

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

OMB APPROVAL	
OMB Number:	3235-0316
Expires:	March 31, 2013
Estimated average burden hours per response. . . .	766.1

**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.)

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(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)(1)
- on (date) pursuant to paragraph (a)(1)
- 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.

**Title of Securities Being Registered**

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.

**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.**

**SEC's Collection of Information**

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 control number. Filing of this Form is mandatory. The principal purpose of this collection of information is to enable issuers to register Variable Annuity Contracts with the Commission. The Commission estimates that the burden for completing the Form will be approximately 405.4 hours per filing. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate of this Form, and any suggestions for reducing this burden. This collection of information has been reviewed by the Office of Management and Budget in accordance with the clearance requirements of 44 U.S.C. § 3507. The responses to the collection of information will not be kept confidential.

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## GENERAL INSTRUCTIONS

### **A. Rule as to Use of Form N-3**

Form N-3 shall be used by all separate accounts offering variable annuity contracts which are registered under the Investment Company Act of 1940 (“1940 Act”) as management investment companies for: (1) an initial registration statement required by Section 8(b) of the 1940 Act [15 U.S.C. 80a-8(b)] and any amendments thereto; (2) a registration statement required under the Securities Act of 1933 (“1933 Act”) and any amendments thereto; or (3) any combination of these 1940 Act and 1933 Act filings.

Form N-3 shall also be used to file a registration statement under the 1933 Act, and any amendments thereto, for variable annuity contracts funded by separate accounts which would be required to be registered under the 1940 Act as management investment companies except for the exclusion provided by Section 3(c)(11) of the 1940 Act.

### **B. Registration Fees**

Registration fees should not be paid when filing this form. See section 24(f) of the Investment Company Act and rule 24f-2 thereunder.

### **C. Number of Copies**

Filings of registration statements on Form N-3 shall contain the number of copies specified in Securities Act Rule 402 [17 CFR 230.402], except that seven additional copies of the registration statement shall be furnished to the Commission, instead of the ten additional copies required by Rule 402(b).

Filings of amendments on Form N-3 shall contain the number of copies specified in Securities Act Rule 472 [17 CFR 230.472], except that there shall be filed with the Commission three additional copies of such amendment, two of which shall be marked to indicate clearly and precisely, by underlining or in some other appropriate manner, the changes made in the registration statement by the amendment, instead of the eight additional copies with at least five marked as required by Rule 472(a) [17 CFR 230.472(a)].

### **D. Special Terms**

The following terms, when used in Form N-3, shall mean:

*Registrant.* The term “Registrant” means the separate account (as defined in Section 2(a)(37) of the 1940 Act [15 U.S.C. 80a-2(a)(37)]) which offers the variable annuity contracts.

*Insurance Company.* The term “insurance company” means the sponsoring insurance company that establishes and maintains the separate account and which owns the assets of the separate account.

*Variable Annuity Contract.* The term “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, varies according to the investment experience of the separate account in which the contract participates. Unless the context otherwise requires, the term refers to the variable annuity contracts being offered pursuant to the Registration Statement prepared on this Form.

*Contractowner Account.* The term “contractowner account” means any account of any 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.

### **E. Application of General Rules and Regulations**

If the registration statement is being filed under both the 1933 and 1940 Acts or under only the 1933 Act, the General Rules and Regulations under the 1933 Act, particularly Regulation C [17 CFR 230.400-497], shall apply, and compliance with them will be deemed to meet the Rules for 1940 Act Registration Statements. However, if the registration statement is being filed only under the 1940 Act, the General Rules and Regulations under that Act, particularly Regulation 8(b) [17 CFR 270.8b-1 to 8b-32], shall apply, except as noted in General Instruction F below.

## **F. Amendments**

Attention is specifically directed to Rule 8b-16 under the 1940 Act [17 CFR 270.8b-16] which requires the annual amendment of Registration Statements filed pursuant to Section 8(b) of the 1940 Act. Where Form N-3 has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

## **G. Incorporation by Reference**

A Registrant may, at its discretion, incorporate all or part of the Statement of Additional Information into the prospectus, without physically delivering the Statement of Additional Information to investors with the prospectus. But the Statement of Additional Information must be available to the investor upon request at no charge and any information or documents incorporated by reference into the Statement of Additional Information must be provided along with the Statement of Additional Information.

Rule 411 under the 1933 Act [17 CFR 230.411], and Rules 0-4, 8b-23, 8b-24, and 8b-32 under the 1940 Act [17 CFR 270.0-4, 270.8b-23, 270.8b-24, and 270.8b-32] contain guidance on incorporating information or documents by reference into a registration statement filed on Form N-3. In general, a Registrant may incorporate by reference, in the answer to any item of Form N-3 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

The rules on incorporation by reference under both the 1933 Act and the 1940 Act are subject to the limitations of Rule 24 of the Commission's Rules of Practice [17 CFR 201.24]. Since Rule 24 may be amended from time to time, Registrants are advised to review the Rule before incorporating by reference any document as an exhibit to a registration statement.

Subject to these rules, a Registrant may incorporate by reference into the prospectus or the Statement of Additional Information in response to Items 4(a) or 28 of Form N-3 the information in Form N-CSR [17 CFR 249.331 and 274.128] or any report to contractowners meeting the requirements of Section 30(e) of the 1940 Act [15 U.S.C. 80a-29(e)] and Rule 30e-1 [17 CFR 270.30e-1] provided:

1. The material incorporated by reference is prepared in accordance with, and covers the periods specified by, this Form;
2. The Registrant states in the prospectus or the Statement of Additional Information, at the place where the information would normally appear, that the information is incorporated by reference from a report to securityholders or a report on Form N-CSR. The Registrant may also describe, in either the prospectus, the Statement of Additional Information, or Part C of the Registration Statement (in response to Item 29(a)), any parts of the report to securityholders or the report on Form N-CSR that are not incorporated by reference and are not a part of the Registration Statement; and
3. The material incorporated by reference is provided with the prospectus or the Statement of Additional Information to each person to whom the prospectus or the Statement of Additional Information is given, unless the person holds securities of the Registrant and otherwise has received a copy of the material. However, Registrant must state in the prospectus or the Statement of Additional Information that it will furnish, without charge, another copy of such report on request and the name, address, and telephone number of the person to contact.

## **H. Documents Comprising Registration Statement or Amendment**

1. A registration statement or an amendment to it filed under both the 1933 and 1940 Acts, except for an amendment described in paragraph 5 below, shall consist of the facing sheet of the Form, the cross-reference sheet required by Rule 495(a) under the 1933 Act [17 CFR 230.495(a)], Part A, Part B, Part C, required signatures, all other documents filed as a part of the registration statement, and documents or information permitted to be incorporated by reference, whether or not required to be filed.
2. A registration statement or an amendment to it which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction H.
3. A registration statement or an amendment to it which is filed under only the 1940 Act shall consist of the facing sheet of the Form, a cross-reference sheet, responses to all items of Part A and B except Items 1, 2, 9, and 10, responses to all items of Part C except Items 29(b)(5), (12), (13), and (14), required signatures, and all other documents filed as part of the registration statement.
4. An amendment permitted by paragraph (d)(2) of Rule 485, under the 1933 Act [17 CFR 230.485], which is filed under paragraph (b) of that Rule to change the disclosure in an amendment filed under paragraph (a), shall consist of the facing sheet of the Form, a cross-reference sheet, responses to any items of Part A, Part B, or Part C that are amended or supplemented by the amendment, required signatures, and all other documents filed as part of the registration statement.

## **I. Preparation of the Registration Statement or Amendment**

The instructions for Form N-3 are in three parts. Part A relates to the prospectus required by Section 10(a) of the 1933 Act; Part B relates to the Statement of Additional Information that must be provided upon request to recipients of the prospectus; Part C relates to other information that is required to be in the registration statement.

### *Part A: The Prospectus*

The purpose of the prospectus is to provide essential information about the Registrant in a way that will help investors decide whether to purchase the securities being offered. The prospectus should be clear, concise, and understandable. Avoid the use of technical or legal terms, complex language, or excessive detail.

Responses to the items of Part A should be as simple and direct as possible and include only information needed to understand the fundamental characteristics of the Registrant. Descriptions of practices that are required by law generally should not include detailed discussions of the law itself.

### *Part B: Statement of Additional Information*

The items in Part B call for additional information about Registrants which is not required in the prospectus, but which may be of interest to some investors. In addition, Part B gives Registrants an opportunity to provide information about matters that they believe may interest investors.

Registrants should not repeat in Part B information that is in the prospectus, except where necessary to make Part B understandable.

### *General Instructions for Parts A and B*

1. The information in the prospectus and the Statement of Additional Information should be organized to make it easy to understand the organization and operation of the Registrant and the variable annuity contracts. The information need not be in any particular order, with the exception that Items 1, 2, 3, 4(a) and (b) must be in numerical order in the prospectus and may not be preceded or separated by any other item.
2. The prospectus or the Statement of Additional Information may contain more information than called for by this Form, provided that 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 required information. Specifically, Registrants are free to include in the prospectus financial statements required to be in the Statement of Additional Information, and may include in the Statement of Additional Information financial statements that may be placed in Part C.
3. The statutory provisions relating to the dating of the prospectus apply equally to the dating of the Statement of Additional Information for purposes of Rule 423 under the 1933 Act [17 CFR 230.423]. Furthermore, the Statement of Additional Information should be made available at the same time that the prospectus becomes available for purposes of Rules 430 and 460 under the 1933 Act [17 CFR 230.430, 230.460].
4. Instructions for charts, graphs, tables, and sales literature:
  - (a) A Registration Statement on this Form may include any chart, graph, or table that is not misleading; however, with the exception of the fee table and the table of contents (required by Rule 481(c)[17 CFR 230.481(c)] under the 1933 Act), no chart, graph, or table should precede the condensed financial information specified in Items 4(a) and (b).
  - (b) If “sales literature” is included in the prospectus, (1) the literature should not significantly lengthen the prospectus, and it should not obscure essential disclosure and (2) members of the National Association of Securities Dealers, Inc. (NASD) are not relieved of the filing and other requirements of the NASD for investment company sales literature (See Securities Act Release No. 5359, January 26, 1973 [38 FR 7220 (March 19, 1973)]).

## **PART A**

### **INFORMATION REQUIRED IN A PROSPECTUS**

#### **Item 1. Cover Page**

- (a) The outside cover page must contain the following information:
  - (i) the Registrant’s name;
  - (ii) the Insurance Company’s name;
  - (iii) the types of variable annuity contracts offered by the prospectus (e.g., group, individual, single premium immediate, flexible premium deferred);

- (iv) any limitations on the class or classes of purchasers to whom the contract is being offered, in general terms;
- (v) identifications of the type of separate account (e.g., money market account, bond account) or a brief statement of the Registrant's investment objectives;
- (vi) a statement or statements that (A) the prospectus sets forth information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; and (C) additional information about the Registrant has been filed with the Commission and is available upon written or oral request and without charge (This statement should explain how to obtain the Statement of Additional Information ("SAI"), whether any of it has been incorporated by reference into the prospectus, and where the table of contents of the SAI appears in the prospectus. This statement should also explain how to obtain the Registrant's annual and semi-annual reports to shareholders. Provide a toll-free (or collect) telephone number for investors to call: to request the SAI; to request the Registrant's annual report; to request the Registrant's semi-annual report; to request other information about the Registrant; and to make shareholder inquiries. Also state whether the Registrant makes available its SAI and annual and semi-annual reports, free of charge, on or through the Registrant's Web site at a specified Internet address. If the Registrant does not make its SAI and shareholder reports available in this manner, disclose the reasons why it does not do so (including, where applicable, that the Registrant does not have an Internet Web site.) Also include the information that the Commission maintains an Internet Web site (<http://www.sec.gov>) that contains the SAI, material incorporated by reference, and other information regarding registrants.);
- (vii) the date of the prospectus, and the date of the Statement of Additional Information;
- (viii) the statement required by Rule 481(b)(1) under the 1933 Act [17 CFR 230.481(b)(1)];
- (ix) in the case of a Registrant holding itself out as a money market fund, a prominent statement that an investment in the fund is neither insured nor guaranteed by the U.S. Government; and
- (x) such other information as is required by rules of the Commission or of any other governmental authority having jurisdiction over the Registrant for the issuance of its securities.

(b) The cover page may include other information, if it does not, by its nature, quantity, or manner of presentation, impede understanding of the required information.

## **Item 2. Definitions**

Define the special terms used in the prospectus (e.g., accumulation unit, contractowner, participant, sub-account, etc.) in a glossary. In lieu of a glossary, Registrants may use an index of special terms that refers to the page on which each special term is defined.

### *Instruction:*

Only special terms used throughout the prospectus must be defined or listed. If a special term, e.g., net investment factor, is used in only one section of the prospectus, it may be defined there. However, all special terms used in the prospectus must be defined.

## **Item 3. Synopsis or Highlights**

(a) Include a table furnishing the following information, using the captions provided, in the format illustrated below:

### *Contractowner Transaction Expenses*

Sales Load Imposed on Purchases (as a percentage of purchase payments)	.....	%
Deferred Sales Load (as a percentage of purchase payments or amount surrendered, as applicable)	.....	%
Surrender Fees (as a percentage of amount surrendered, if applicable)	.....	%
Exchange Fee	.....	%

### *[Annual] Contract Fee*

### *Annual Expenses*

(as a percentage of average net assets)

Management Fees	.....	%
Mortality and Expenses Risk Fees	.....	%
Other Expenses	.....	%
-----	.....	%
-----	.....	%
-----	.....	%
<b>Total Annual Expenses</b>	.....	%

### **Example**

If you surrender your contract at the end of the applicable time period:

You would pay the following expenses on a \$1,000 investment, assuming 5% annual return on assets:

**1 year   3 years   5 years   10 years**

\$ \_\_\_\_   \$ \_\_\_\_   \$ \_\_\_\_   \$ \_\_\_\_

If you annuitize at the end of the applicable time period:

You would pay the following expenses on a \$1,000 investment, assuming 5% annual return on assets:

\$ \_\_\_\_   \$ \_\_\_\_   \$ \_\_\_\_   \$ \_\_\_\_

If you do *not* surrender your contract:

You would pay the following expenses on a \$1,000 investment, assuming 5% annual return on assets:

\$ \_\_\_\_   \$ \_\_\_\_   \$ \_\_\_\_   \$ \_\_\_\_

*Instructions:*

#### *General Instructions*

1. Immediately after the table, provide a brief narrative explaining that the purpose of the table is to assist the contractowner in understanding the various costs and expenses that a contractowner will bear directly or indirectly. Include, where appropriate, cross-references to the relevant sections of the prospectus for more complete descriptions of the various costs and expenses. Disclose that premium taxes may be applicable.
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 the brief narrative and provide a cross-reference to those portions of the prospectus describing these fees.
3. If a particular caption is not applicable to the Registrant, the caption may be omitted from the table.
4. Round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.
5. If the Registrant has sub-accounts, list separately the data for each sub-account.
6. Provide a separate fee table (or separate column within the table) for each contract form offered by the prospectus that has different fees. If 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 contractowners in group markets, or b) provide a separate fee table for group and individual contracts.

#### *Contractowner Transaction Expenses*

7. “Sales Load Imposed on Purchase Payments” 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.
8. “Deferred Sales Load” includes the maximum contingent deferred sales load, expressed as a percentage of purchase payments or amount surrendered, and may include a tabular presentation, within the larger table, of the range of contingent deferred sales loads over time.
9. “Surrender Fee” includes any fee charged for any surrender or partial surrender, but does not include any sales load charged upon surrender or partial surrender.
10. “Exchange Fee” includes the maximum fee charged for any exchange or transfer of account 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.
11. 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.

#### *[Annual] Contract Fee*

12. “[Annual] Contract Fee” includes any contract, account, or similar fee imposed on all contractowner accounts on any recurring basis.

*Annual Expenses*

13. “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.”
14. “Mortality and Expense Risk Fees” may be listed separately on two lines in the table.
15. “Other Expenses” includes all expenses (except fees and expenses reported in other items in the table) that are deducted from separate account assets and will be 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).
  - (a) “Other Expenses” do not include extraordinary expenses as determined by use of generally accepted accounting principles (*see* Accounting Principles Board Opinion No. 30). 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.
  - (b) 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.”
16. Except as provided in (a) or (b) below, the percentages expressing annual expenses should be based on amounts incurred during the most recent fiscal year.
  - (a) A New Registrant should state the basis on which payments will be made, except that “Other Expenses” should be estimated and stated (after any expense reimbursement or waiver) as a percentage of net assets. Disclose in the narrative following the table that “Other Expenses” is based on estimated amounts for the current fiscal year. A New Registrant, for purpose of this instruction and Instructions 18(b), 19(e) and 19(f), is a Registrant (or series of the Registrant) the prospectus of which either (i) does not include financial statements reporting operating results as a registered investment company, or (ii) includes financial statements for the initial fiscal year of the Registrant that report operating results as a registered investment company for a period of less than ten months.
  - (b) 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.
17. If there have been any changes in the annual expenses that would materially affect the information disclosed in the table:
  - (a) Restate the expense information using the current fees that would have been applicable had they been in effect during the previous fiscal year; and
  - (b) In the narrative following the table, disclose that the expense information in the table has been restated to reflect current fees.
18. (a) 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: (i) revise the appropriate caption by adding “After Expense Reimbursements” or some similar phrase; (ii) state the amount of the actual expenses incurred, (*i.e.*, net of the amount reimbursed or waived); and (iii) disclose in the narrative following the table the amount the expenses would have been absent the reimbursement or waiver.
- (b) If there are expense reimbursement or waiver arrangements that are expected to reduce any operating expense or the estimate of “Other Expenses,” a new Registrant should (i) revise the appropriate caption by adding “After Expense Reimbursements” or some similar phrase; (ii) state the amount of actual expenses expected to be incurred or the actual estimate (*i.e.*, net of the amount expected to be reimbursed or waived); and (iii) disclose in the narrative following the table what the expenses (or estimates) would have been absent the reimbursement or waiver.

19. (a) 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 Fund 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. 80a3(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.

(b) Determine the “Acquired Fund Fees and Expenses” according to the following formula:

$$\text{AFFE} = \frac{[(F_1/\text{FY}) * \text{AI}_1 * D_1] + [(F_2/\text{FY}) * \text{AI}_2 * D_2] + [(F_3/\text{FY}) * \text{AI}_3 * D_3] + \text{Transaction Fees} + \text{Incentive Allocations}}{\text{Average Net Assets of the Registrant}}$$

Where:

AFFE	= Acquired Fund fees and expenses;
$F_1, F_2, F_3, \dots$	= Total annual operating expense ratio for each Acquired Fund;
FY	= Number of days in the relevant fiscal year;
$\text{AI}_1, \text{AI}_2, \text{AI}_3, \dots$	= Average invested balance in each Acquired Fund;
$D_1, D_2, D_3, \dots$	= 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.

(c) Calculate the average net assets of the Registrant for the most recent fiscal year, as provided in Item 4(a) (see Instruction 10 to Item 4(a)).

(d) The total annual operating expense ratio used for purposes of this calculation ( $F_1$ ) 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.

(e) To determine the average invested balance ( $\text{AI}_1$ ), 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).

(f) A New Registrant should base the “Acquired Fund Fees and Expenses” on assumptions as to the specific Acquired Funds in which the New Registrant expects to invest. Disclose in a footnote to the table that Acquired Fund fees and expenses are based on estimated amounts for the current fiscal year.

(g) The Registrant may clarify in a footnote to the fee table that the total annual expenses under Item 3 are different from the ratio of expenses to average net assets given in response to Item 4, which reflects the operating expenses of the Registrant and does not include Acquired Fund fees and expenses.

*Example*

20. For purposes of the Example in the table:

- (a) Assume that the percentage amounts listed under “Annual Expenses” remain the same in each year of the one, three, five, and ten-year periods, except that an appropriate adjustment to reflect reduced annual expenses from completion of organization expense amortization may be made;
- (b) Assume the maximum sales load that may be deducted from purchase payments is deducted;
- (c) For the purpose of any breakpoint in any fee, assume that the amount of the Registrant’s assets remains constant at the level at the end of the most recently completed fiscal year;
- (d) Assume no exchanges or other transactions;
- (e) Reflect any [annual] contract fee by dividing the total amount of [annual] contract fees collected during the year that are attributable to the contract offered by the prospectus by the total average net assets of all the sub-accounts in the separate account that are attributable to the contract offered by the prospectus. Add the resulting percentage to “Annual Expenses,” and assume that it remains the same in each year of the one, three, five, and ten-year periods. New Registrants should estimate [annual] contract fees collected;
- (f) A New Registrant should complete only the one and three year period portions of the Example;
- (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 complete surrender;
- (i) Prominently disclose that the Example should not be considered a representation of past or future expenses and that actual expenses may be greater or lesser than those shown; and
- (j) 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.

(b) The Registrant should include a synopsis of the information contained in the prospectus when the prospectus is long or complex. Normally, a synopsis should not be provided where the prospectus is twelve printed pages or less.

(c) The synopsis should be a clear and concise description of the key features of the offering and the Registrant, with cross-references to relevant disclosures elsewhere in the prospectus.

(d) If the prospectus does not include a synopsis and the variable annuity contract contains any of the following characteristics, they must be highlighted;

- (i) any portion of the sales load is assessed upon redemption or annuitization;

*Instruction:*

If any portion of the sales load is assessed upon redemption or annuitization, the response to this Item need only state the maximum percentage load that may be assessed against any given amount redeemed or annuitized with a cross-reference to a more complete description of the sales load in the prospectus.

- (ii) a penalty tax may be assessed pursuant to Section 72(q) of the Internal Revenue Code [26 U.S.C. 72(q)] upon withdrawal of amounts accumulated under any variable annuity contract; or
- (iii) the variable annuity contract contains a revocation right (e.g., a “ten-day free look” provision).

*Instruction:*

The highlighted information may not be preceded by the response to any Item except 1 or 2. It may precede Item 2 or be on the cover page. The information does not have to appear under a separate caption.

#### Item 4. Condensed Financial Information

(a) Furnish the following information for each class of accumulation units of the Registrant, or for such classes of the Registrant and its subsidiaries consolidated as prescribed in Rule 6-03 of Regulation S-X [17 CFR 210.6-03].

#### **PER ACCUMULATION UNIT INCOME AND CAPITAL CHANGES** (for an accumulation unit outstanding throughout the period)

1. investment income;
2. expenses;
3. net investment income;
4. net realized and unrealized gains (losses) on securities;
5. net increase (decrease) in accumulation unit value;
6. accumulation unit value at beginning of period;
7. accumulation unit value at end of period;
8. expenses to average net assets;
9. net investment income to average net assets;
10. portfolio turnover rate;
11. number of accumulation units outstanding at end of period.

*Instructions:*

1. 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.
2. The information shall be presented in comparative columns for each of the last ten fiscal years of the Registrant (or for the life of the Registrant and its immediate predecessors, if less) but only for periods after 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.
3. Per 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 shall be given in tenths of a cent.
4. Per accumulation unit income and capital changes should only be given for sub-accounts that fund obligations of the Registrant under variable annuity contracts offered by means of this prospectus.
5. If the investment adviser has been changed during the period covered by this Item, the date(s) of such change(s) should be shown in a footnote.
6. The condensed financial information for not less than the latest five fiscal years shall be audited and shall so state. The auditor's statement pertaining to the condensed financial information need not be included in the prospectus.
7. The amount to be shown at caption 3 may be derived from the difference between the per accumulation unit figures obtained by dividing the amount of undistributed net income attributable to an accumulation unit at the beginning and end of the year by the number of accumulation units outstanding on those respective dates. (Other acceptable methods may be used. If another method is used, the method should be explained in a footnote to this table.) The amounts to be shown at captions 1 and 2 are derived by applying to the net investment income on a per accumulation unit basis the ratio of such items, as shown in the financial statements prepared under Rule 6-04 of Regulation S-X [17 CFR 210.6-04], to the net income as shown in such statements.
8. "Expenses," as used in caption 2 above, include the expenses described in caption 2 of Rule 6-07 of Regulation S-X. If there were income deductions such as those described in captions 3 and 5 of that Rule, compute the per accumulation unit amounts thereof and state them separately immediately after caption 2 above.

9. The amount to be shown at caption 4, while mathematically determinable by the summation of amounts computed for as many periods during the year as the number of accumulation units increased or decreased is also the balancing figure derived from the other figures in the statement and should be so computed. The amount shown at this caption for an accumulation unit outstanding throughout the year may not accord with the change in the aggregate gains and losses in the portfolio securities for the year because of the timing of increases and decreases in the number of accumulation units in relation to fluctuating market values for the portfolio.
10. The "average net assets," as used in captions 8 and 9, shall be computed upon the basis of the value of the net assets determined no less frequently than as of the end of each month.
11. The portfolio turnover rate to be shown at caption 10 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.

12. The number of accumulation units outstanding at the end of each period may be shown to the nearest thousand (000 omitted), provided it is indicated that such has been done.

- (b) Give the following information as of the end of each of the Registrant's last ten fiscal years for each class of senior securities (including bank loans) of the Registrant. If consolidated statements were prepared as of any of the dates specified, the information shall be furnished on a consolidated basis:

(1)	(2)	(3)	(4)	(5)
Year	Amount of Debt Outstanding at End of Period	Average Amount of Debt Outstanding During the Period	Average Number of Registrant's Units Outstanding During the Period	Average Amount of Debt Per Unit During the Period

*Instructions:*

1. Instructions 2, 3, and 6 to Item 4(a) also apply here.
2. The method used to determine the averages shown above (e.g., weighted, monthly, daily, etc.) must be described.
3. Column 5 is derived by dividing the amount shown in column 3 by the number shown in column 4.
- (c) If all the required financial statements of the Registrant and the Insurance Company (see Item 28) are not in the prospectus, state, under a separate caption, where the financial statements may be found. Briefly explain how any financial statements not in the Statement of Additional Information may be obtained.

## **Item 5. General Description of Registrant and Insurance Company**

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

(a) Briefly describe the Insurance Company including:

- (i) its name, address, and a description of the general nature of its business;

*Instruction:*

The description of the Insurance Company's business should be short and need not list all of the businesses in which the Insurance Company engages or identify the jurisdictions where it does business, if a general description (e.g., "life insurance" or "reinsurance") is provided.

- (ii) the date and form of organization of the Insurance Company and the name of the state or other jurisdiction under whose laws it is organized; and
- (iii) if the Insurance Company is controlled by another person, the name of that person and the general nature of its business (If the Insurance Company is subject to more than one level of control, simply give the name of the ultimate control person.).

(b) Briefly describe the Registrant, including:

- (i) the date and form of organization of the Registrant and the Registrant's classification pursuant to Section 4 of the 1940 Act [15 U.S.C. 80a-4] (i.e., a separate account and an open-end investment company);
- (ii) the subclassification of the Registrant pursuant to Section 5(b) of the 1940 Act [15 U.S.C. 80a-5(b)];
- (iii) a statement indicating:
  - (A) that income, gains, and losses, whether or not realized, from assets allocated to the Registrant are, in accordance with the applicable variable annuity contracts, credited to or charged against the Registrant without regard to other income, gains, or losses of the Insurance Company;
  - (B) that the assets of the Registrant may not be charged with liabilities arising out of any other business of the Insurance Company, and
  - (C) whether the obligations arising under the variable annuity contracts are obligations of the Insurance Company.
- (iv) whether there are sub-accounts of the Registrant (i.e., for qualified and non-qualified contracts or for different portfolios of the Registrant); and
- (v) if 10 percent or more of the assets of any sub-account are attributable to one variable annuity contract, the name and address of the contractowner of, and the percentage of assets attributable to, the variable annuity contract.

*Instruction:*

Sub-accounts that fund obligations of the Registrant under contracts that are not offered by means of this prospectus need not be described.

(c) Concisely describe the investment objectives and policies of the Registrant, including:

- (i) whether those objectives may be changed without the approval of a majority of votes;
- (ii) how the Registrant proposes to achieve its objectives including:
  - (A) the types of securities in which Registrant invests or will invest principally and any special investment practices or techniques that will be used and
  - (B) the identity of any particular industry or group of industries in which the Registrant proposes to concentrate. (Concentration, for purposes of this Item, is deemed to be investment of 25% or more of the value of Registrant's total assets in a particular industry or group of industries. The policy on concentration should not be inconsistent with Registrant's name.);
- (iii) subject to subparagraph (d) of this Item, the identity of other policies of Registrant that may be changed only with the approval of a majority of votes, including those policies which Registrant deems to be fundamental within the meaning of Section 8(b) of the 1940 Act; and

- (iv) subject to subparagraph (d) of this Item, the significant investment policies or techniques (such as risk arbitrage, repurchase agreements, forward delivery contracts, investing for control or management) that are not described pursuant to subparagraphs (ii) or (iii) above that Registrant employs or intends to employ in the foreseeable future.
- (d) Discussion of types of investments that will not be Registrant's principal portfolio emphasis, and of related policies or practices, should generally receive less emphasis in the prospectus, and under the circumstances set forth below may be omitted or limited to information necessary to identify the type of investment, policy, or practice. Specifically,
  - (i) do not disclose a policy which prohibits a particular practice, or one which permits a particular practice but which the Registrant has not used within the past year and does not intend to use in the foreseeable future, and
  - (ii) if a policy limits a particular practice so that no more than 5% of Registrant's net assets are at risk, or if Registrant has not followed that practice within the last year, and does not intend to follow such practice in the foreseeable future, simply identify the practice.
- (e) Discuss briefly the principal risk factors associated with investment in Registrant, including factors peculiar to the types of portfolio securities in which it invests or intends to invest, as well as those factors generally associated with investment in a company with investment policies and objectives similar to Registrant's.
- (f) State that a description of the Registrant's policies and procedures with respect to the disclosure of the Registrant's portfolio securities is available (A) in the Registrant's Statement of Additional Information; and (B) on the Registrant's website, if applicable.

## **Item 6. Management**

Describe concisely how the business of the Registrant is managed, including:

- (a) the responsibilities of the board of managers;
- (b) for each investment adviser of the Registrant:
  - (i) its name and address and a brief description of its experience as an investment adviser, and, if the investment adviser is controlled by another person, the name of that person and the general nature of its business (If the investment adviser is subject to more than one level of control, simply give the name of the ultimate control person.);
  - (ii) the services provided by the investment adviser (If, in addition to providing investment advice, the investment adviser or persons employed by or associated with the investment adviser are, subject to the authority of the board of managers, responsible for overall management of Registrant's business affairs, simply state that fact instead of listing all services provided.); and
  - (iii) a statement, adjacent to the disclosure required by paragraph (b)(ii) 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 shareholders, as applicable, and providing the period covered by the relevant annual or semi-annual report;
- (c) the identity and principal business address of any other person who provides significant administrative or business affairs management services (e.g., an "Administrator," "Sub-Administrator," or "Servicing Agent"), and briefly describe the services provided;

### *Instruction:*

Information need not be given about any services described in response to Item 7(a).

- (d) if Registrant engages in any of the following practices, a statement to that effect:
  - (i) paying brokerage commissions to any broker
    - (A) which is an affiliated person of the Registrant or the Insurance Company, or
    - (B) which is an affiliated person of such person, or
    - (C) an affiliated person of which is an affiliated person of the Registrant, the Insurance Company, the Registrant's investment adviser, or its principal underwriter; and
  - (ii) allocating brokerage transactions in a manner that takes into account the sale of investment company securities.

(e) 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"). Also state each 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.

*Instructions:*

1. This requirement does not apply to a Registrant that holds itself out as a money market fund and meets the maturity, quality, and diversification requirements of rule 2a-7 [17 CFR 270.2a-7].
2. If a committee, team, or other group of persons associated with the Registrant or an investment adviser of the Registrant is jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, information in response to this Item is required for each member of such committee, team, or other group. For each such member, 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. If more than five persons are jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, the Registrant need only provide information for the five persons with the most significant responsibility for the day-to-day management of the Registrant's portfolio.

**Item 7. Deductions and Expenses**

(a) Briefly describe all deductions from purchase payments, contractowner accounts, or assets of the Registrant (e.g., investment advisory fees, sales loads, administrative and transaction charges, risk charges, and premium taxes). Specify the amount of any such deduction as a percentage or dollar figure (e.g., 95% of the average daily net assets or \$5 per exchange). Except for the deduction for premium taxes, identify the person who receives the amount deducted, briefly describe what is provided in consideration for the deduction, and explain the extent to which the deduction can be modified.

*Instructions:*

1. Identification of the range of current premium taxes is sufficient.
2. 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 up 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 mortality and expense risk charges deducted from the account. If Registrant directly or indirectly pays distribution expenses under 1940 Act Rule 12b-1 [17 CFR 270.12b-1], list the principal types of activities for which payments are or will be made, and (i) if the plan has been in effect for a full fiscal year, give the total amount spent in the most recent fiscal year as a percentage of net assets; or (ii) otherwise briefly describe the basis on which payments will be made (e.g., percentage of net assets, etc.).

(b) State the sales load as a percentage of each purchase payment, if it is so calculated, and as a percentage of the net amount invested for each breakpoint. For contracts with a deferred sales load, state the sales load as a percentage of the amount withdrawn or surrendered. The percentages should be shown in a table.

(c) Unless set forth in response to paragraph (b), 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 a 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).

(d) State the commissions paid to dealers as a percentage of purchase payments.

(e) If the investment adviser is compensated for its services to the Registrant by someone other than the Registrant, identify the person who provides the compensation and specify the amount.

(f) Describe the types of operating expenses for which 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 Variable Annuity Contracts**

(a) Identify the person or persons (e.g., the contractowner, participant, annuitant, or beneficiary) who have material rights, including voting rights, under the variable annuity contracts, and briefly describe 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.

*Instructions:*

The Registrant need not repeat rights that are described elsewhere in the prospectus. When describing voting rights, indicate how the rights will be allocated.

(b) Briefly describe any provisions for and limitations on:

- (i) allocation of purchase payments among subaccounts of the Registrant;
- (ii) transfer of contract values between subaccounts of the Registrant; and
- (iii) exchanges of variable annuity contracts, including interests or participations therein.

(c) Briefly describe the changes that can be made in the variable annuity contract or the operations of the Registrant by the Registrant or the Insurance Company, including:

- (i) why a change may be made (e.g., changes in applicable law or interpretations of law);
- (ii) who, if anyone, must approve any change (e.g., the contractowner or the Securities and Exchange Commission); and
- (iii) who, if anyone, must be notified of any change.

*Instruction:*

Describe only those changes that would be material to a purchaser of the variable annuity contracts, such as a reservation of the right to deregister the separate account under the 1940 Act. Do not describe possible non-material changes, such as changing the time of day at which accumulation unit values are determined.

(d) Describe how contractowner inquiries should be made.

(e) (i) 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 variable annuity contracts.

(ii) State whether or not the Registrant's board of managers has adopted policies and procedures with respect to frequent transfers of contract value among sub-accounts of the Registrant.

(iii) If the Registrant's board of managers has not adopted 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.

(iv) If the Registrant's board of managers has adopted any such policies and procedures, describe those policies and procedures, including:

- (A) whether or not the Registrant discourages frequent transfers of contract value among sub-accounts of the Registrant;
- (B) whether or not the Registrant accommodates frequent transfers of contract value among sub-accounts of the Registrant; and
- (C) any policies and procedures of the Registrant for deterring frequent transfers of contract value among sub-accounts of the Registrant, including any restrictions imposed by the Registrant 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:

- (1) any restrictions on the volume or number of transfers that may be made within a given time period;
- (2) any transfer fee;
- (3) 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;
- (4) any minimum holding period that is imposed before a transfer may be made from a sub-account into another sub-account of the Registrant;
- (5) any restrictions imposed on transfer requests submitted by overnight delivery, electronically, or via facsimile or telephone; and
- (6) any right of the Registrant 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.

(v) If applicable, include a statement, adjacent to the disclosure required by paragraphs (e)(i) through (e)(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 Statement of Additional Information, Item 27.

#### **Item 10. Death Benefit**

Briefly describe any death benefit available under a variable annuity contract during the accumulation and the annuity periods. Include:

- (a) when the death benefit is calculated and payable and the effect of choosing a specific method of payment on calculation of the death benefit, and
- (b) 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. Purchases and Contract Value**

- (a) Briefly describe the procedures for purchasing a variable annuity contract. Include a concise explanation of:
  - (i) 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.);
  - (ii) a statement of when initial and subsequent purchase payment are credited.

- (iii) the way 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.
- (b) Explain that investment performance, expenses and deduction of certain charges affect accumulation unit value.
- (c) 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 or sub-account) 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.

- (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 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 12. Redemptions**

- (a) Briefly describe how a contractowner or annuitant (if the variable annuity option chosen by the annuitant is not based on a life contingency) can redeem a variable annuity contract, including how the proceeds are calculated and when they are payable. Unless described in response to another item in the prospectus, describe any charges that may be attendant upon redemption.
- (b) If the Registrant offers the variable annuity contracts in connection with the Texas Optional Retirement Program, describe the restrictions on redemption that apply.

*Instruction:*

Registrants can satisfy this Item by describing the applicable restrictions on redemption on a supplement attached to prospectuses delivered to participants in the Texas Optional Retirement Program.

- (c) If a request for redemption may not be honored for a certain period of time after a contractowner's investment, describe briefly.
- (d) Briefly describe any provision for lapse or involuntary redemptions under the contract and the reasons for it, such as size of the account or infrequency of purchase payments.
- (e) Briefly describe any revocation rights (e.g., "ten-day free look" provisions).
- (f) If Registrant, under normal circumstances, intends to redeem in kind, that fact should be disclosed.

**Item 13. Taxes**

- (a) Briefly describe the tax consequences to investors of an investment in the variable annuity contracts being offered.

*Instructions:*

This disclosure need not include a detailed description of applicable law. The discussion should include the taxation of annuity payments, death proceeds, periodic and non-periodic withdrawals, pledges and assignments of the contract (if permitted), and any other method by which taxable income may be received by the investor under the variable annuity contract, as well as the tax benefits accorded annuities during the accumulation period. If the tax consequences vary depending on the use of the variable annuity contract (e.g., to fund an individual retirement annuity or corporate plan), the variations should be briefly described.

- (b) Identify the types of qualified plans with which the variable annuity 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 qualification of plans or the non-annuity tax consequences of qualification (e.g., the effect on employer taxation).
  - (c) Briefly describe the impact, if any, of taxation on the determination of account or sub-account values.

**Item 14. Legal Proceedings**

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, any subsidiary of the Registrant, or 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 filed, and the principal parties. Include similar information for any proceedings instituted by governmental authorities.

*Instruction:*

Legal proceedings are material only to the extent that they are likely to have a material adverse effect upon: (1) the ability of the investment adviser or principal underwriter to perform its contract with the Registrant or of the Insurance Company to meet its obligations under the variable annuity contracts or (2) the Registrant.

**Item 15. Table of Contents of the Statement of Additional Information.**

List the contents of the Statement of Additional Information.

**PART B**

**INFORMATION REQUIRED IN A STATEMENT OF ADDITIONAL INFORMATION**

**Item 16. Cover Page**

- (a) The outside cover page must contain the following information:
  - (i) the Registrant's name;
  - (ii) the Insurance Company's name;
  - (iii) a statement or statements (A) that the Statement of Additional Information is not a prospectus; (B) that the Statement of Additional Information should be read with the prospectus; and (C) how a copy of the prospectus may be obtained;
  - (iv) the date of the Statement of Additional Information; and
  - (v) the date of the related prospectus and any other identifying information that the Registrant deems appropriate.
- (b) The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, impede understanding of required information.

**Item 17. Table of Contents**

List the contents of the Statement of Additional Information and, where useful, provide cross-references to the prospectus.

**Item 18. General Information and History**

- (a) 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.
- (b) If 10 percent or more of the assets of any sub-account are not attributable to variable annuity 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 separate account. If the Insurance Company, or any other person controlling the assets, has any present intention of removing the assets from the sub-account, so state.
- (c) 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 19. Investment Objectives and Policies**

- (a) Describe clearly the investment policies of the Registrant. It is not necessary to repeat information contained in the prospectus, but, in augmenting the disclosure about those types of investments, policies, or practices that are briefly discussed or identified in the prospectus, Registrant should refer to the prospectus when necessary to clarify the additional information called for by this Item.
- (b) Describe any fundamental policy of the Registrant not described in the prospectus with respect to each of the following activities:
  - (i) the issuance of senior securities;
  - (ii) short sales, purchases on margin, and the writing of put and call options;
  - (iii) the borrowing of money (Describe any fundamental policy which limits Registrant's borrowings of money and state the purpose for which borrowing may be used.);
  - (iv) the underwriting of securities of other issuers (Include any fundamental policy concerning the acquisition of restricted securities, i.e., securities that must be registered under the 1933 Act before they may be offered or sold to the public.);
  - (v) the concentration of investments in a particular industry or group of industries;
  - (vi) the purchase or sale of real estate and real estate mortgage loans;
  - (vii) purchase or sale of commodities or commodity contracts including futures contracts;
  - (viii) the making of loans (For purposes of this Item, the term "loans" does not include the purchase of a portion of an issue of publicly distributed bonds, debentures, or other securities, whether or not the purchase was made upon the original issuance of the securities. However, the term "loan" includes the loaning of cash or portfolio securities to any person.); and
  - (ix) any other policy which the Registrant deems fundamental.

*Instructions:*

1. For purposes of this Item, the term "fundamental policy" is defined as any policy which the Registrant has deemed to be fundamental or which may not be changed without the approval of a majority of the votes available to eligible voters.
2. The Registrant may reserve freedom of action with respect to any of the foregoing activities, but shall express definitely, in terms of a percentage of assets to be devoted to the particular activity, the maximum extent to which the Registrant intends to engage in it. For purposes of (vii) above, see the Commodity Exchange Act [7 U.S.C.1 et seq.].
- (c) Describe fully any significant investment policies of the Registrant not described in the prospectus which are not deemed fundamental and which may be changed without the approval of the majority of votes available to eligible voters (for example, investing for control of management, investing in foreign securities, or arbitrage activities).

*Instruction:*

Registrant should disclose the extent to which it may engage in the above policies and the risks inherent in them.

- (d) Explain any significant change in the Registrant's portfolio turnover rates over the last two fiscal years. If the Registrant anticipates a significant change in the portfolio turnover rate from that reported in Item 4(a)(10) for its most recent fiscal year, so state. In the case of a new registration, the Registrant should state its policy with respect to portfolio turnover.
- (e) (i) Describe the Registrant's policies and procedures with respect to the disclosure of the Registrant's portfolio securities to any person, including:
  - (A) how the policies and procedures apply to disclosure to different categories of persons, including contractowners, participants, annuitants, beneficiaries, institutional investors, intermediaries that distribute the Registrant's contracts, third-party service providers, rating and ranking organizations, and affiliated persons of the Registrant;
  - (B) 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;
  - (C) 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;
  - (D) any policies and procedures with respect to the receipt of compensation or other consideration by the Registrant, its investment adviser, the Insurance Company, or any other party in connection with the disclosure of information about portfolio securities;

- (E) the individuals or categories of individuals who may authorize disclosure of the Registrant's portfolio securities (e.g., executive officers of the Registrant's investment adviser);
- (F) the procedures that the Registrant uses to ensure that disclosure of information about portfolio securities is in the best interests of contractowners, participants, annuitants, and beneficiaries, including procedures to address conflicts between the interests of such persons, on the one hand, and those of the Registrant's investment adviser or principal underwriter; the Insurance Company; or any affiliated person of the Registrant, its investment adviser or principal underwriter, or the Insurance Company, on the other; and
- (G) the manner in which the board of managers 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.

- (ii) 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, the Insurance Company, or any other party in connection with each such arrangement, and provide the information described by paragraphs (e)(i)(B), (C), and (E) of this Item with respect to such arrangements.

*Instructions:*

1. The consideration required to be disclosed by Item 19(e)(ii) includes any agreement to maintain assets in the Registrant or in other investment companies or accounts managed or sponsored by the investment adviser, the Insurance Company, or any affiliated person of the investment adviser or the Insurance Company.
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.; 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 hyperlink (or series of prominent hyperlinks) to the information will be available.

**Item 20. Management**

*Instructions:*

1. For purposes of this Item 20, 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, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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) 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, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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.

(b) For each individual listed in column (1) of the table required by paragraph (a) of this Item 20, except for any director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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.

(c) 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.

(d) (i) Briefly describe the leadership structure of the Registrant's board, including whether the chairman of the board is an interested person of the Registrant, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder. 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 risk oversight function, and the effect that this has on the board's leadership structure.

(ii) Identify the standing committees of the Registrant's board of managers, and provide the following information about each committee:

- (A) A concise statement of the functions of the committee;
- (B) The members of the committee;
- (C) The number of committee meetings held during the last fiscal year; and
- (D) 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.

(e) (i) Unless disclosed in the table required by paragraph (a) of this Item 20, 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, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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) of the 1940 Act (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) of this Item 20 or in response to paragraph (e)(i) of this Item 20, 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 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, 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.

(f) 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 sub-account, disclose in column (2) the dollar range of equity securities beneficially owned by a director in each sub-account 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.
- (g) For each director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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.
- (h) Unless disclosed in response to paragraph (g) of this Item 20, 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, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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.
- (i) Describe briefly any material interest, direct or indirect, of any director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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) of the 1940 Act (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;
  - (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) of the 1940 Act (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 (i) through (viii) of paragraph (i) of this Item 20 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 (i) of this Item 20 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 (i) through (viii) of paragraph (i) of this Item 20, 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 (i) through (viii) of paragraph (i) of this Item 20 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 (i) through (viii) of paragraph (i) of this Item 20 unless the director is accorded special treatment.
- (j) 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, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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 (i) through (viii) of paragraph (i) of this Item 20. Relationships include:
  - (i) Payments for property or services to or from any person specified in paragraphs (i) through (viii) of paragraph (i) of this Item 20;
  - (ii) Provision of legal services to any person specified in paragraphs (i) through (viii) of paragraph (i) of this Item 20;
  - (iii) Provision of investment banking services to any person specified in paragraphs (i) through (viii) of paragraph (i) of this Item 20, 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 (j)(i) through (j)(iii) of this Item 20.

*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 (i) through (viii) of paragraph (i) of this Item 20 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 (i) through (viii) of paragraph (i) of this Item 20 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 (i) through (viii) of paragraph (i) of this Item 20 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 (i) through (viii) of paragraph (i) of this Item 20 during the two most recently completed calendar years.
7. In calculating payments for property and services for purposes of paragraph (j)(i) of this Item 20, 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 (i) through (viii) of paragraph (i) of this Item 20 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 (i) through (viii) of paragraph (i) of this Item 20 unless the director is accorded special treatment.
- (k) 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, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19)) and the rules thereunder, 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 (k)(ii) of this Item 20 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.
- (l) Provide the following information for all directors of the Registrant, all members of the advisory board of the Registrant, and for each of the three highest paid officers or any affiliated person of the Registrant with aggregate compensation from the Registrant for the most recently completed fiscal year in excess of \$60,000 ("Compensated Persons").
  - (1) Furnish 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 Fund Expenses	Estimated Annual Benefits Upon Retirement	Total Compensation From Registrant and Fund Complex Paid to Directors

*Instructions.*

1. For column (1), indicate, if necessary, the capacity in which the remuneration is received. For Compensated Persons that are directors of the Registrant, compensation is amounts received for services 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 any 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 related Funds in a Fund Complex specifying the number of such other Funds.
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 (1) pursuant to which Compensated Persons are or may be compensated for any services provided, including amounts paid, if any, to the Compensated Person under any such 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 which gives rise to payments under the plan, and whether the payment of benefits is secured or funded by the Registrant.
- (m) 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 1940 Act [17 CFR 270.17j-1] and whether these codes of ethics permit personal subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant. Also explain in the statement that these codes of ethics can be reviewed and copied at the Commission's Public Reference Room in Washington, D.C., that information on the operation of the Public Reference Room may be obtained by calling the Commission at 1-202-551-8090, that these codes of ethics are available on the EDGAR Database on the Commission's Internet site at <http://www.sec.gov>, and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following E-mail address: [publicinfo@sec.gov](mailto:publicinfo@sec.gov), or by writing the Commission's Public Reference Section, Washington, D.C. 20549-0213.

*Instruction:*

A Registrant that is not required to adopt a code of ethics under Rule 17j-1 under the 1940 Act [17 CFR 270.17j-1] is not required to respond to this item.

- (n) 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 the Registrant's contractowners, on the one hand, and those of the Registrant's investment adviser; principal underwriter; or any affiliated person (as defined in Section 2(a)(3) of the 1940 Act (15 U.S.C. 80a-2(a)(3)) and the rules thereunder) 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 under the 1940 Act (17 CFR 270.30b1-4) and discloses that the Registrant's proxy voting record is available on or through its website.
- (o) 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.

## **Item 21. Investment Advisory and Other Services**

- (a) Give the following information about each investment adviser:
  - (i) the names of all controlling persons of the investment adviser and the basis of such control; and if significant, the business history of any organization that controls the adviser;
  - (ii) the name of any affiliated person of the Registrant or the Insurance Company who is also an affiliated person of the investment adviser and a list of all capacities in which the person named is affiliated with the Registrant or the Insurance Company and with the investment adviser; and

*Instruction:*

If an affiliated person of the Registrant or the Insurance Company either alone or together with others is a controlling person of the investment adviser, Registrant must disclose such fact but need not supply the specific amount or percentage of the outstanding voting securities of the investment adviser which is owned by the controlling person.

- (iii) the method of computing the advisory fee payable by the Registrant including:
  - (A) the total dollar amounts paid to the adviser by the Registrant or its Insurance Company under the investment advisory contract for the last three fiscal years;
  - (B) if applicable, any credits which reduced the advisory fee for any of the last three fiscal years; and
  - (C) any expense limitation provision.

*Instructions:*

1. If the advisory fee payable by the Registrant or its Insurance Company varies depending on the Registrant's investment performance in relation to some standard, set forth the standard along with a fee schedule in tabular form. Registrant may include examples showing the fees the adviser would earn at various levels of performance, but such examples must 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. Describe only the most restrictive expense limitation provision.
4. If Registrant is organized as a "series" account the response to paragraph (a)(iii) of this Item should describe the methods of allocation and payment of advisory fees for each class or series.

- (b) Describe all services performed for or on behalf of the Registrant, which are supplied or paid for wholly or substantially by the investment adviser in connection with the investment advisory contract.
- (c) Describe all fees, expenses, and costs of the Registrant that are to be paid by persons other than the investment adviser, the Insurance Company, or the Registrant, and identify such persons.
- (d) Give a summary of any contract for the provision of management-related services to the Registrant, which may be of interest to a purchaser of Registrant's securities, unless the contract is described in response to some other item of this form. Show the parties to the contract and the total dollars paid and by whom, for the past three years. If the services under any management-related service contract are paid for by a deduction from contractowner accounts and if the Registrant or Insurance Company has changed the service provider in the past year, state the reasons for the change.

*Instructions:*

1. A contract for "management-related services" includes any agreement whereby another person agrees to keep, prepare, or file such accounts, books, records, or other documents as the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily operations of the Registrant, but does not include the following: (i) any contract to provide investment advice to the Registrant; (ii) any agreement to act as custodian or agent to administer purchases and redemptions under the contracts for the Registrant; or (iii) bona fide contracts for outside legal or auditing services, or bona fide contracts for personal employment entered into in the ordinary course of business.
2. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.
3. In summarizing a management-related service contract, include the name of the person providing the service; any direct or indirect relationships between such person and the Registrant, its investment adviser, its Insurance Company, or its principal underwriter; the nature of the services provided; and the basis of the compensation paid in the last three fiscal years.

- (e) If any person (other than a bona fide member of the board of managers, officer, member of an advisory board, or employee of the Registrant, as such, or a person named as an investment adviser in response to paragraph (a) above), pursuant to any

understanding, whether formal or informal, regularly furnishes advice to the Registrant or to the investment adviser of the Registrant about the desirability of the Registrant's investing in, purchasing, or selling securities or other property, or is empowered to determine what securities or other property should be purchased or sold by the Registrant, and receives direct or indirect remuneration, give the following information:

- (i) the name of such person;
- (ii) a description of the nature of the arrangement, and the advice or information given; and
- (iii) 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 describe any of the following: (i) persons whose advice was given solely through uniform publications distributed to subscribers; (ii) persons who gave only statistical and other factual information, advice regarding economic factors and trends, or advice as to occasional transactions in specific securities, but without generally furnishing advice or making recommendations regarding the purchase or sale of securities by the Registrant; (iii) a company which is excluded from the definition of "investment adviser" of an investment company by reason of Section 2(a)(20)(iii) of the 1940 Act [15 U.S.C. 80a-2(a)(20)(iii)]; (iv) any person the character and amount of whose compensation for such service must be approved by a court; or (v) such other persons as the Commission has by rules and regulations or order determined not to be an "investment adviser" of an investment company.

- (f) Furnish a summary of the significant aspects of any plan under which the Registrant incurs expenses related to the distribution of its shares, and of any agreements related to implementation of the plan. The summary should include, among other information, the following:
  - (i) The manner in which amounts paid by the Registrant under the plan during the last fiscal year were spent on:
    - (A) advertising,
    - (B) printing and mailing of prospectuses to other than current shareholders,
    - (C) compensation to underwriters,
    - (D) compensation to dealers,
    - (E) compensation to sales personnel, and
    - (F) other (specify);
  - (ii) Whether any of the following persons had a direct or indirect financial interest in the operation of the plan or related agreements:
    - (A) any interested person of the Registrant; or
    - (B) any director of the Registrant who is not an interested person of the Registrant; and
  - (iii) The benefits, if any, to the Registrant resulting from the plan.

*Instruction:*

In responding to this Item, Registrants should take note of the requirements of Rule 12b-1 under the 1940 Act [17 CFR 270.12b-1].

- (g) Give the name and principal business address of the Registrant's custodian and independent public accountant and provide a general description of the services they perform.
- (h) If the portfolio securities of the Registrant 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.
- (i) 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 performed by such person and the basis for remuneration. State, for the past three years, the total dollars paid for the services, and by whom.

*Instruction:*

Information already provided in response to prior items need not be repeated.

## Item 22. Portfolio Managers

(a) If a Portfolio Manager required to be identified in response to Item 6(e) is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:

- (i) The Portfolio Manager's name;
- (ii) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:
  - (A) Registered investment companies;
  - (B) Other pooled investment vehicles; and
  - (C) Other accounts.
- (iii) For each of the categories in paragraph (a)(ii) 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
- (iv) 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)(ii) 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 paragraph (a) of this Item 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) Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to Item 6(e). 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 the Registrant's 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 paragraph (b) of this Item 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, 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)(ii) 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) For each Portfolio Manager required to be identified in response to Item 6(e), 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 paragraph (c) of this Item 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 23. Brokerage Allocation**

- (a) Describe how transactions in portfolio securities are effected including a general statement about brokerage commissions and mark-ups on principal transactions and the aggregate amount of any brokerage commissions paid by the Registrant during the three most recent fiscal years. Explain any material increase in brokerage commissions paid by the Registrant during the most recent fiscal year as compared to the two prior fiscal years.
- (b)
  - (i) State the total dollar amount, if any, of brokerage commissions paid by the Registrant during the three most recent fiscal years to any broker which: (A) is an affiliated person of the Registrant; (B) is an affiliated person of an affiliated person of the Registrant; or (C) has an affiliated person that is an affiliated person of the Registrant, its Insurance Company, investment adviser, or principal underwriter, and the identity of each such broker and the relationships that cause the broker to be identified in this Item.
  - (ii) State for each broker identified in response to paragraph (b)(i) of this Item:
    - (A) the percentage of Registrant's aggregate brokerage commissions paid to each broker during the most recent fiscal year and
    - (B) the percentage of Registrant's aggregate dollar amount of transactions involving the payment of commissions effected through such broker during the most recent fiscal year.
  - (iii) Where there is a material difference in the percentage of brokerage commissions paid to, and the percentage of transactions effected through, any broker identified in response to paragraph (b)(i) of this Item, state the reasons for such difference.
- (c) Describe how brokers will be selected to effect securities transactions for Registrant and how evaluations will be made of the overall reasonableness of brokerage commissions paid, including the factors considered.

*Instructions:*

1. If the receipt of products or services other than brokerage or research services is a factor in the selection of brokers, specify such products and services.
2. If the receipt of research services is a factor in selecting brokers, identify the nature of such research services.
3. State whether persons acting on behalf of Registrant are authorized to pay a broker a commission in excess of that which another broker might have charged for the same transaction, because of the value of (a) brokerage or (b) research services provided by the broker.
4. If applicable, explain that research services furnished by brokers through whom Registrant effects securities transactions may be used by Registrant's investment adviser in servicing all of its accounts and that not all such services may be used by the investment adviser in connection with the Registrant; or, if other policies or practices are applicable to Registrant with respect to the allocation of research services provided by brokers such policies and practices should be explained.
- (d) If, during the last fiscal year, Registrant, its Insurance Company, or its investment adviser, pursuant to an agreement or understanding with a broker or otherwise through an internal allocation procedure, directed Registrant's brokerage transactions to a broker because of research services provided, state the amount of such transactions and related commissions.
- (e) 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 under the 1940 Act [17 CFR §270.10b-1], or their parents, identify those brokers or dealers and state the value of the Registrant's aggregate holdings of the securities of each subject issuer as of the close of the Registrant's most recent fiscal year.

*Instruction:*

The Registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenue from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the Registrant has issued more than one class or series of stock, the requested information must be disclosed for the class or series that has securities that are being registered.

**Item 24. Purchase and Pricing 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 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 and 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, the Insurance Company, its adviser, or underwriter.

(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) 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, its investment adviser, the Insurance Company, or any other party pursuant to such arrangements.

*Instructions:*

1. The consideration required to be disclosed by Item 24(f) includes any agreement to maintain assets in the Registrant or in other investment companies or accounts managed or sponsored by the investment adviser, the Insurance Company, or any affiliated person of the investment adviser or the Insurance Company.
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 25. Underwriters**

(a) If the Insurance Company or an affiliate of the Insurance Company is the principal underwriter of the variable annuity contracts, so state.

(b) State whether the offering is continuous.

(c) State the aggregate dollar amount of underwriting commissions paid to, and the amount retained by, the principal underwriter for each of the last three fiscal years.

(d) If during the Registrant's last fiscal year any payments were made by the Registrant to an underwriter or dealer in the variable annuity contracts unaffiliated with the Registrant or Insurance Company other than:

- (i) payments made through deduction from the purchase payments at the time of sale of the variable annuity contracts or from contract values upon redemption,
- (ii) payments representing the purchase price of portfolio securities acquired by the Registrant,
- (iii) commissions on any purchase or sale of portfolio securities by the Registrant, or

- (iv) payments for investment advisory services pursuant to an investment advisory contract, give the following information:
  - (A) the name and address of the underwriter or dealer;
  - (B) the circumstances surrounding the payments;
  - (C) the amount paid; and
  - (D) how the amount of the payment was determined and the consideration received for it.

*Instructions:*

1. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.
2. Information need not be given about any service for which total payments of less than \$5,000 were made during each of the last three fiscal years.
3. Information need not be given about payments made under any contract to provide investment advice or to act as custodian or administrative or servicing agent.
4. If the payments were made under an arrangement or policy applicable to dealers generally, simply describe the arrangement or policy.

#### **Item 26. Calculation of Performance Data**

- (a) *Money Market 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)(i) - (ii).
  - (i) *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.
  - (ii) *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:

$$\text{EFFECTIVE YIELD} = [(BASE\ PERIOD\ RETURN + 1)^{365/7}] - 1.$$

*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 or effective yield. However, the amount or specific rate of the deduction 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.
4. The Registrant may furnish separate yield quotations for individual and group contracts.

- (b) *Other Accounts.* Performance information included in the prospectus should be calculated according to paragraphs (b)(i) – (iii).

(i) *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:

$$P(1+T)^n = \text{ERV}$$

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 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.

(ii) *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:

$$\text{YIELD} = 2\left[\left(\frac{a-b}{cd} + 1\right)^{1/30} - 1\right]$$

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 unit 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 Registrant 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 Registrant 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 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.
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 Registrant’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 Registrant (other than brokerage and research services as those terms are used 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 Registrant 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.
  - (iii) *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 27. 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 28. Financial Statements**

- (a) Provide financial statements of the Registrant.

### *Instructions:*

1. The financial statements and schedules required by Regulation S-X [17 CFR 210] shall be provided in a separate section of this Part B.
2. Notwithstanding Instruction 1 above, the following statements and schedules required by Regulation S-X may be omitted from Part B and instead included in Part C of the Registration Statement:
  - (i) the statements of any subsidiary which is not a majority-owned subsidiary and
  - (ii) the following schedules in support of the most recent balance sheet (a) columns C and D of Schedule III [17 CFR 210.12-03]; and (b) Schedule VI [17 CFR 210.12-04].
3. In addition to the requirements of Rule 3-18 of Regulation S-X [17 CFR 210.3-18], any separate account registered under the 1940 Act which has not previously had an effective Registration Statement under the 1933 Act shall include in its initial Registration Statement under the 1933 Act such additional financial statements and condensed financial information (which need not be audited) as is necessary to make the financial statements and condensed financial information included in the Registration Statement as of a date within 90 days prior to the date of filing.

4. Every annual report to contractowners required by Section 30(e) of the 1940 Act and Rule 30e-1 under it [17 CFR 270.30e-1] shall contain the following information:
  - (i) the audited financial statements required by Regulation S-X for the periods specified by Regulation S-X, as modified by Instruction 2 above and as permitted by Instruction 7 below;
  - (ii) the condensed financial information required by Item 4(a) of this Form, for the five most recent fiscal years, with at least the most recent year audited;
  - (iii) unless shown elsewhere in the report as part of the financial statements required by (i) above, the aggregate remuneration paid by the separate account during the period covered by the report (A) to all members of the board of managers and to all members of any advisory board for regular compensation; (B) to each member of the board of managers and to each member of an advisory board for special compensation; (C) to all officers; and (D) to each person of whom any officer or member of the board of managers of the separate account is an affiliated person;
  - (iv) the information concerning changes in and disagreements with accountants and on accounting and financial disclosure required by Item 304 of Regulation S-K (§ 229.304 of this chapter);
  - (v) the management information required by paragraph (a) of Item 20; and
  - (vi) a statement that the SAI includes additional information about members of the board of managers of the Registrant and is available, without charge, upon request, and a toll-free (or collect) telephone number for contract owners to call to request the SAI.
5. Every report required by Section 30(e) of the 1940 Act and Rule 30e-1 under it [17 CFR 270.30e-1], except the annual report to contractowners, shall contain the following information (which need not be audited):
  - (i) the financial statements required by Regulation S-X for the period commencing either with (A) the beginning of the separate account's fiscal year (or date of organization, if newly organized); or (B) a date not later than the date after the close of the period included in the last report conforming with the requirements of Rule 30e-1 and the most recent preceding fiscal year, as modified by Instruction 2 above and as permitted by Instruction 7 below;
  - (ii) the condensed financial information required by Item 4(a) of this Form, for the period of the report as specified by (i) above, and the most recent preceding fiscal year;
  - (iii) unless shown elsewhere in the report as part of the financial statements required by (i) above, the aggregate remuneration paid by the separate account during the period covered by the report (A) to all members of the board of managers and to all members of any advisory board for regular compensation; (B) to each member of the board of managers and to each member of an advisory board for special compensation; (C) to all officers; and (D) to each person of whom any officer or member of the board of managers of the separate account is an affiliated person; and
  - (iv) the information concerning changes in and disagreements with accountants and on accounting and financial disclosure required by Item 304 of Regulation S-K (§ 229.304 of this chapter).
6. Every report required by Section 30(e) of the 1940 Act and Rule 30e-1 under it [17 CFR 270.30e-1] shall contain the following information:
  - (i) one or more tables, charts, or graphs depicting the portfolio holdings of the Registrant by reasonably identifiable categories (e.g., type of security, industry sector, geographic region, credit quality, or maturity) showing the percentage of net asset value or total investments attributable to each. If the Registrant has sub-accounts, provide the information separately for each sub-account. The categories and the basis of presentation (e.g., net asset value or total investments) should be selected, and the presentation should be formatted, in a manner reasonably designed to depict clearly the types of investments made by the Registrant, given its investment objectives. Credit quality should be the ratings grade assigned by a nationally recognized statistical rating organization ("NRSRO"), as that term is used in paragraphs (c)(2)(vi)(E), (F), and (H) of § 240.15c3-1 of Rule 15c3-1 under the Exchange Act [17 CFR 240.15c3-1(c)(2)(vi)(E), (F), and (H)]. The Registrant should use ratings of only one NRSRO;
  - (ii) a statement that: (A) the Registrant files its complete schedule of portfolio holdings with the Commission for the first and third quarters of each fiscal year on Form N-Q; (B) the Registrant's Forms N-Q are available on the Commission's website at <http://www.sec.gov>; (C) the Registrant's Forms N-Q may be reviewed and copied at the Commission's Public Reference Room in Washington, DC, and that information on the operation of the Public Reference Room may be obtained by calling 1-202-551-8090; and (D) if the Registrant makes the information on Form N-Q available to contractowners on its website or upon request, a description of how the information may be obtained from the Registrant;

- (iii) a statement that a description of the policies and procedures that the Registrant uses to determine how to vote proxies relating to portfolio securities is available (A) without charge, upon request, by calling a specified toll-free (or collect) telephone number; (B) on the Registrant's website, if applicable; and (C) on the Commission's website at <http://www.sec.gov>;
- (iv) a statement that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (A) 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 (B) on the Commission's website at <http://www.sec.gov>;
- (v) If the Registrant's board of managers approved any investment advisory contract during the Registrant's most recent fiscal half-year, discuss in reasonable detail the material factors and the conclusions with respect thereto that form the basis for the board's approval. Include the following in the discussion:
  - (A) Factor relating to both the board's selection of the investment adviser and approval of the advisory fee and any other amounts to be paid by the Registrant under the contract. This would include, but not be limited to, a discussion of the nature, extent, and quality of the services to be provided by the investment adviser; the investment performance of the Registrant and the investment adviser; the costs of the services to be provided and profits to be realized by the investment adviser and its affiliates from the relationship with the Registrant; the extent to which economies of scale would be realized as the Registrant grows, and whether fee levels reflect these economies of scale for the benefit of the Registrant's investors. Also indicate in the discussion whether the board relied upon comparisons of the services to be rendered and the amounts to be paid under the contract with those under other investment advisory contracts, such as contracts of the same and other investment advisers with other registered investment companies or other types of clients (e.g., pension funds and other institutional investors). If the board relied upon such comparisons, describe the comparisons that were relied on and how they assisted the board in concluding that the contract should be approved; and
  - (B) If applicable, any benefits derived or to be derived by the investment adviser from the relationship with the Registrant such as soft dollar arrangements by which brokers provide research to the Registrant or its investment adviser in return for allocating the Registrant's brokerage, and
- (vi) Board approvals covered by Instruction 6(v) to this Item include both approvals of new investment advisory contracts and approvals of contract renewals. Investment advisory contracts covered by Instruction 6(v) include sub-advisory contracts. Conclusory statements or a list of factors will not be considered sufficient disclosure under Instruction 6(v). Relate the factors to the specific circumstances of the Registrant and the investment advisory contract and state how the board evaluated each factor. For example, it is not sufficient to state that the board considered the amount of the investment advisory fee without stating what the board concluded about the amount of the fee and how that affected its decision to approve the contract. If any factor enumerated in Instruction 6(v)(A) to this Item is not relevant to the board's evaluation of an investment advisory contract, note this and explain the reasons why the factor is not relevant.

7. (i) *Schedule VI – Summary schedule of investments in securities of unaffiliated issuers* [17 CFR 210.12-12C] may be included in the financial statements required under Instructions 4.(i) and 5.(i) of this Item in lieu of *Schedule I – Investments in securities of unaffiliated issuers* [17 CFR 210.12-12] if: (A) the Registrant states in the report that the Registrant's complete schedule of investments in securities of unaffiliated issuers is available (1) without charge, upon request, by calling a specified toll-free (or collect) telephone number; (2) on the Registrant's website, if applicable; and (3) on the Commission's website at <http://www.sec.gov>; and (B) whenever the Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for the Registrant's schedule of investments in securities of unaffiliated issuers, the Registrant (or financial intermediary) sends a copy of *Schedule I – Investments in securities of unaffiliated issuers* within 3 business days of receipt by first-class mail or other means designed to ensure equally prompt delivery.

(ii) In the case of a Registrant or sub-account of a Registrant that holds itself out as a money market account or sub-account and meets the maturity, quality, and diversification requirements of rule 2a-7 [17 CFR 270.2a-7] under the 1940 Act, *Schedule I – Investments in securities of unaffiliated issuers* [17 CFR 210.12-12C] may be omitted from the financial statements required under Instructions 4.(i) and 5.(i) of this Item, provided that: (A) the Registrant states in the report that the Registrant's complete schedule of investments in securities of unaffiliated issuers is available (1) without charge, upon request, by calling a specified toll-free (or collect) telephone number; (2) on the Registrant's website, if applicable; and (3) on the Commission's website at <http://www.sec.gov>; and (B) whenever the Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives

a request for the Registrant's schedule of investments in securities of unaffiliated issuers, the Registrant (or financial intermediary) sends a copy of *Schedule I – Investments in securities of unaffiliated issuers* within 3 business days of receipt by first-class mail or other means designed to ensure equally prompt delivery.

8. (i) When a Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for a description of the policies and procedures that the Registrant uses to determine how to vote proxies, the Registrant (or financial intermediary) must send the information disclosed in response to Item 20(n) of this Form, within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.
- (ii) 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.
- (iii) 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 under the 1940 Act (17 CFR 270.30b1-4) and discloses that the Registrant's proxy voting record is available on or through its website.

9. See General Instruction G regarding incorporation by reference.

- (b) Provide financial statements of the Insurance Company.

*Instructions:*

1. The financial statements and schedules of the Insurance Company required by Regulation S-X shall be provided in a separate section following the response to paragraph (a) of this Item. 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 or N-4, its financial statements may be prepared in accordance with statutory requirements.
2. Notwithstanding Instruction 1 above, all statements and schedules 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 thereto, may be omitted from Part B of the Registration Statement and included in Part C of such Registration Statement.
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 unless:
  - (i) the Insurance Company's financial statements have never been included in an effective registration statement under the Securities Act of 1933 of the separate account which offers variable annuity contracts or funds variable life insurance contracts; or
  - (ii) 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 \$1,000,000; or
  - (iii) the balance sheet of the sponsor at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the 1933 Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the 1940 Act) 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. If two fiscal quarters end within the 135 day period, the Insurance Company may choose either for the 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.

**PART C**  
**OTHER INFORMATION**

**Item 29. Financial Statements and Exhibits**

List all financial statements and exhibits filed as part of the Registration Statement.

(a) Financial statements.

*Instruction:*

Designate those financial statements which are included in Part A and Part B of the Registration Statement.

(b) Exhibits:

- (1) copies of the resolution of the board of directors of the Insurance Company authorizing the establishment of the Registrant;
- (2) copies of the existing bylaws or instruments corresponding thereto;
- (3) copies of all custodian agreements and depository contracts under Section 17(f) of the 1940 Act [15 U.S.C. 80a-17(f)] with respect to securities and similar investments of the Registrant, including the schedule of remuneration;
- (4) copies of all investment advisory contracts relating to the management of the assets of the Registrant;
- (5) copies of each underwriting or distribution contract between the Registrant and the principal underwriter or the Insurance Company and the principal underwriter, and specimens or copies of all agreements between principal underwriters and dealers;
- (6) the form of each variable annuity contract;
- (7) the form of application used with any variable annuity contract provided in response to (6) above;
- (8) copies of the certificate of incorporation or other instrument of organization and the by-laws of the Insurance Company;
- (9) a copy of any contract of reinsurance in connection with the variable annuity contracts being offered;
- (10) 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;
- (11) copies of all other material contracts not made in the ordinary course of business which are to be performed in whole or in part at or after the date of filing the Registration Statement;
- (12) an opinion of counsel and consent to its use as to the legality of the securities being registered, indicating whether they will be legally issued and will represent binding obligations of the Insurance Company;
- (13) copies of any other opinions, appraisals, or rulings, and consents to their use relied on in preparing this Registration Statement and required by Section 7 of the 1933 Act;
- (14) all financial statements omitted from Item 28;
- (15) copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the Insurance Company, underwriter, adviser, or initial contractowners and written assurances from the Insurance Company or initial contractowners that the purchases were made for investment purposes without any present intention of redeeming; and
- (16) copies of any codes of ethics adopted under Rule 17j-1 under the 1940 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).

*Instructions:*

1. Subject to the Rules regarding incorporation by reference and Instruction 2 below, the foregoing exhibits shall be filed as part of the Registration Statement. Exhibits numbered 5, 12, 13, and 14 above need be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

2. A Registrant need not file an exhibit as part of a post-effective amendment if the exhibit has been filed in the Registrant's initial registration statement or in a previous post-effective amendment, unless there has been a change in the exhibit or unless the exhibit is a copy of a consent required by Section 7 of the 1933 Act or is a financial statement omitted from Item 28.

**Item 30. Directors and Officers of the Insurance Company**

Give the following information about each director or officer of the Insurance Company:

(1)	(2)	(3)
Name and Principal Business Address	Positions and Offices with Insurance Company	Positions and Offices with Registrant

*Instruction:*

Registrants need only provide the above information for officers or directors who are engaged directly or indirectly in activities relating to the Registrant or the variable annuity contracts offered by the Registrant, 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 31. 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 Registrant and as to each such person indicate: (1) if a company, the state or other sovereign power under whose laws it is organized, (2) the percentage of voting securities owned or other basis of control by the person, if any, immediately controlling it, and (3) its principal business unless such principal business is implicit in its name.

*Instructions:*

1. The list or diagram shall include the Registrant and the Insurance Company and shall show clearly the relationship between each company named. If the company is controlled by the direct ownership of its securities by two or more persons, so indicate by appropriate cross-reference.
2. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in the respective consolidated financial statements; (iii) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; and (iv) other subsidiaries, indicating briefly why statements of such subsidiaries are not filed.

**Item 32. Number of Contractowners**

State as of a specified date within 90 days prior to the date of filing the number of contractowners of qualified and non-qualified contracts offered by Registrant.

**Item 33. Indemnification**

State the general effect of any contract, arrangements, or statute under which any member of the board of managers, officer, underwriter, or affiliated person of the Registrant is insured or indemnified in any manner against any liability which may be incurred in such capacity, other than insurance provided by any member of the board of managers, officer, underwriter, or affiliated person for their own protection.

*Instruction:*

In responding to this Item, the Registrant should note the requirements of Rules 461 and 484 under the 1933 Act [17 CFR 230.461, 230.484] and Section 17 of the 1940 Act [15 U.S.C. 80a-17].

**Item 34. 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 35. Principal Underwriters**

- Give the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing securities of the Registrant also acts as a principal underwriter, depositor, sponsor, or investment adviser.
- Give the following information about each director, officer, or partner of each principal underwriter named in the answer to Item 11(e):

(1)	(2)	(3)
Name and Principal Business Address	Positions and Offices with Underwriter	Positions and Offices with Registrant

*Instruction:*

If the principal underwriter is the Insurance Company or an affiliate thereof, and 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 Registrant or the contracts offered by 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.

- Give the following information about all commissions and other compensation received by each principal underwriter, directly or indirectly, from the Registrant during the Registrant's last fiscal year:

(1)	(2)	(3)	(4)	(5)
Name of Principal Underwriter	Net Underwriting Discounts and Commissions	Compensation on Redemption or Annuitization	Brokerage Commissions	Other Compensation

*Instructions:*

- Show in a note, or otherwise, the nature of the services provided in return for the compensation shown in column (5). Include any compensation received by an underwriter for keeping the Registrant's securities in the hands of the public.
- Information need not be given about the service of mailing proxies or periodic reports of the Registrant.
- Information need not be given about any service for which total payments of less than \$5,000 were made during each of the last three fiscal years.
- Information need not be given about payments made under any agreement whereby another person contracts with the Registrant or the Insurance Company to provide investment advice or to act as custodian or administrative or servicing agent.

**Item 36. Location of Accounts and Records**

Give the name and address of each person who maintains physical possession of each account, book, or other document required to be maintained by Section 31(a) of the 1940 Act [15 U.S.C. 80a-30(a)] and Rules under it [17 CFR 270.31a-1 to 31a-3].

**Item 37. Management Services**

Give a summary of any contract not discussed in Part A or Part B of this Form under which management-related services are provided to the Registrant, indicating the parties to the contract, the total dollars paid and by whom, for the last three fiscal years.

*Instructions:*

- The instructions to Item 21(d) of this Form shall also apply to this Item.
- Information need not be given about any service for which total payments of less than \$5,000 were made during each of the last three fiscal years.

### **Item 38. Undertakings**

Give the following undertakings in substantially this form in all initial registration statements filed under the 1933 Act:

- (a) An undertaking to file a post-effective amendment, using financial statements of the Registrant which need not be certified, within four to six months from the effective date of the Registrant's 1933 Act registration statement;

*Instructions:*

1. Such amendment may be filed earlier only if at least one-half the dollar amount of securities registered has been raised from a public offering and has been substantially invested pursuant to Registrant's investment objectives.
2. Such amendment may be filed later only if the financial statements required by the undertaking are also going to be used in the next semi-annual or annual report to security holders required pursuant to Section 30(e) of the 1940 Act and Rule 30e-1 thereunder, the amendment is filed no later than 40 days after the end of the six month period specified in the undertaking, and the amendment becomes effective no later than 60 days after the end of that six month period.
3. The financial statements included in such post-effective amendment should be as of and for the time period reasonably close or as soon as practicable to the date of the amendment, but in no event more than 60 days prior to the date of filing.

- (b) An undertaking to file a post-effective amendment to this registration statement as frequently as is necessary to ensure that the audited financial statements in the registration statement are never more than 16 months old for so long as payments under the variable annuity contracts may be accepted;
- (c) 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 a Statement of Additional Information, or (2) a post card or similar written communication affixed to or included in the prospectus that the applicant can remove to send for a Statement of Additional Information;
- (d) An undertaking to deliver any Statement of Additional Information and any financial statements required to be made available under this Form promptly upon written or oral request.

## SIGNATURES

As required by (the Securities Act of 1933 and) the Investment Company Act of 1940 the Registrant (certifies that it meets the requirements of Securities Act Rule 485(b) for effectiveness of this Registration Statement and) has caused this Registration Statement to be signed on its behalf, in the City of \_\_\_\_\_, and State of \_\_\_\_\_

\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Registrant)

By \_\_\_\_\_  
(Signature and Title)

\_\_\_\_\_  
(Insurance Company)

By \_\_\_\_\_  
(Name of officer of sponsor)

\_\_\_\_\_  
(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.

As required by 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)

## GUIDELINES FOR FORM N-3

This release contains Guidelines prepared by the Division of Investment Management for registration statements on Form N-3 for management separate accounts. The Guidelines are based on Commission releases and staff interpretations. Adherence to these Guidelines should speed the examination by the Division's staff of registration statements on Form N-3.

The Guidelines are not rules of the Commission and, except as noted, represent only the views of the staff of the Division, not the Commission. The Guidelines should be read with the Investment Company Act Releases cited in them. The policies stated in the Guidelines may be changed if necessary.

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## Guide 1. Name of Registrant

The registrant's name must be consistent with section 35 of the Investment Company Act of 1940 ("1940 Act"), which prohibits, among other things, use of a name or title that is deceptive or misleading. If the name suggests a certain type of investment policy, it should be consistent with registrant's investment policies.

If the name implies that registrant will invest primarily in a particular type of security, other than money market instruments, or in a certain industry or industries, the registrant should have an investment policy that requires that, under normal circumstances, at least 65 percent of the value of its total assets will be invested in the indicated type of security or industry.<sup>1</sup> Further, the registrant's name may not be so similar to the name of an existing investment company as to cause confusion in identifying the separate account.

In the Division's view, the discussion in Investment Company Act Release No. 5510 (October 8, 1968) about the proprietary rights of an investment company and its adviser in the company's name is not applicable to separate accounts.

## Guide 2. Series Accounts

If the separate account operates as a series account, i.e., it has more than one portfolio, then the registrant should provide disclosure in the prospectus and Statement of Additional Information about each portfolio offered. The registrant should indicate when the discussion is addressing the separate account, e.g., the election of members of the board of managers (*see* rule 18f-2 under the 1940 Act [17 CFR 270.18f-2]), and when it is addressing the portfolio, e.g., in identifying investment risks. Specifically, the registrant should identify in response to Item 1(a)(v) the type of each portfolio or briefly state its investment objectives. Similarly, the subclassification of each portfolio should be identified in response to Item 5(b)(ii) and the investment objectives, policies, practices, and risks of each portfolio should be described in response to Item 5 or Item 19, as appropriate. Expense allocation practices should be described in response to Item 7. Also, if fees, transfer rights, or minimum initial or subsequent purchase payment requirements differ between portfolios, the responses to Items 7, 8, 11, and 23 should reflect the differences. Any other characteristics of the registrant which vary among portfolios, e.g., valuation procedures, should be described in the prospectus or Statement of Additional Information, as appropriate.

## Guide 3. Investment Objectives and Policies

The prospectus should clearly and concisely state the registrant's investment objectives and policies (including the types of securities in which it will invest). Although it is not possible to define precisely what level of investment makes a particular type of investment one in which the registrant invests "principally," as that term is used in Item 5(c)(ii)(A), generally, the amount of disclosure about a particular type of investment should be consistent with its prominence in the registrant's portfolio, with emphasis on the main types of investments the registrant proposes to make and the basic risks of those investments. Discussions of types of investments that will not be emphasized in the registrant's portfolio should be brief and, in many cases, may be limited to identifying the particular type of investments. (As discussed below, the instructions describe certain circumstances in which disclosure may be so limited.) Similar treatment should be given to other practices, such as borrowing money. Registrants should avoid extensive legal and technical detail and need not discuss every possible contingency, such as remote risks.<sup>2</sup>

Registrant should not describe negative investment policies in the prospectus, i.e., policies that prohibit a particular type of investment or practice. Section 8(b) of the 1940 Act may, however, require information about such policies in the registration statement. Registrant should provide very limited disclosure about policies that will permit it to invest no more than 5 percent of its assets in certain types of securities. For example, if a registrant plans to invest no more than 5 percent of its net assets in speculative growth stocks, it is sufficient to state that policy in the prospectus without elaboration.

The Statement of Additional Information should include a more complete discussion of registrant's investment policies that were described briefly, or not at all, in the prospectus. More complete descriptions of the registrant's principal types of investments may also be appropriate, depending on the circumstances. A policy that permits a particular practice, but which has not been used within the past year, as well as whether the registrant intends to use the practice in the coming year, should also be disclosed in the Statement of Additional Information.

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<sup>1</sup> See Guide 18, *Concentration of Investments in Particular Industries*.

<sup>2</sup> See individual subject headings of these Guidelines concerning disclosure for specific investment techniques or policies.

#### **Guide 4. Types of Securities**

The registrant should discuss in the prospectus the types of securities in which it will invest to reach its investment objective. If the name of the registrant implies investment in a particular type of security (e.g., Common Stock Separate Account), its policy should be consistent with its name (*see Guide 1*). The proportions of the registrant's assets to be invested in debt or equity securities need not be stated in terms of a percentage of total assets.

If the registrant intends to invest in foreign securities or real estate or make loans, see Guides 20, 12 or 13, respectively.

If state insurance law limits the types of investments the separate account may make to a greater extent than the registrant's fundamental investment policies, the legal limitation should be disclosed in the prospectus.

Any repurchase agreement entered into with a broker, a dealer, or a bank must be fully collateralized. A repurchase agreement is fully collateralized only if the market value of the securities held as collateral plus any accrued interest on those securities is equal to or greater than the amount at which the broker, dealer, or bank will repurchase the securities or repay the principal amount borrowed plus interest accrued on the principal amount. Further, the market value of the securities held as collateral must be marked to the market daily during the entire term of the agreement and the repurchase agreement should provide that additional collateral will be required from the broker, dealer, or bank if the market value of the securities falls below the repurchase price. In addition, a registrant must acquire actual or constructive possession of the collateral.<sup>3</sup>

#### **Guide 5. Portfolio Turnover**

The registrant should briefly discuss in the prospectus the probable effect of investment techniques on the registrant's rate of total portfolio turnover, if such effects will be significant and if portfolio turnover will have brokerage, tax, or other significant consequences. If the registrant has had or anticipates having a portfolio turnover rate of approximately 100 percent or more, the discussion should (1) include any tax and brokerage consequences which will result from the higher portfolio turnover rate, and (2) cross-reference the discussions of income taxes and brokerage practices included in the prospectus. The Statement of Additional Information should discuss portfolio turnover if the prospectus does not or it may supplement the prospectus disclosure. New separate accounts, other than money market separate accounts, should estimate what rate of portfolio turnover will, generally, not be exceeded (e.g., 50 percent, 100 percent, 150 percent, etc.).

A separate account that invests substantial portions of its assets in both common stock and debt securities or preferred stock, should separately describe its portfolio turnover policy for the common stock and debt portions of its portfolio.<sup>4</sup>

#### **Guide 6. Business History**

The registrant should list in the Statement of Additional Information all prior names of its sponsoring insurance company for the past five years. For a newly organized insurance company, the registrant should state that the company has no prior history.

#### **Guide 7. The Borrowing of Money**

The Registrant should state in the prospectus any intention to borrow from a bank or to otherwise leverage its assets. If registrant will not borrow more than 5 percent of net assets, it may simply state its intention. If registrant will engage in a higher level of borrowing, it should concisely discuss the purposes and consequences of such borrowing (such as increased leverage).<sup>5</sup> The Statement of Additional Information may contain any additional disclosure.

Separate accounts organized as management investment companies ("management accounts") are permitted to borrow from banks under section 18(f) of the 1940 Act. Under section 18(g) of that Act, certain borrowings for temporary purposes are also permitted. A registrant may not borrow in excess of 5 percent of the value of its total assets for any reason without first obtaining the approval of its eligible voters, unless the registrant has so provided in the prospectus.<sup>6</sup> Generally, the prospectus need not restate provisions of law limiting borrowing by the registrant.

Because borrowings involve the creation of a senior security, see Guide 8.

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<sup>3</sup> Investment Company Act Release No. 10666 (April 18, 1979) [44 FR 25128 (April 27, 1979)]; Investment Company Act Release No. 13005 (February 2, 1983); Letter from Gerald Osheroff, Associate Director of the Division of Investment Management, to Matthew Fink, General Counsel of the Investment Company Institute (pub. avail. May 7, 1985).

<sup>4</sup> See Guide 4, *Types of Securities*.

<sup>5</sup> See Investment Company Act Release No. 7220 (June 9, 1972) [37 FR 12790 (June 24, 1972)].

<sup>6</sup> See sections 13(a), 18(f)(1), and 18(g) of the 1940 Act. See also Investment Company Act Release No. 7221 (June 9, 1972) [37 FR 12790 (June 24, 1972)].

## **Guide 8. Senior Securities, Reverse Repurchase Agreements, Firm Commitment Agreements, and Standby Commitment Agreements**

Section 18(f) of the 1940 Act prohibits the issuance of senior securities by management accounts except borrowings from banks up to the specified asset coverage. Policies on borrowings should be set forth in the prospectus or in the Statement of Additional Information, depending upon the significance of the policies (*see Guide 7*).

The registration statement should concisely disclose the nature and consequences of the separate account's participation in securities trading practices such as reverse repurchase agreements, firm commitment agreements, and standby commitment agreements.<sup>7</sup> The extent to which such disclosure should be included in the prospectus will depend on how often and to what degree the registrant engages in those kinds of trading practices (*see Guide 3*). The registration statement should (1) describe the potential risk of loss to a separate account and its investors by those transactions, (2) identify the securities trading practices as distinct from the underlying securities, (3) explain the difference in investment goals of participating in the securities trading practices and investing in the underlying securities (i.e., securities used as collateral for the trading practices), and (4) provide any other material information about the practices and the separate account's participation in them. Additionally, the registrant's name should not be misleading in light of its securities trading practices.

## **Guide 9. Short Sales**

In the Division's view, a short sale involves the creation of a senior security and is, therefore, subject to the limitations of section 18 of the 1940 Act. The staff has taken the position that in order to comply with section 18 of the 1940 Act, the selling registrant must put in a segregated account (not with the broker) cash or United States government securities equal in value to the difference between (a) the market value of the securities sold short when they were sold short and (b) any cash or United States government securities required to be deposited as collateral with the broker in connection with the short sale (not including the proceeds from the short sale). In addition, until the registrant replaces the borrowed security, it must daily maintain the segregated account at such a level that (1) the amount deposited in it plus the amount deposited with the broker as collateral will equal the current market value of the securities sold short, and (2) the amount deposited in it plus the amount deposited with the broker as collateral will not be less than the market value of the securities at the time they were sold short.<sup>8</sup>

Selling short is not the same as selling short "against the box." While a short sale is made by selling a security the separate account does not own, a short sale is "against the box" to the extent that the separate account contemporaneously owns or has the right to obtain at no added cost securities identical to those sold short. The procedures described above for short sales subject to Section 18 of the 1940 Act are not applicable to short sales "against the box."

If the registrant expects to sell short, or to sell short "against the box," its policy and the effect of such policy should be described in the registration statement. Whether the description should be included in the prospectus will depend upon how often and in what amount the registrant will sell short (*see Guide 3*). The registration statement should include:

1. an explanation of the requirement of collateral and a segregated account and
2. the maximum percentage of the value of the registrant's net assets that will be, when added together: (a) deposited as collateral for the obligation to replace securities borrowed to effect short sales and (b) allocated to segregated accounts in connection with short sales.<sup>9</sup>

## **Guide 10. Purchases on Margin**

Because of the prohibition in section 18 of the 1940 Act against the issuance of senior securities by management accounts, except in connection with borrowings from banks, the Division's position is that management accounts may not establish or use a margin account with a broker to effect securities transactions on margin.<sup>10</sup>

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<sup>7</sup> For a more complete discussion of reverse repurchase agreements, firm commitment agreements, and standby commitment agreements, *see* Investment Company Act Release No. 10666 (April 18, 1979) [44 FR 25128 (April 27, 1979)].

<sup>8</sup> Investment Company Act Release No. 7221 (June 9, 1972) [37 FR 12790 (June 24, 1972)].

<sup>9</sup> Investment Company Act Release No. 7220, *supra* note 5.

<sup>10</sup> Investment Company Act Release No. 7221, *supra* note 6.

## Guide 11. Restricted Securities

Although the acquisition of restricted securities (securities that must be registered under the Securities Act of 1933 before they may be offered or sold to the public) might not be deemed to be an underwriting commitment under section 12(c) of the 1940 Act, a registrant should describe in the prospectus any policy permitting the purchase of restricted securities if such securities constitute five percent or more of the registrant's portfolio securities. Otherwise, registrant's policy concerning restricted securities should be described in the Statement of Additional Information.

*Note:* If a management account holds a material percentage of its assets in restricted securities, such holdings may raise questions about valuation and the separate account's ability to make payment within seven days of the date it receives a request for the withdrawal of contract values. *See also* Guides 13 and 26.

## Guide 12. Purchase and Sale of Real Estate

Registrant should indicate the type of real estate investments which it proposes to make, if any, in response to Item 5 and Item 19, as appropriate in light of the level of any such investments (*see* Guide 3). A management account should not acquire illiquid assets, including real estate without an establishment market, in excess of 10 percent of the registrant's net assets.<sup>11</sup>

For purposes of these disclosure requirements, the Division views an interest in real estate as including securities (other than marketable securities) of companies whose assets consist substantially of real property and interests in real property, including mortgages and other liens, but does not include securities of companies whose investments in real estate are incidental to its primary business, e.g., banks.<sup>12</sup>

## Guide 13. The Making of Loans to Other Persons

In response to Item 19, and, if appropriate, in Item 5, the registrant should state its policy on the purchase of non-publicly offered debt securities (including convertible securities).<sup>13</sup> The purchase of a portion of an issue of publicly-distributed bonds, debentures, or other securities, whether or not the purchase is made upon the original issuance of the securities, is not a loan. The registrant should state whether it will make loans which are short term (nine months or less), long term, or both. If a management account holds a material percentage of its assets in debt securities having no established market, there may be a question about the ability of the separate account to make payment within seven days of the date it receives a request for the withdrawal of contract values. A management account should not acquire illiquid assets, including debt securities for which there is no established market, in excess of 10 percent of the registrant's net assets.<sup>14</sup>

## Guide 14. Other Policies Which are Changeable Only if Authorized by a Majority of Votes or Which the Registrant Deems a Matter of Fundamental Policy

Item 5 discusses the amount of prospectus disclosure about investment policies which are changeable only if authorized by a vote of the majority of votes and any other policy (whether or not an *investment* policy) which the registrant treats as "fundamental." Generally, the prospectus need not describe policies that prohibit certain practices or practices that the registrant does not intend to follow. Information concerning negative investment policies or practices is, however, required to be included in the Statement of Additional Information.

When the vote required by the registrant's by-laws is stricter than that required by the 1940 Act to change a policy (*see* section 2(a)(42) and section 13), the Statement of Additional Information should so state.

By-laws or other basic organizational documents submitted as exhibits to the registration statement should be reviewed to make certain a particular policy stated in response to Item 5 is not contrary to the registrant's organizational documents. For example, if the resolution of the board of directors of the sponsoring insurance company authorizing the establishment of the registrant prohibits the registrant from borrowing, the registrant should not state a policy of issuing senior securities. The registrant's organizational documents should not contain any provision which precludes compliance with the 1940 Act or the rules under it. The organizational documents also should provide the registrant's board of managers with authority to take whatever action may be necessary to comply with any applicable federal statute or rule.

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<sup>11</sup> See, e.g., Investment Company Act Release No. 5847 (October 21, 1969) [35 FR 19989 (December 31, 1970)].

<sup>12</sup> However, interests in companies that invest in real estate are not interests in real estate for purposes of section 3(c)(5)(C) of the Act. *See* Investment Company Act Release No. 3140 (November 18, 1960) [25 FR 12177 (November 29, 1960)].

<sup>13</sup> See Investment Company Act Release No. 7220, *supra* note 5.

<sup>14</sup> Investment Company Act Release No. 5847, *supra* note 11.

## **Guide 15. Investment in Companies for the Purpose of Exercising Control or Management**

If one of the registrant's significant investment policies is to invest in companies for the purpose of exercising control, as defined in section 2(a)(9) of the 1940 Act, the registrant should explain in the prospectus the extent to which, and when, such investments will be made. A statement that the registrant is diversified or that it has a policy of not acquiring more than 10 percent of the outstanding voting securities of any one issuer is not enough, since even such registrants could invest for the purpose of exercising control or management.<sup>15</sup>

## **Guide 16. Investment in Securities of Other Investment Companies**

Section 12(d)(1) of the 1940 Act limits the percentage of voting securities of any other investment company which the registrant may acquire. That section also limits, with some exceptions, the percentage of the value of the registrant's assets that may be invested in securities of other investment companies.

If the registrant intends to invest significantly in the securities of other investment companies, the registrant should state in the prospectus the percentage of its assets which may be so invested. Otherwise, the registrant should show in the Statement of Additional Information the percentage of its assets which may be invested in securities of other investment companies.

## **Guide 17. Tax-free Bonds—Issuer Diversification**

The identification of the issuer of a tax-exempt security for purposes of section 5(b)(1) of the 1940 Act depends on the terms and conditions of the security. When the assets and revenues of an agency, authority, instrumentality, or other political subdivision are separate from those of the government creating the subdivision and the security is backed only by the assets and revenues of the subdivision, the subdivision would be the sole issuer for purposes of section 5(b)(1).<sup>16</sup> Similarly, if an industrial development bond is backed only by the assets and revenues of the non-governmental user, then the non-governmental user would be the sole issuer for purposes of section 5(b)(1). A guarantee by the creating government or some other entity would be considered a separate security which must be valued and included in the 5 percent limit of section 5(b)(1) except as permitted under rule 5b-2 of the Act.<sup>17</sup>

## **Guide 18. Concentration of Investments in Particular Industries**

Section 8(b)(1) of the 1940 Act requires every registered investment company to include in its registration statement a recital of its policies with respect to concentration. Investment (including holdings of debt securities) of more than 25 percent of the value of the registrant's assets in any one industry represents concentration. If the registrant intends to concentrate in a particular industry or group of industries, it should specify in the prospectus the industry or group of industries.

If the registrant does not intend to concentrate, no further investment may be made in any given industry if, upon making the proposed investment, 25 percent or more of the value of the registrant's assets would be invested in such industry. However, when securities of a given industry constitute more than 25 percent of the value of the registrant's assets as a result of changes in value of either concentrated securities or other securities, the excess need not be sold.

The approval of a majority of votes is generally necessary to change to a concentration policy or a policy of not concentrating (See section 13(a)(3) of the 1940 Act). If the registrant has employed a policy of concentration in the past but does not intend to follow that policy in the future, its intention and its estimate of the time required to implement a policy of not concentrating should be specifically disclosed in the Statement of Additional Information.

Investment discretion on the part of management to concentrate, without the approval of eligible voters, has been considered by the Division to be prohibited by sections 8(b)(1) and 13(a)(3) of the 1940 Act, unless the statement of investment policy clearly indicates when and under what specific conditions any changes between concentration and non-concentration would be made. Registrants may not reserve the right to concentrate in particular industries "without limitation if deemed advisable and in the best interests of the contract owners."<sup>18</sup>

Money market separate accounts may declare an investment policy on industry concentration reserving freedom of action to concentrate their investments in government securities, as defined in the 1940 Act, and certain bank instruments issued by domestic banks<sup>19</sup> if the Statement of Additional Information discloses the type and nature of the various bank instruments in which the registrant intends to invest and the criteria for evaluating and selecting such investments. Money market separate accounts may not reserve freedom of action to concentrate investments in the commercial paper of issuers in any one industry.<sup>20</sup>

<sup>15</sup>Investment Company Act Release No. 7221, *supra* note 6.

<sup>16</sup> Investment Company Act Release No. 9785 (May 31, 1977) [42 FR 29130 (June 7, 1977)].

<sup>17</sup>*Id.*

<sup>18</sup>Investment Company Act Release No. 9011 (October 30, 1975) [40 FR 54241 (November 21, 1975)].

<sup>19</sup> United States branches of foreign banks may be considered domestic banks if it can be demonstrated that they are subject to the same regulation as United States banks. Foreign branches of domestic banks, however, are not registered in the United States and are not considered "domestic banks." Nevertheless, if a registrant can show that the investment risk associated with investing in instruments issued by the foreign branch of a domestic bank is the same as that of investing in instruments issued by the domestic parent, in that the domestic parent would be unconditionally liable in the event that the foreign branch failed to pay on its instruments for any reason, then the staff believes that the registrant may treat that foreign branch as a domestic bank for purposes of concentration. Otherwise, the staff is of the opinion that the registrant may not reserve freedom of action to concentrate its investments in instruments issued by foreign branches of domestic banks.

<sup>20</sup> Investment Company Act Release No. 9011, *supra* note 18.

Further, the statement of concentration policy required by section 8(b)(1) does not apply to investments in tax-exempt securities issued by governments or political subdivisions of governments since such issuers are not members of any industry.

*Note:* In determining industry classifications, the staff will ordinarily use the current *Directory of Companies Filing Annual Reports with the Securities and Exchange Commission* (the “*Directory*”) published by the Commission. A registrant may refer to the *Directory*, or may select its own industry classifications, but such classifications must be reasonable and should not be so broad that the primary economic characteristics of the companies in a single class are materially different. Registrants selecting their own industry classifications should disclose them (a) in the prospectus in the case of a policy to concentrate, or (b) in the Statement of Additional Information in the case of a policy not to concentrate.

#### **Guide 19. Separate Accounts Investing In Other Than High-Grade Bonds**

If the registrant seeks high income by investing in other than high-grade bonds,<sup>21</sup> it should concisely but clearly disclose in the prospectus the risks involved in such investments either in response to Item 5 or Item 1 (on the cover page). Where the registrant chooses to use certain rating criteria in its prospectus disclosure, the registrant should also disclose the minimal rating that the separate account would find acceptable under the rating criteria it has chosen. The registrant may place rating services’ descriptions of their rating criteria in the Statement of Additional Information.

#### **Guide 20. Disclosure of Risk Factors**

A registrant should address in the prospectus the principal speculative or risk factors arising from the securities being offered. These risks may, for example, be the result of the registrant’s particular investment objective, the type of securities in which it invests, the type or size of companies in which it invests, the investment techniques it employs, or an innovative or unusual method of operation. Other risk factors may be due to the absence of an operating history, minimal capitalization, or the nature of registrant’s business.

A registrant that intends to invest as much as 10 percent of its assets in foreign securities which are not publicly traded in the United States must disclose this in the prospectus. For many foreign securities, however, there are dollar-denominated American Depository Receipts (“ADRs”), which are traded in the United States on exchanges or over-the-counter, are issued by domestic banks, and do not involve the same currency risk as a foreign security. ADRs need not be treated as foreign securities for purposes of the risk disclosure suggested by this guide.

#### **Guide 21. Government Securities**

If the registrant is investing in United States Government securities, the prospectus should explain when and to what extent the registrant intends to do so. If the registrant is significantly investing in United States Government securities on a routine basis, the prospectus should include the following information: (1) the types of Government securities in which the separate account will invest; (2) examples of Government agencies and instrumentalities in whose securities the separate account will invest; and (3) whether the securities of such agency or instrumentality are (a) supported by the full faith and credit of the United States, (b) supported by the ability to borrow from the Treasury, (c) supported only by the credit of the agency or instrumentality, or (d) supported by the United States in some other way.

#### **Guide 22. Foreign Currency Transactions**

If the registrant proposes to invest in securities denominated in foreign currencies or to engage in currency conversion transactions, these policies should be disclosed in the prospectus and, if appropriate, in the Statement of Additional Information (see Guide 3). If the registrant plans to use foreign currency forward contracts to cover activities which are essentially speculative, such forward contracts will be considered “senior securities” as defined in section 18 of the 1940 Act and will be subject to the limitations discussed in Investment Company Act Release No. 10666 (April 18, 1979) [44 FR 25128 (April 27, 1979)].

#### **Guide 23. Management of the Separate Account**

The prospectus must describe how the registrant’s business is managed, but disclosure about the role of the board of managers may be limited to a general statement of the responsibilities of the board of managers.

The registrant must disclose in the Statement of Additional Information the name and address, position with registrant, and principal occupation during the past five years of each member of the board of managers and officer of the registrant performing a “policy-making function” for the registrant. Any position held with affiliated persons or principal underwriters of the registrant by each of these individuals must be described. The family relationships among these individuals must also be disclosed. Executive and investment advisory committee members must be identified and their functions briefly discussed. In addition, the registrant must indicate which members of its board of managers are “interested persons” as that term is defined by section 2(a)(19) of the 1940 Act and the rules thereunder.

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<sup>21</sup>These would include, for example, bonds receiving a Standard & Poor’s rating of BBB or lower or a Moody’s rating of Baa or lower.

The composition of the registrant's board of managers must satisfy section 10 of the 1940 Act. The Federal Reserve Board takes the position that, under section 32 of the Banking Act of 1933, an officer or director of a bank which is a member of the federal reserve system may not serve as an officer, director, or employee of an open-end investment company, including a management account, that is currently offering its shares.<sup>22</sup>

An "advisory board," as that term is defined in section 2(a)(1) of the 1940 Act is a body composed of persons who serve the registrant in only that capacity. Therefore, officers, members of the board of managers, the investment adviser for, and counsel to the registrant may not serve on any such board.<sup>23</sup> The composition of an advisory board, if a management account chooses to have one, is also subject to the requirements of section 10 of the 1940 Act.

The term, "family relationship," as applied to registrant's officers and members of the board of managers in Item 20, is broader than the definition of a "member of the immediate family" contained in section 2(a)(19) of the 1940 Act.<sup>24</sup>

Item 20 requires the registrant to disclose in the Statement of Additional Information the aggregate remuneration received by certain officers, members of the board of managers, members of the advisory board, and certain categories of such persons from the registrant and its subsidiaries, during the registrant's last fiscal year, and all retirement and pension benefits to be received by those individuals from the registrant pursuant to an existing plan. This requirement applies to any individual who was a member of the board of managers, officer, or member of the advisory board of registrant during the last fiscal year and received aggregate remuneration in excess of \$60,000.

It is the Commission's view that the registrant must disclose all forms of remuneration received by specified officers and members of the board of managers.<sup>25</sup> "Remuneration" is intended to include cash and non-cash items, i.e., not only all salaries, fees, and bonuses but also personal benefits, commonly known as "perquisites."<sup>26</sup> It is the Commission's view that management is in the best position to determine whether or not a benefit should be considered remuneration, in light of the facts and circumstances of each situation.

#### **Guide 24. Investment Advisory and Other Services**

Item 6 requires the registrant to identify in the prospectus its investment adviser and the services provided by its investment adviser. Registrants should address whether the investment adviser is responsible for portfolio management, and if not, who is. If the registrant's adviser has no previous experience in advising a mutual fund or management account, this fact should be disclosed as a risk factor in the prospectus.

Item 21 calls for additional information in the Statement of Additional Information about the background and function of each person providing the registrant with advisory services, especially the identities of all controlling persons of each investment adviser and the basis for their control. The registrant must identify any affiliations between such persons and the registrant. If any affiliated person of the registrant is also an affiliated person of an adviser, the identity of that person and all bases of affiliation must be disclosed. Item 21 calls for a detailed discussion in the Statement of Additional Information concerning the method used to compute the advisory fee paid by the registrant or its sponsoring insurance company. In addition, the registrant must describe in Part B all services performed for it, or on its behalf, pursuant to any investment advisory or management-related service contract,<sup>27</sup> and in each case must identify the persons paying for such services. The registrant must also summarize the substantive portions of any management-related service contract, which may be of interest to a purchaser of the registrant's securities. Any person providing investment advice on a more informal basis must also be identified, and the nature of the arrangement and remuneration should be discussed. All investment advisory services must be provided pursuant to a written contract which complies with the provisions of section 15 of the 1940 Act.<sup>28</sup>

Item 6 requires the registrant to provide in the prospectus the name and address of any administrative or servicing agent for the separate account. Item 21 calls for identifying information concerning the custodian and independent public accountant. All custodial arrangements are subject to section 17(f) of the 1940 Act and the rules under it. If the registrant's portfolio securities are held by any person other than the sponsoring insurance company, a commercial bank, trust company, or registered depository, the registrant must state in the Statement of Additional Information the nature of the business of each such person. Item 21 also requires the disclosure of any services performed by, and the basis of remuneration received by, any affiliated person of registrant or of any affiliate of such affiliate, other than the sponsoring insurance company, which acts as administrative or servicing agent for registrant. If a custodian is affiliated with the management account, the management account is considered a self-custodian for purposes of section 17(f) of the 1940 Act and is subject to regulatory requirements different from those applicable to other custodians.

<sup>22</sup> Investment Company Act Release No. 7221, *supra* note 6.

<sup>23</sup> *Id.*

<sup>24</sup> See also Investment Company Act Release No. 7220, *supra* note 5.

<sup>25</sup> As stated in Investment Company Act Release No. 9900 (August 18, 1977) [42 FR 43058 (August 26, 1977)].

<sup>26</sup> For a detailed discussion of those personal benefits which the staff has interpreted to be remuneration requiring disclosure, see Investment Company Act Release Nos. 9900, *supra*, 10112 (February 6, 1978) [43 FR 6060 (February 13, 1978)], 11439 (November 14, 1980) [45 FR 76974 (November 21, 1980)], 12070 (December 3, 1981) [46 FR 60421 (December 10, 1981)].

<sup>27</sup> See instructions for Item 21(d) of Form N-3 for the definition of the term "management-related service contract."

<sup>28</sup> Registrants should note that the disclosure requirements of both Part A and Part B apply to sub-advisers as well, see Investment Company Act Release 7220, *supra* note 5.

## Guide 25. Brokerage Allocation

If the registrant uses affiliated brokers or takes the sale of its contracts into account when allocating brokerage,<sup>29</sup> a statement to that effect must be included in the prospectus in response to Item 6. In addition, a management account must receive exemptive relief from section 27(c)(2) of the 1940 Act before it may pay commissions to affiliated brokers.

Responses to Item 6 should be concise and should not include lengthy descriptions of technical or legal requirements or practices that are standard in the investment company industry. Registrants must provide in the Statement of Additional Information a more complete explanation of the brokerage allocation practices in which they engage. In addition, Item 22 requires the registrant to describe how transactions in portfolio securities are effected, including a statement about mark-ups on principal transactions and brokerage commissions paid during the most recent fiscal year. Further, registrant must describe in the Statement of Additional Information how it selects brokers and evaluates the commissions to be paid, including the factors considered, such as research services provided by that broker. If research services furnished by brokers used by the registrant to effect its transactions may be used by the registrant's investment adviser to service all its managed accounts, not just for the benefit of the registrant, such practices must be described and explained. No disclosure suggested by this guide about brokerage allocation practices need be given if registrant is not required to respond to Item 22 of the Form.

## Guide 26. Redemption

Section 22(e) of the 1940 Act prohibits suspension of the right of redemption or postponement of payment upon redemption of a redeemable security of a management account, for more than seven days after the proper tender of the security for redemption, with certain limited exceptions. Redemption payments may be withheld for more than seven days, if necessary, to prevent the loss or dilution of net asset value that can occur when purchase checks are dishonored.<sup>30</sup> The procedures for obtaining payment upon redemption shortly after purchase must be disclosed in the prospectus, as should any procedures an investor can follow to avoid delays in redemption payments, such as use of a certified check to purchase the variable annuity contracts.

To accommodate contracts that provide for variable annuity options based on life contingencies, rules 22e-1 and 27c-1 under the 1940 Act [17 CFR 270.22e-1 and 270.27c-1] grant exemptions from the redemption requirements of sections 22(e) and 27(c)(1). Rule 27c-1 exempts registered separate accounts, their depositors and underwriters from the requirement in section 27(c)(1) of the 1940 Act that a periodic payment plan certificate be a redeemable security (and from the surrender provisions of section 27(d) of the 1940 Act) with respect to the annuity payment period of variable annuity contracts under which payments are based on life contingencies.

If there is a synopsis in the prospectus, it should show where in the prospectus investors can find a description of redemption procedures.<sup>31</sup>

Redemption procedures are frequently confusing to investors. Therefore, special care should be given to explaining when signature guarantees are necessary, and who can make such guarantees.<sup>32</sup>

## Guide 27. Valuation of Securities Being Offered

Registrant must identify in the prospectus the valuation method used. Sometimes, value can be determined fairly in more than one way. For any asset traded on a national exchange, valuation normally should be based on market value when readily available.<sup>33</sup> If a security was traded on the valuation date, the last quoted sale price generally is used. For securities listed on more than one national securities exchange, the last quoted sale, up to the time of valuation, on the exchange on which the security is principally traded should be used or, if there were no sales on that exchange on the valuation date, the last quoted sale, up to the time of valuation, on the other exchanges should be used.

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<sup>29</sup>On March 4, 1981, the Commission approved an NASD proposal to amend portions of Article III, Section 26 of the NASD Rules of Fair Practice and related interpretations of the "Anti-Reciprocal Rule," Investment Company Act Release No. 11662 (March 4, 1981) [46 FR 16012 (March 10, 1981)]. The rule as amended no longer prohibits NASD members from seeking or granting brokerage commissions in connection with the sale of investment company shares, and permits NASD members to sell shares of investment companies that follow a disclosed policy of considering sales of their shares as a factor in the selection of broker-dealers to execute portfolio transactions, subject to specified conditions.

<sup>30</sup> For a discussion of the conditions under which an investment company can delay redemption for more than seven days pending clearance of purchase checks, *see* Investment Company Institute (Pub. avail. May 3, 1975).

<sup>31</sup>See Guide 31: The Synopsis.

<sup>32</sup>See Investment Company Act Release No. 7220, *supra* note 5.

<sup>33</sup>Investment Company Act Release No. 7221, *supra* note 6. Registrants often value their debt securities by reference to other securities which are considered comparable in rating, interest rate, due date, etc. (often called "matrix pricing") or rely on pricing services which use matrix pricing for valuation of these instruments. Responsibility for making sure that a pricing method is proper rests with the registrant.

If there was no sale on the valuation date but published closing bid and asked prices are available, the valuation should be within the range of these quoted prices. Some companies as a matter of policy use the bid price, others use the mean of the bid and asked prices, and still others use a valuation within the range of bid and asked prices considered to best represent value in that circumstance; each of these policies is acceptable if consistently applied. Normally, the use of the asked price alone is not appropriate. Where, on the valuation date, only a bid price or an asked price is quoted or the spread between bid and asked prices is substantial, quotations for several days should be reviewed. If sales have been infrequent or there is a thin market in the security, or the size of the reported trades is not representative of the fund's holding (as in the case of certain debt securities), further consideration should be given as to whether "market quotations are readily available." If they are not readily available, the alternative method of valuation prescribed by section 2(a)(41)—"fair value as determined in good faith by the board of directors"—should be used.

For debt or equity securities traded over-the-counter where closing prices are not readily available, quotations should be obtained from more than one broker-dealer, particularly if quotations are available only from broker-dealers not known to be established market-makers for that security. A company may adopt a policy of using a mean of the bid prices, or of the bid and asked prices, or of the prices of a representative selection of broker-dealers quoted on a particular security; or it may use a valuation within the range of bid and asked prices considered best to represent value in that circumstance. Any of these policies are appropriate if consistently applied.

If the validity of the quotations appears to be questionable, or if the number of quotations indicates that there is a thin market in the security, further consideration should be given to whether "market quotations are readily available." If it is decided that they are not readily available, the security should be valued at "fair value as determined in good faith" by the board of managers.

To comply with section 2(a)(41) of the Act and rule 2a-4 under the Act, the members of the board of managers must be satisfied that all appropriate factors relevant to the value of securities for which market quotations are not readily available have been considered and determine the method of arriving at the fair value of each such security. No single standard for determining "fair value in good faith" can be established, since fair value depends upon individual circumstances. Generally, the current "fair value" of an issue of securities being valued by the board of managers would be the amount which the owner might reasonably expect to receive for them upon their current sale.<sup>34</sup>

Securities held by the registrant that may not be sold to the public without an effective registration statement under the Securities Act are considered securities for which market quotations are not readily available. They must, therefore, be valued in good faith by the board of managers.<sup>35</sup> It would be improper for the board of managers to value these securities at the market quotation for unrestricted securities of the same class without considering other relevant factors, although the quotation may be considered in making the final valuation.<sup>36</sup> The existence of a shelf registration for the restricted securities also may be considered as a factor in determining the value of the securities, but there may not be an automatic valuation at market price based on this factor alone.<sup>37</sup>

The valuation of short sales of securities, which are not traded on a national exchange, can be at the asked price, that being the most conservative value, or the mean average of bid and asked prices. The use of bid price alone to value short positions is not appropriate.

Certain securities trading practices such as reverse repurchase agreements, firm commitment agreements, and standby commitment agreements require the consideration of special factors in connection with valuation. For example, changes in the value of a firm commitment agreement will affect the price at which shares of a management account may be sold or redeemed. Accordingly, members of the board of managers in determining fair value, must take care that no inaccuracies exist with regard to the valuation of such trading practices.<sup>38</sup> In valuing standby commitments (puts), registrants using the amortized cost method of valuation should indicate that the acquisition of a standby commitment will not affect the valuation of the underlying security. The actual standby commitment will be valued at zero in determining net asset value. In such event, where the separate account pays directly or indirectly for a standby commitment, its cost will be reflected as an unrealized depreciation for the period during which the commitment is held by the separate account and will be reflected in realized gain or loss when the commitment is exercised or expires.<sup>39</sup>

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<sup>34</sup>For a general discussion of the factors to be considered in this determination, *see* Investment Company Act Release No. 6295 (December 23, 1970) [35 FR 19986 (December 31, 1970)].

<sup>35</sup>Investment Company Act Release No. 7221, *supra* note 6.

<sup>36</sup>Investment Company Act Release No. 5847, *supra* note 11.

<sup>37</sup>Investment Company Act Release No. 6121 (July 20, 1970).

<sup>38</sup>Investment Company Act Release No. 10666, *supra* note 7.

<sup>39</sup>There may be alternative methods of valuing of standby commitments, but in any event the value of the standby commitment together with the underlying security should not exceed the amount received by the separate account upon disposal of the underlying security. At the time these guidelines were published, the staff was considering recommending a rule or interpretive release to the Commission on valuation of standby commitments and securities subject to standby commitments. Registrants should check rule 2a-7 for any amendments on this matter.

The maturity of a municipal obligation purchased by the separate account will not be considered shortened by any standby commitment to which such obligation is subject. Therefore, standby commitments will not affect the dollar weighted average maturity of the separate account's portfolio. However, where a money market separate account acquires a variable rate or floating rate municipal obligation having a demand feature which allows the separate account unconditionally to obtain the amount due from the issuer upon notice of seven days or less, the maturity of the instrument will normally be the longer of the notice period for the commitment or the time remaining to the next rate adjustment.

Money market separate accounts with portfolio securities that mature in one year or less may use the amortized cost method to value their securities pursuant to the conditions of rule 2a-7.<sup>40</sup> If the portfolio of a money market separate account is to be valued at amortized cost, there must be disclosure in the Statement of Additional Information concerning the effect of this method of valuation on the separate account's accumulation unit value and yield as interest rates change, and on the corresponding dilution of interests in the separate account.

The prospectus must disclose when calculations of accumulation unit value are generally made. The current accumulation unit value of redeemable securities should be computed in accordance with rule 22c-1 under the 1940 Act [17 CFR 270.22c-1], i.e., at least once daily on each weekday (except for customary national and local business holidays listed in the prospectus) in which there is sufficient trading in the separate account's portfolio securities so that the current accumulation unit value might be materially affected by changes in the value of these portfolio securities and on which an order for purchase or redemption of its securities is received. These calculations of accumulation unit value should be made at such specific time or times during the day as determined by a majority of the board of managers of the separate account. A separate account need not compute accumulation unit value on a day when no security was tendered for redemption and no order to purchase such security was received or was on hand, having been received since the last previous computation of accumulation unit value.<sup>41</sup>

## **Guide 28. Distribution Expenses**

Item 7 requires that separate accounts that bear distribution expenses in accordance with rule 12b-1 disclose this fact to shareholders in the prospectus.<sup>42</sup>

Many registrants are exempted from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to permit them to deduct a charge for the assumption of mortality and/or expense risks from the separate account. In furtherance of requests for this exemptive relief, where proceeds from explicit sales loads will not be sufficient to cover expected distribution costs, many registrants represent, among other things, that there is a reasonable likelihood that the separate account's distribution financing arrangement will benefit the separate account and contractowners.<sup>43</sup> These representations should be disclosed in the Statement of Additional Information.

When special arrangements will be made to sell variable annuity contracts to customers of depository institutions, possible applicability of the Glass-Steagall Act should be discussed in the prospectus. The legal issues raised by payments to depository institutions for their services in this connection should be identified, and the consequences for the separate account, if these issues are resolved adversely, should also be discussed.

## **Guide 29. Financial Statements**

The form, content, and presentation of financial statements are prescribed by Regulation S-X [17 CFR 210]. If the financial statements of the registrant are not provided because the registrant does not have any assets, a statement to that effect should be placed before the financial statements of the sponsoring insurance company in the Statement of Additional Information.

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<sup>40</sup>Investment Company Act Release No. 13380 (July 11, 1983) [48 FR 32555 (July 11, 1983)].

<sup>41</sup>Investment Company Act Release No. 10827 (August 13, 1979) [44 FR 48659 (August 20, 1979)].

<sup>42</sup>For a more detailed discussion of the contents of the rule, *see* Investment Company Act Release No. 11414 (October 28, 1980) [45 FR 73898 (November 7, 1980)].

<sup>43</sup>For a discussion of representations by applicants seeking this exemptive relief, *see* Investment Company Act Release No. 14190 (October 11, 1984) [49 FR 40879 (October 18, 1984)].

## Guide 30. Performance Data

Item 4(c) requires a brief explanation of how the registrant calculates its historical performance for purposes of advertising this data. Algebraic equations and detailed, intricate explanations should be avoided in favor of a more general, concise description of the essential features of the data and how it is computed. For example, a registrant advertising its money market sub-account's yield and effective yield might describe these two yields in the following manner:

From time to time the Account advertises its money market sub-account's "yield" and "effective yield." *Both yield figures are based on historical earnings and are not intended to indicate future performance.* The "yield" of the sub-account refers to the income generated by an investment in the sub-account over a seven-day period (which period will be stated in the advertisement). This income is then "annualized." That is, the amount of income generated by the investment during that week is assumed to be generated each week over a 52-week period and is shown as a percentage of the investment. The "effective yield" is calculated similarly but, when annualized, the income earned by an investment in the sub-account is assumed to be reinvested. The "effective yield" will be slightly higher than the "yield" because of the compounding effect of this assumed reinvestment. Neither yield quotation reflects sales load deducted from purchase payments which, if included, would reduce the "yield" and "effective yield."

For guidance in responding to Item 25, the registrant should refer to Investment Company Act Release No. 13049 (February 28, 1983) [48 FR 10297 (March 11, 1983)]; Investment Company Act Release No. 11028 (January 28, 1980) [45 FR 7578 (February 4, 1980)]; and Investment Company Act Release No. 11379 (September 30, 1980) [45 FR 67079 (October 9, 1980)].

Deductions should be prorated among the sub-accounts of the separate account. If the deduction is a flat fee charged to all contractowner accounts (e.g. \$25.00 per contractowner account per year), the deduction should be prorated by multiplying the flat fee by a fraction the numerator of which is the average number of contractowner accounts that have money allocated to the sub-account and the denominator of which is the sum of the average number of contractowner accounts for all of the sub-accounts for that kind of contract.

Where the registrant issues more than one contract form and the performance for each is materially different (due, for example, to different sales loads, fees, or other charges), the registrant should quote the performance relating to the contract form containing the highest level of charges or calculate and quote separate performance figures for each contract form advertised. Where the charge structure among or between different contract forms is so different that none can be determined to possess the "highest level" of charges, performance figures for all forms should be quoted. Where separate performance figures are quoted for different contract forms, the omitting prospectus advertisement should clearly disclose the trade name or other appropriate identification of each form and, if relevant, the particular category of investor who may purchase each form (e.g., groups or individuals), or type of retirement plan.

## Guide 31. The Synopsis

A synopsis provided pursuant to Item 3 of Form N-3 should clearly and concisely describe the key features of the offering and the registrant. The information in the synopsis need not be in the order or the manner described in this Guide, and it may be presented in a question-and-answer format.

The synopsis should include (1) a brief description of how the registrant proposes to achieve its investment objectives, including the types of securities in which the registrant proposes to invest primarily and whether the registrant proposes to operate as a diversified or nondiversified investment company and (2) a summary of the principal speculative or risk factors associated with investment in the registrant, including factors peculiar to the registrant as well as those generally associated with investment in an investment company with objectives and policies similar to registrant's.

The synopsis should also (1) provide the name of the investment adviser, and, if any other person provides services of the type customarily provided by an investment adviser, the identity of such person and the services provided; (2) provide a cross-reference to the description in the prospectus of how to purchase the variable annuity contracts; (3) provide cross-references to the descriptions in the prospectus of how a contractowner (or annuitant) may redeem and any penalty taxes that may be assessed upon redemption; (4) state the maximum percentage load that may be assessed against any given amount redeemed or annuitized and provide a cross-reference to the description in the prospectus of the deductions and expenses; and (5) provide either a full description of or a cross-reference to the description in the prospectus of any "ten-day free look" or similar provisions.

The synopsis may include additional information, provided that it does not, by its nature, quantity, or manner of presentation, impede understanding of required information.

## **Guide 32. Administrative Charges**

The discussion of any administrative charge deducted from the value of the contractowner's account should (1) concisely describe how the charge is deducted in both the accumulation and annuity periods, (2) explain whether the charge is deducted at the beginning of the contract year for the coming year or deducted at the end of the contract year for the prior year, (3) describe whether the charge is prorated for any period (e.g., between the contract anniversary date and the date of redemption or the date of annuitization), and (4) if the administrative charge is a percentage of assets, disclose that there is no necessary relationship between the amount of the administrative charge imposed on a given contract and the amount of expenses that may be attributable to that contract.

Any administrative charge that is deducted from contractowner accounts and is not a charge or expense of the registrant should not be accounted for as an expense or otherwise included in the determination of net investment income of the registrant. Rather, the amount of the administrative charges should be accounted for, and presented in financial statements of the registrant, as a reduction of ownership units. Whether the amount of such administrative charges is separate in the registrant's financial statements from other withdrawal or redemption amounts that result in a reduction of ownership units depends upon individual facts.

## **Guide 33. Deferred Sales Loads**

Item 7 of Form N-3 requires the registrant to describe any sales loads. A sales load not subject to any contingency should be described as a deferred sales load, *not* a "contingent" deferred sales load. A deferred sales load does not become contingent solely because the sales load is waived in the event of an annuitant's death or if the registrant provides that a given percentage of contract value may be withdrawn without imposition of a sales load (a "free corridor").

The description of any deferred sales load (contingent or not) should include (1) how the deduction will be allocated among sub-accounts of the registrant; (2) when, if ever, the sales load will be waived (for example, as part of the death benefit or upon redemptions by contractowners who are also employees of the registrant); and (3) the maximum amount of the sales load as a percentage of purchase payments received. See rule 6c-8 under the 1940 Act [17 CFR 270.6c-8] which limits the amount of a deferred sales load to no more than nine percent of the purchase payments received. If the deferred sales load varies according to the length of time a particular purchase payment has been invested, the description should indicate whether withdrawals will be attributed to purchase payments in the order in which they were invested in the separate account (FIFO) or in the reverse order of investment (LIFO).

The description of a deferred sales load should also explain whether, in the case of a partial redemption, the amount deducted will be a percentage of the amount requested by the contractowner or the total amount withdrawn, and whether the sales load will be deducted from the amount requested or the amount remaining after the contractowner has received the amount requested. For example, if the sales load is 7% and the contractowner has requested \$100, the description should make plain whether:

- (a) the contractowner receives \$93 and the sales load is \$7 for a total withdrawal of \$100 (i.e., the sales load is 7% of both the amount requested and the total withdrawal and is deducted from the amount requested);
- (b) the contractowner receives \$100 and the sales load is \$7 for a total withdrawal of \$107 (i.e., the sales load is 7% of the amount requested and is deducted from the contract value remaining after the contractowner is paid the amount requested); or
- (c) the contractowner receives \$100 and the sales load is \$7.53 for a total withdrawal of \$107.53 (i.e., the sales load is 7% of the total withdrawal and is deducted from the contract value remaining after the contractowner is paid the amount requested.)

Additionally, if the registrant allows withdrawal of a given percentage of contract value without imposing a deferred sales load (e.g., a 10% free withdrawal each year), the description of this privilege should indicate when the contract value will be computed to determine the amount of the permitted free withdrawal (e.g., at the beginning of the contract year or the date of the withdrawal request).

## **Guide 34. Annuity Payments**

Item 9 of Form N-3 requires registrants to describe in the prospectus the annuity options available under a contract and the material factors that determine the level of annuity benefits. Registrants should discuss variables that impact the level of payments such as the age at which payments begin, the form of annuity, the frequency of payments, annuity purchase rates, and assumed investment return. The discussion should include any options on the form of annuity such as life annuities, term certain annuities, joint and survivor life annuities, and any other variations. In general, responses to this item should include practical narrative disclosure. Mathematical illustrations and the mechanics of determining annuity payments may be placed in the Statement of Additional Information, Item 26.

Item 9 also calls for disclosure of the effect of assumed investment return. Registrants should explain that annuity payments will vary to reflect the investment experience of the separate account and that the assumed investment return is a fulcrum rate around which variable annuity payments will fluctuate to reflect whether investment experience of the separate account is better or worse than the assumed investment return. Where annuitants are given a choice in assumed investment returns, registrants should explain that a higher assumed investment return will result in a higher initial payment, a more slowly rising series of subsequent payments when actual investment performance (minus any deductions and expenses) exceeds the assumed investment return, and a more rapid drop in subsequent payments when actual investment performance (minus any deductions and expenses) is less than the assumed investment return.

Item 26 requires registrants to disclose in the Statement of Additional Information the method for determining the amount of annuity payments. Registrants should disclose how the initial annuity payment is determined, and if subsequent payments differ from the first, an explanation of how the subsequent payments are determined. Generally, registrants should explain that the amount of the initial payment is determined by applying the value of the annuitant's contract as of the date of annuitization (adjusted for any deductions) to the annuity purchase rate for the annuitant's annuity option, sex, and adjusted age. The specific time when the calculation will be made and the particular deductions that will be made at that time also should be disclosed. Registrants should disclose that the amount of subsequent annuity payments is determined by multiplying the number of annuity units credited to the annuitant's account by the value of an annuity unit at the time of each payment where (1) the number of annuity units credited to an annuitant's account is determined by dividing the amount of the first annuity payment by the value of an annuity unit at the time of that payment, and (2) the value of an annuity unit changes to reflect investment performance of the separate account adjusted by a factor to neutralize the assumed investment return. Registrants should also disclose any deductions affecting the amount of annuity payments and where relevant, that changes in the value of an annuity unit reflect deductions of mortality and expense risk charges.

#### **Guide 35. Crediting of Contract Values**

Item 11(a)(ii) of Form N-3 requires disclosure about when initial and subsequent purchase payments are credited. Section 22(c) of the 1940 Act [15 U.S.C. 80a-22(c)] and rule 22c-1 [17 CFR 270.22c-1] establish standards for crediting purchase payments for securities of registered investment companies. However, the staff has not objected to disclosure that an *initial* purchase payment under a variable annuity contract would be credited within two business days of receipt if the contract application and other necessary information were complete as received by the office issuing the contract, and within five business days of receipt if the application and other information were incomplete when received. Registrants following this practice must disclose it and also disclose that, if the initial purchase payment is not credited within five business days, the purchase payment will be immediately returned unless the prospective purchaser has been informed of the delay and *specifically* requests that the purchase payment not be returned.<sup>44</sup>

Additionally, registrants should disclose any special procedures for crediting initial purchase payments in the case of incomplete applications (e.g., allocation of an initial purchase payment to the money market sub-account if no sub-account has been specified).

#### **Guide 36. Automatic Annuity Options**

Item 9 of Form N-3 calls for disclosure about choices available to a prospective annuitant and the effect of not specifying a choice. Registrants should disclose any automatic purchase of a fixed annuity (i.e., the annuity selection that will be made by the company if the prospective annuitant has not chosen an option). The staff has taken the position that an automatic annuity involving a fixed pay out of amounts that have accumulated on a variable basis is not consistent with section 27(c)(1) of the 1940 Act [15 U.S.C. 80a-27(c)(1)]. However, the staff does not object to an automatic fixed annuity purchase if the only options available under the variable annuity contract are fixed annuities.

#### **Guide 37. Fee Table**

Item 3 requires inclusion of a fee table in the front of the prospectus. The amounts listed in the example should represent cumulative expenses. Therefore, the Registrant should aggregate any sales load or other fee deducted from payments, together with cumulative annual expenses, and any sales load or other fee deducted upon surrender. The Registrant may compute annual expenses by multiplying average annual assets of the hypothetical \$1,000 account for each year by total annual expenses (a percentage taken from the second part of the table). Compute the account's average annual assets by adding the beginning account value to the ending account value and dividing by two. Determine the ending account value by multiplying the beginning account value by the assumed growth rate less total annual expenses (5% - X%) and adding the result to the beginning account value. Determine the beginning account value in the first year by subtracting the maximum amount of any sales load deducted from payments from the hypothetical \$1,000 payment; in each subsequent year, the beginning account value is the previous year's ending account value.

#### **Guide 38. Money Market Fund Investments in Other Money Market Funds**

Money market funds are permitted to invest in the securities of other money market funds in accordance with the provisions of rule 2a-7 and section 12(d)(1) of the 1940 Act. Except when a fund has invested substantially all of its assets in the other money market fund, the investing fund does not need to "look through" the shares of the fund(s) in which it is investing in order to determine compliance with the diversification or Second Tier Security limitations of rule 2a-7.<sup>45</sup> However, the investment objectives and policies of the money market fund making the investment and the money market fund(s) in which it is investing should not be inconsistent. Paragraph (c)(4)(ii)(E) of rule 2a-7 describes the obligations of a fund that invests its assets in another money market fund.

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<sup>44</sup>The Commission proposed codifying these standards in an amendment to rule 22c-1 under the Act. See Investment Company Act Release No. 13913 (May 1, 1984) [49 FR 19320 (May 7, 1984)].

<sup>45</sup>See Investment Company Act Rel. No. 21837 (March 21, 1996) at Section II.G.2.