SECURITIES AND EXCHANGE COMMISSION
[Investment Company Act Release No. 34079; File No. 812–15121]

New York Life Insurance and Annuity Corporation, et al; Notice of Application


AGENCY: Securities and Exchange Commission (“SEC” or “Commission”).

ACTION: Notice.

Notice of application for an order approving the substitution of certain securities pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the “1940 Act”).


SUMMARY OF APPLICATION: Applicants seek an order pursuant to Section 26(c) of the 1940 Act, approving the substitution of shares issued by certain investment certain investment portfolios of the “Existing Portfolios”) for the shares of certain investment portfolios of registered investment companies (the “Replacement Portfolios”), held by the Separate Accounts as investment options for certain variable life insurance policies and variable annuity contracts (such policies and contracts, the “Contracts”) issued by NYLIAC (the “Proposed Substitutions”).

FILING DATE: The application was filed on April 8, 2020 and was amended on July 24, 2020, October 23, 2020, October 26, 2020, and October 27, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission’s Secretary at Secretarys-Office@sec.gov and serving Applicants with a copy of the request personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 19, 2020 and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary.

ADDITIONAL INFORMATION: The Commission:

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

Jill M. Peterson,
Assistant Secretary.

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BILLING CODE 8011–01–P

1. NYLIAC is a Delaware stock life insurance company. NYLIAC is an indirect wholly-owned subsidiary of New York Life Insurance Company, a mutual life insurance company. NYLIAC serves as the depositor of the Separate Accounts, which are segregated asset accounts NYLIAC that fund the Contracts.

2. Each Separate Account, except for Private VUL I and Private VUL II, is registered under the 1940 Act as a unit investment trust. Each Separate Account meets the definition of “separate account” contained in Section 2(a)(37) of the 1940 Act. Interests in the Contracts, except for Contracts issued through Private VUL I and Private VUL II, are registered under the Securities Act of 1933. Each Account is divided into subaccounts, each of which invests exclusively in the securities of an underlying insurance-dedicated mutual fund (“Portfolio”). The application sets forth the registration statement file numbers for the Contracts and the Separate Accounts, with the exceptions of Private VUL I and Private VUL II.

3. The Contracts include the variable annuity contracts and the variable universal life policies. The Contracts may be issued as individual or group Contracts. Contract owners and participants in group Contracts (each a “Contract Owner” and collectively, the “Contract Owners”) may allocate some or all of their Contract value to one or more Subaccounts that are available as investment options under the Contracts.

4. Each Contract permits its owner to transfer all or a portion of the Contract value from one Subaccount to another at any time, subject to certain policy limitations, as well as potential restrictions if NYLIAC determines that such transfers may disadvantage or potentially harm the rights and interests of other policy holders. No sales charges applies to any such transfer of Contract value among Subaccounts. None of the Contracts currently assess a transfer charge, and no transfer charges will apply in connection with the Proposed Substitutions.

5. Under the Contracts, NYLIAC reserves the right to substitute, for the shares of a Portfolio held in any Subaccount, the shares of another Portfolio. NYLIAC, on behalf of itself and its Separate Accounts, proposes to substitute shares of one Portfolio for that of another Portfolio by replacing the shares of four Existing Portfolios that are held in Subaccounts of their Separate Accounts with shares of the corresponding Replacement Portfolios as shown in the table below. NYLIAC states that the proposed Substitutions are part of an ongoing effort to make their Contracts more attractive to existing and prospective Contract Owners. Additional information for
each Existing Portfolio and the corresponding Replacement Portfolio, including investment objectives, principal investment strategies, principal risks, and performance, as well as the fees and expenses of each Existing Portfolio and its corresponding Replacement Portfolio, can be found in the application.

<table>
<thead>
<tr>
<th>Substitution</th>
<th>Existing portfolio</th>
<th>Replacement portfolio</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>MainStay VP Indexed Bond Portfolio—Initial Class</td>
<td>Fidelity VIP Bond Index Portfolio—Initial Class.</td>
</tr>
<tr>
<td>2</td>
<td>Victory Variable Insurance Diversified Stock Fund—Class A Shares.</td>
<td>Fidelity VIP Bond Index Portfolio—Service Class 2.</td>
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<tr>
<td>3</td>
<td>LVIP SSGA International Index Fund—Standard Class</td>
<td>Fidelity VIP International Index Portfolio—Initial Class.</td>
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<tr>
<td>4</td>
<td>Invesco VI American Value Fund—Series I</td>
<td>MFS VIT III Mid Cap Value Portfolio—Initial Class.</td>
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</table>

6. Applicants state that the Proposed Substitutions will be described in supplements to the applicable prospectuses for the Contracts filed with the Commission or in other supplemental disclosure documents (collectively, “Supplements”) and delivered to all affected Contract Owners at least 30 days before the date the Proposed Substitution is effected (the “Effective Date”). Each Supplement, among other things, will advise Contract Owners that for 30 days before the Effective Date, Contract Owners are permitted to transfer all or a portion of their Contract value that out of any Subaccount investing in the Existing Portfolios to any other available Subaccounts offered under their Contracts without the transfer being counted as a transfer for purposes of transfer limitations and fees that would otherwise be applicable under the terms of the Contracts.

7. Applicants will send the Supplements and the summary prospectuses to all existing Contract Owners at least 30 days prior to the Effective Date. The Contract prospectus and Supplement, and the summary prospectus for the Replacement Portfolios will be delivered to purchasers of new Contracts.

8. In addition to the Supplement distributed to Contract Owners, within five business days after the Effective Date, Contract Owners will be sent a written confirmation of the completed Proposed Substitutions in accordance with Rule 10b–10 under the Securities Exchange Act of 1934. The confirmation statement will include or be accompanied by a statement that reiterates the free transfer rights disclosed in the Supplement.

9. The Proposed Substitutions will take place at the Existing and Replacement Portfolios’ relative per share net asset values determined on the Effective Date in accordance with Section 22 of the 1940 Act and Rule 22c–1 thereunder. The Proposed Substitutions will be effected by having each applicable Existing Portfolio redeem its Existing Portfolio shares in cash on the Effective date at net asset value per share and purchase shares of the corresponding Replacement Portfolio at net asset value per share calculated on the same date. The Proposed Substitutions will be effective by redeeming shares of an Existing Portfolio for cash and using the cash to purchase shares of the Replacement Portfolio.

10. NYLIAC or an affiliate will pay all expenses and transaction costs of the Proposed Substitutions. No costs of the Substitutions will be borne directly or indirectly by Contract Owners. Affected Contract Owners will not incur any fees or charges as a result of the Proposed Substitutions, nor will their rights or the obligations of NYLIAC under the Contracts be altered in any way. The Proposed Substitutions will not cause the fees and charges under the Contracts currently being paid by Contract Owners to be greater after the Proposed Substitutions than before the Proposed Substitutions. The charges for optional living benefit riders may change from time to time and any such changes would be unrelated to the Proposed Substitutions. No fees will be charged on the transfer made on the Effective Date because the Proposed Substitutions will not be treated as a transfer for the purpose of assessing transfer charges or, if applicable, for determining the number of remaining permissible transfers in a Contract year.

11. In addition, with respect to Proposed Substitution 2, Applicants represent that New York Life Investment Management LLC (the “Manager”) will enter into a written contract with the MainStay VP Mackay S&P 500 Index Portfolio whereby during the two years following the Effective Date the annual net operating expenses of the MainStay VP Mackay S&P 500 Index Portfolio will not exceed the annual net operating expenses of the Victory VI Diversified Stock Fund for the fiscal year ended December 31, 2019.

12. Applicants represent that with respect to Proposed Substitution 4, for a period of two (2) years commencing on the Effective Date and for those Contracts with assets allocated to the Invesco VI American Value Fund on the Effective Date, NYLIAC will, no later than the last business day of each fiscal quarter, make a corresponding reduction in Separate Account (or Subaccount) expenses to the extent that the annual net operating expenses of MFS VIT III Mid Cap Value Portfolio for such period exceeds, on an annualized basis, the total annual net operating expenses of the Invesco VI American Value Fund for fiscal year 2019. The Applicants further agree that separate account charges of any Subaccounts investing in the Proposed Substitution 2 and 4 Replacement Portfolios for any Contract Owner on the Effective Date will not be increased at any time during the two year period following the Effective Date.

Legal Analysis

1. Applicants request that the Commission issue an order pursuant to Section 26(c) of the 1940 Act approving the Substitutions. Section 26(c) of the 1940 Act prohibits any depositor or trustee of a unit investment trust that invests exclusively in the securities of a single issuer from substituting the securities of another issuer without the approval of the Commission. Section 26(c) provides that such approval shall be granted by order of the Commission, if the evidence establishes that the substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants submit that each of the Substitutions is constituent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. In particular, Applicants point to the following:
The Proposed Substitutions will be described in the Supplements delivered to all affected Contract Owners 30 days before the Effective Date; the Supplements will advise Contract Owners that 30 days before the Effective Date through 30 days following the Substitution Date, Contract Owners are permitted to transfer all or a portion of their Contract value out of any Subaccount investing in the Existing Portfolios to any other available Subaccounts offered under their Contracts without the transfer being counted as a transfer for purposes of transfer limitations and fees that would otherwise be applicable under the terms of the Contracts.

3. Applicants’ Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Proposed Substitutions will not be effected unless NYLIAC determines that: (a) The Contracts allow the substitution of shares of registered open-end investment companies in the manner contemplated by the application; (b) the Proposed Substitutions can be consummated as described in the Application under applicable insurance laws; and (c) any regulatory requirements in each jurisdiction where the Contracts are qualified for sale have been complied with to the extent necessary to complete the Proposed Substitutions.

2. NYLIAC or its affiliates will pay all expenses and transaction costs of the Proposed Substitutions, including legal and accounting expenses, any applicable brokerage expenses and other fees and expenses. No fees or charges will be assessed to the Contract Owners to effect the Proposed Substitutions.

3. The Proposed Substitutions will be effected at the relative net asset values of the respective shares in conformity with section 22(c) of the 1940 Act and rule 22c–1 thereunder without the imposition of any transfer or similar charges by Applicants. The Proposed Substitutions will be effected without change in the amount or value of any Contracts held by affected Contract Owners.

4. The Proposed Substitutions will in no way alter the tax treatment of affected Contract Owners in connection with their Contracts, and no tax liability will arise for affected Contract Owners as a result of the Proposed Substitutions.

5. The rights or obligations of the Applicants under the Contracts of affected Contract Owners will not be altered in any way. The Proposed Substitutions will not adversely affect any riders under the Contracts since each Replacement Portfolio is an allowable Investment Option for use with such riders.

6. Affected Contract Owners will be permitted to make at least one transfer of Contract value from the Subaccount investing in the Existing Portfolio (before the Effective Date) or the Replacement Portfolio (after the Effective Date) to any other available investment option under the Contract without charge for a period beginning at least 30 days before the Effective Date through at least 30 days following the Effective Date. Except as described in any market timing/short-term trading provisions of the relevant prospectus, the NYLIAC will not exercise any right it may have under the Contract to impose restrictions on transfers between the subaccounts under the Contracts, including limitations on the future number of transfers, for a period beginning at least 30 days before the Effective Date through at least 30 days following the Effective Date.

7. All affected Contract Owners will be notified, at least 30 days before the Effective Date about: (a) The intended substitution of the Existing Portfolios with the Replacement Portfolios; (b) the intended Effective Date; and (c) information with respect to transfers as set forth in Condition 6 above. In addition, NYLIAC will also deliver, at least 30 days before the Effective Date, a prospectus for each applicable Replacement Portfolio.

8. NYLIAC will deliver to each affected Contract Owner within five (5) business days of the Effective Date a written confirmation which will include: (a) A confirmation that the Substitutions were carried out as previously notified; (b) a restatement of the information set forth in the Pre-Substitution Notice; and (c) before and after account values.

9. In addition, with respect to Proposed Substitution 2 the Manager will enter into a written contract with the MainStay VP MacKay S&P 500 Index Portfolio whereby during the two years following the Effective Date the annual net operating expenses of the MainStay VP MacKay S&P 500 Index Portfolio will not exceed the annual net operating expenses of the Victory VI Diversified Stock Fund for the fiscal year ended December 31, 2019. With respect to Proposed Substitution 4, for a period of two (2) years commencing on the Effective Date and for those Contracts with assets allocated to the Invesco VI American Value Fund on the Effective Date, NYLIAC will, no later than the last business day of each fiscal quarter, make a corresponding reduction in Separate Account (or Subaccount) expenses to the extent that the annual net operating expenses of MFS VIT III Mid Cap Value Portfolio for such period exceeds, on an annualized basis, the total annual net operating expenses of the Invesco VI American Value Fund for fiscal year 2019. The Applicants further agree that separate account charges of any Subaccounts investing in the Proposed Substitution 2 and 4 Replacement Portfolios for any Contract Owner on the Effective Date will not be increased at any time during the two year period following the Effective Date.

10. With respect to Proposed Substitutions 1, 3 and 4, the Applicants will not receive, for three years from the Effective Date, any direct or indirect benefits paid by the applicable Replacement Portfolios, their advisers or underwriters (or their affiliates), in connection with assets attributable to Contracts affected by the applicable Substitutions, at a higher rate than the Applicants have received from the corresponding Existing Portfolio, its advisers or underwriters (or their affiliates), including without limitation Rule 12b–1 fees, shareholder service, administration, or other service fees, revenue sharing, or other arrangements in connection with such assets.

Proposed Substitutions 1, 3 and 4, and the selection of the applicable Replacement Portfolios was not motivated by any financial consideration paid or to be paid to NYLIAC or its affiliates by the application of the Pre-Substitution Notice. Applicants under the Contracts of affected Contract Owners.

Applicants cite to prior Commission orders under Section 26(c) for similar substitutions in support of their request.
applicable Replacement Portfolios, their advisers, underwriters or their affiliates.

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

Jill M. Peterson, Assistant Secretary.

[FR Doc. 2020–24449 Filed 11–3–20; 8:45 am] BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1; To List and Trade Shares of the Alger Mid Cap 40 ETF and Alger 25 ETF Under Rule 8.900–E, Managed Portfolio Shares


On September 1, 2020, NYSE Arca, Inc. ("NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, a proposed rule change to list and trade shares of the Alger Mid Cap 40 ETF and Alger 25 ETF under Rule 8.900–E (Managed Portfolio Shares). The proposed rule change was published for comment in the Federal Register on September 21, 2020. On October 7, 2020, NYSE Arca filed Amendment No. 1 to the proposed rule change. The Commission has received no comments on the proposal. Section 19(b)(2) of the Act provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 5, 2020. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, designates December 20, 2020 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2020–80).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Jill M. Peterson, Assistant Secretary.

[FR Doc. 2020–2477 Filed 11–3–20; 8:45 am] BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2020–0056]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

OMB Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: OIRA_ Submission@omb.eop.gov.

SSA Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: OR.Reports.Clearance@ssa.gov.

Or you may submit your comments online through www.regulations.gov, referencing Docket ID Number [SSA–2020–0056].

1. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than January 4, 2021. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Help America Vote Act—0960–0706. Public Law 107–252, the Help America Vote Act of 2002, mandates that States verify the identities of newly registered voters. When newly registered voters do not have driver’s licenses or State-issued ID cards, they must supply the last four digits of their Social Security number to their local State election agencies for verification. The election agencies forward this information to their State Motor Vehicle Administration (MVA), and the State MVA inputs the data into the American Association of MVAs, a central consolidation system that routes the voter data to SSA’s Help America Vote Verification (HAVV) system. Once SSA’s HAVV system confirms the identity of the voter, the information returns along the same route in reverse until it reaches the State election agency. The respondents are the State MVAs seeking to confirm voter identities.

Type of Request: Revision of an OMB-approved information collection.

2. Federal Motor Carrier Safety Administration—1415–0092. Public Law 108–77, Commercial Motor Vehicle Safety Act of 2001, directs the Federal Motor Carrier Safety Administration (FMCSA) to adopt a system for the exchange of information regarding driver’s licenses and other identification to States and the federal government to verify the identity of commercial driver’s license holders. The FMCSA administers this program and requires States to submit information to FMCSA. The information is then transmitted to the U.S. Department of Homeland Security (DHS). This system is known as the State-Federal Link for Commercial Driver’s License Information (CDS). This collection of data is submitted to OMB as required by the Paperwork Reduction Act of 1995.

3. Federal Register—1415–0093. This collection of data is submitted to OMB as required by the Paperwork Reduction Act of 1995.

4. SSA is soliciting comments on the accuracy of the agency’s burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

OMB Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: OIRA_ Submission@omb.eop.gov.

SSA Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: OR.Reports.Clearance@ssa.gov.

Or you may submit your comments online through www.regulations.gov, referencing Docket ID Number [SSA–2020–0056].

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