying Your Contract	[ ]	[ ]	
f. Surrendering Your Contract or Making Withdrawals: Accessing the Money in Your Contract.	[ ]	[ ]	
g. Additional Information About Fees.	[ ]	[ ]	
h. Portfolio Companies Available Under Your Contract.	[ ]	[ ]	

3. The sample summary prospectus includes a section named ''Overview of the Variable Annuity Contract.'' Does that section provide clear information? [ ] Yes [ ] No

If no, what other information would make this clearer?

4. The section named ''Important Information You Should Consider About the Contract'' includes a table. Do you think the table is clear? [ ] Yes [ ] No

If no, what other information would make this clearer? Would you prefer to see the information in a different format (other than a table)?

5. The sample summary prospectus describes what you would pay for the variable annuity, including upfront fees and future fees. Was this description clear? [ ] Yes [ ] No

If no, what other information would make this clearer?

6. Variable annuities may offer optional insurance benefits that you can purchase for extra fees. The sample summary prospectus describes these optional benefits.

A. Does the sample summary prospectus describe these optional benefits clearly? [ ] Yes [ ] No

If no, what other information would make this clearer?

B. Does the sample summary prospectus describe the extra fees associated with these optional benefits clearly? [ ] Yes [ ] No

If no, how could we make this clearer?

7. When you purchase a variable annuity, you decide how to invest your money by selecting one or more available mutual funds. The sample summary prospectus includes a table of mutual funds that are available as investment options. Does this table provide the information that you would want to consider when choosing mutual funds? [ ] Yes [ ] No

If no, what other information would be helpful to include?

8. After reading the sample summary prospectus, how likely would you be to request the full prospectus for more information on the following topics?

	Very likely	Likely	Neither likely nor unlikely	Unlikely	Very unlikely
Investment options (mutual funds) offered under the variable annuity	[ ]	[ ]	[ ]	[ ]	[ ]
Standard death benefit	[ ]	[ ]	[ ]	[ ]	[ ]
Optional insurance features (also called optional benefits or riders)	[ ]	[ ]	[ ]	[ ]	[ ]
Fees (how much the variable annuity costs)	[ ]	[ ]	[ ]	[ ]	[ ]
Mechanics of how a variable annuity works (how to purchase, accessing money, annuitization, etc.)	[ ]	[ ]	[ ]	[ ]	[ ]

9. Is the length of the document: [ ] Too short [ ] Too long [ ] About right

If the length is not appropriate, why not?

10. How would you prefer to receive/read a document like the sample summary prospectus?

[ ] On paper
[ ] In an email
[ ] On a website
[ ] A combination of paper and digital
[ ] Other (explain)

11. Do you have any additional suggestions for improving the summary prospectus? Is there anything else you would like to tell us about your experience with variable annuities?

If you are interested in background information on the proposed variable annuity summary prospectus, or want to provide feedback on additional questions, visit *https://www.sec.gov/news/press-release/2018-246.*

* * * * *

How To Provide Feedback

Your Name: _____

email: _____

(your email address will not be published on the website)

You can send us feedback in the following ways (include the file number S7–23–18 in your response):

MAIL

Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

EMAIL

rule-comments@sec.gov.

SEC WEBSITE

www.sec.gov/rules/proposed.shtml.

We will post your feedback on our website. Your submission will be posted without change; we do not redact or edit personal identifying information from submissions. You should only make submissions that you wish to make available publicly. Please provide your comments by February 15, 2019.

Thank you!

[QR Code]

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