

All submissions should refer to File Number SR–BX–2021–012. 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 internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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 that you wish to make available publicly. All submissions should refer to File Number SR–BX–2021–012 and should be submitted on or before June 4, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34267; File No. 812–15143]

Teachers Insurance and Annuity Association of America, et al.

May 10, 2021.

AGENCY: Securities and Exchange Commission (“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 “Act”).

APPLICANTS: Teachers Insurance and Annuity Association of America (“TIAA”) and TIAA Separate Account VA–3 (the “Separate Account,” and together with TIAA, the “Applicants”).

SUMMARY OF APPLICATION: The Applicants seek an order pursuant to section 26(c) of the Act, approving the proposed substitution (“Substitution”) of Vanguard Institutional Index Fund (“Replacement Fund”) for shares of Vanguard 500 Index Fund (“Original Fund”) held by the Separate Account to fund certain variable annuity insurance contracts (collectively, the “Contracts”).

FILING DATES: The application was filed on July 13, 2020 and amended on November 13, 2020, February 26, 2021, and April 22, 2021.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission’s Secretary at Secretaries-Office@sec.gov and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on June 4, 2021, and should be accompanied by proof of service on 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.

ADDRESSES: The Commission: Secretaries-Office@sec.gov. Applicants: Aneal Krishnamurthy, aneal.krishnamurthy@tiaa.org.

FOR FURTHER INFORMATION CONTACT: Harry Eisenstein, Senior Special Counsel, at (202) 551–6764 or Kaitlin C. Bottock, Branch Chief at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s website by searching for the file number, or for an Applicant using the Company name box, at <http://www.sec.gov/search/search.htm>, or by calling (202) 551–8090.

Applicants’ Representations

1. TIAA is a stock life insurance company organized under the laws of the state of New York. TIAA is the depositor and sponsor of the Separate Account.

2. The Separate Account is registered with the Commission under the Act as a unit investment trust. The Separate Account is divided into subaccounts and each sub account invests in a single underlying mutual fund, such as the Original Fund (all such underlying fund, “investment options”).

3. The Original Fund and the Replacement Fund are each registered under the 1940 Act as an open-end, management investment company and its securities are registered under the 1933 Act. The Original Fund and the Replacement Fund are each advised by The Vanguard Group, Inc., which is not an affiliate of the Applicants.

4. The Contracts are registered under the Securities Act of 1933, as amended (the “1933 Act”). The Contracts allow Contract owners to allocate Contract value to one or more of the investment options available in the Separate Account.

5. As set forth under each Contract, as well as in the prospectus for each Contract, the Companies reserve the right to substitute shares of the underlying fund for shares of another underlying fund.

6. The Applicants propose to replace shares of the Admiral share class of the Original Fund in the Separate Account with shares of the Institutional Plus share class of the Replacement Fund.

7. The Applicants state they are seeking the Substitution because the Original Fund, thought it provides a relatively low “Admiral” share class, does not have an institutional share class which TIAA’s clients are demanding. Additional information for the Existing Fund and the Replacement Fund, including investment objectives, principal investment strategies, principal risks, and performance, as well as the fees and expenses of the Existing Fund and the Replacement Fund, can be found in the application.

8. The Applicants state that the Substitution will be described in a supplement to the prospectuses (“Supplement”) for the Contract filed with the Commission and delivered to all affected Contract owners at least 30 days before the Substitution Date. The Supplement will advise Contract owners that, for a period beginning 30 days before the Substitution Date through at least 30 days following the Substitution Date, Contract owners are permitted to make at least one transfer of Contract value from the subaccount investing in the Existing Fund or the Replacement Fund to any other available investment option offered under their Contracts without the transfer being counted as a transfer for purposes of transfer limitations and fees

³³ 17 CFR 200.30–3(a)(12).

that would otherwise be applicable under the terms of the Contracts.

9. The Applicants will send the Supplements to all affected Contract owners. Prospective purchasers and new purchasers of Contracts will be provided with a Contract prospectus and the Supplement, as well as the prospectus and any supplements for the Replacement Fund.

10. In addition to the Supplement distributed to Contract owners, within five business days after the Substitution Date, affected Contract owners will be sent a written confirmation of the completed Substitution. The confirmation statement will include a statement that reiterates the free transfer rights disclosed in the Supplement.

11. The Substitution will be effected at the relative net asset value in conformity with section 22(c) of the Act and rule 22c-1 thereunder. The Substitution will be effected by TIAA, on behalf of the Separate Account, by redeeming its Original Fund shares in cash on the Substitution Date and simultaneously purchasing shares of the Replacement Fund for the exact amount of the redemption proceeds.

12. TIAA or an affiliate will pay all expenses incurred in connection with the Substitution. No costs of the Substitution will be borne directly or indirectly by Contract owners. Contract owners will not incur any fees or charges as a result of the Substitution, nor will their rights or the obligations of the Companies under the Contracts be altered in any way. The Substitution will not cause the fees and charges under the Contracts currently being paid by Contract owners to be greater after the Substitution than before the Substitution. In addition, the Substitution will in no way alter the tax treatment of affected Contract owners in connection with their Contracts, and no tax liability will arise for Contract owners as a result of the Substitution.

13. The Applicants state that the Contract value for each Contract owner impacted by the Substitution will not change as a result of the Substitution. In addition, the Applicants also state that the benefits offered by the guarantees under the Contracts will be the same immediately before and after the Substitution. The Applicants further state that the effect Substitution may have on the value of the benefits offered by the Contract guarantees would depend, among other things, on the relative future performance of the Existing Fund and the Replacement Fund, which the Applicants cannot predict. The Applicants further note that, at the time of the Substitution, the Contracts will offer a comparable variety

of investment options with as broad a range of risk/return characteristics.

14. The Applicants state that TIAA will not receive, for three years from the date of the Substitution, any direct or indirect benefits from the Replacement Fund, advisors, their underwriters or their respective affiliates in connection with the assets attributable to the Contracts affected by the Substitution at a higher rate than it had received from the Original Fund, advisors, underwriters or their respective affiliates, including, without limitation, 12b-1 distribution, shareholder service, administrative or other service fees, revenue sharing or other arrangements. In addition, the Applicants state that the Substitution is not motivated by any financial consideration paid or to be paid to the Insurance Company or its affiliates by the Replacement Fund, its investment advisor or underwriter, or their affiliates.

Legal Analysis

1. The Applicants request that the Commission issue an order pursuant to section 26(c) of the Act approving the Substitution. Section 26(c) 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 from the Commission if the evidence establishes that the substitution is consistent with the protection of investors and the purposes of the Act.

2. The Applicants submit that the Substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In particular, the Applicants point to the following: (a) The Contracts permit the Substitution, as permitted by applicable law and the New York Insurance Department; (b) the prospectus for the Contracts contain appropriate disclosure of these rights; (c) the Substitution will be described in the Supplements delivered to all affected Contract owners at least 30 days before the Substitution Date; (d) the Supplements also will advise Contract owners that, for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date, Contract owners are permitted to make at least one transfer of Contract value from the subaccount investing in the Existing Fund to any other available subaccounts offered under their Contract 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; (e) the Replacement Fund and the Existing Fund have substantially similar investment objectives, principal investment strategies, and principal risks; and (f) the net operating expenses of the Replacement Fund are lower than those of the Existing Fund. The Applicants assert that, based on the terms noted above, and subject to the conditions set forth below, the Substitution does not raise the concerns underlying section 26(c).

Applicants' Conditions

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

1. The Substitution will not be effected unless TIAA 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 Substitution 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 Substitution.

2. TIAA or its affiliates will pay all expenses and transaction costs of the Substitution, including legal and accounting expenses, any applicable brokerage expenses and other fees and expenses. No fees or charges will be assessed to the affected Contract owners to effect the Substitution. The proposed Substitution will not cause the Contract fees and charges currently being paid by Contract owners to be greater after the proposed Substitution than before the proposed Substitution.

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

4. The Substitution 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 Substitution.

5. Affected Contract owners will be permitted to make at least one transfer of Contract value from the sub-account investing in the Original Fund (before the Substitution Date) or the Replacement Fund (after the Substitution Date) to any other available investment option under the Contract

without charge for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date. Except as described in any market timing/short-term trading provisions of the relevant prospectus, the Applicants will not exercise any right they may have under the Contracts to impose restrictions on transfers between the sub-accounts under the Contracts, including limitations on the future number of transfers, for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date.

6. All affected Contract owners will be notified via the Supplement at least 30 days before the Substitution Date about: (i) The intended Substitution of the Existing Fund with the Replacement Fund; (ii) the intended Substitution Date; and (iii) information with respect to transfers as set forth in Condition 5 above. In addition, the Applicants will deliver to all affected Contract owners, at least 30 days before the Substitution Date, a prospectus for the Replacement Fund.

7. The Companies will deliver to each affected Contract owner within five business days of the Substitution Date, a written confirmation which will include: (a) A confirmation that the Substitution was carried out as previously notified; (b) a restatement of the information set forth in the Supplement; and (c) the values of the Contract owners' positions in the Original Fund before the Substitution and the Replacement Fund after the Substitution.

8. Applicants and their affiliates will not receive, for three years from the Substitution Date, any direct or indirect benefits from the Replacement Fund, their investment advisors or underwriters (or their affiliates) in connection with assets attributable to Contracts affected by the Substitution at a higher rate than they had received from the Original Fund, its investment advisors or underwriters (or their affiliates), including without limitation 12b-1 fees, shareholder service, administrative or other service fees, revenue sharing, or other arrangements.

9. The obligations of the TIAA and the rights of affected Contract owners under the Contracts will not be altered in any way.

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

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91802; File No. SR-CboeEDGA-2021-011]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to the Exchange's Process for Re-Opening Securities Listed on Other National Securities Exchanges Following the Resumption of Trading After a Halt, Suspension, or Pause During the Early Trading Session, Pre-Opening Session, or Post-Closing Session

May 10, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 26, 2021, Cboe EDGA Exchange, Inc. ("Exchange" or "EDGA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes a rule change to amend the Exchange's process for re-opening securities listed on other national securities exchanges following the resumption of trading after a halt, suspension, or pause during the Early Trading Session, Pre-Opening Session, or Post-Closing Session.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/edga/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

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

Purpose

The purpose of the proposed rule change is to amend the Exchange's process for re-opening securities listed on other national securities exchanges following the resumption of trading after a halt, suspension, or pause during the Early Trading Session,³ Pre-Opening Session,⁴ or Post-Closing Session.⁵ EDGA Rule 11.7 describes the Exchange's opening process for securities listed on other national securities exchanges, including the process for re-opening such securities following the resumption of trading after a halt, suspension, or pause. On November 5, 2020, the Exchange filed a proposed rule change to amend its re-opening process pursuant to EDGA Rule 11.7 for securities listed on the New York Stock Exchange LLC ("NYSE") following the resumption of trading after a halt, suspension, or pause during the Early Trading Session, Pre-Opening Session, or Post-Closing Session.⁶ That filing was approved by the Commission on December 28, 2020.⁷ The Exchange now proposes to further amend EDGA Rule 11.7 to adopt a harmonized re-opening process for securities listed on NYSE ("Tape A"), securities listed on exchanges other than The Nasdaq Stock Market LLC ("Nasdaq") and NYSE ("Tape B"); and securities listed on Nasdaq ("Tape C") following the resumption of trading after a halt, suspension, or pause during the Early Trading Session, Pre-Opening Session, or Post-Closing Session. The Exchange believes that the proposed harmonized process for Tape A, B, and C securities would simplify its procedures and provide a more effective re-opening process for securities that resume trading outside of Regular Trading

³ The term "Early Trading Session" means the time between 7:00 a.m. and 8:00 a.m. Eastern Time. See EDGA Rule 1.5(ii).

⁴ The term "Pre-Opening Session" means the time between 8:00 a.m. and 9:30 a.m. Eastern Time. See EDGA Rule 1.5(s).

⁵ The term "Post-Closing Session" means the time between 4:00 p.m. and 8:00 p.m. Eastern Time. See EDGA Rule 1.5(r).

⁶ See Securities Exchange Act Release No. 90419 (November 13, 2020), 85 FR 73829 (November 19, 2020) (SR-CboeEDGA-2020-029).

⁷ See Securities Exchange Act Release No. 90804 (December 28, 2020), 86 FR 158 (January 4, 2021) (Approval Order).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.