

of Section 22(c) and Rule 22c-1. Applicants argue that the recapture of the Bonus does not involve either of the evils that Rule 22c-1 was intended to eliminate or reduce, namely: (i) the dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices. See Adoption of Rule 22c-1 under the Act, Investment Company Release No. 5519 (Oct. 16, 1968). To effect a recapture of a Bonus, Aetna will redeem interest in an owner's annuity account at a price determined on the basis of the current net asset value of the respective Accounts. The amount recaptured will equal the amount of the Bonus that Aetna paid out of its general account assets. Although owners will be entitled to retain any investment gain attributable to the Bonus, the amount of such gain will be determined on the basis of the current net asset value of the respective Accounts. Thus, no dilution will occur upon the recapture of the Bonus. Applicants also submit that the second harm that Rule 22c-1 was designed to address, namely, speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Bonus. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c-1 to the extent deemed necessary to permit them to recapture the Bonus under the Contracts.

Conclusion:

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in Section 6(c) of the Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that, therefore, the Commission should grant the requested order.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-24205; File No. 812-11708]

Hartford Life and Annuity Insurance Company, et al.; Notice of Application

December 17, 1999.

AGENCY: The Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order pursuant to section 26(b) and 17(b) of the Investment Company Act of 1940 (the "Act").

SUMMARY OF APPLICATION: Applicants request an order to permit certain unit investment trusts to substitute shares of Evergreen Variable Annuity Trust's ("Evergreen Trust") Evergreen VA Capital Growth Fund for shares of Mentor Variable Investment Portfolios' ("Mentor Trust") Mentor VIP Capital Growth Portfolio, shares of Evergreen Trust's Evergreen VA Growth Fund for shares of Mentor Trust's Mentor VIP Growth Portfolio, shares of Evergreen Trust's Evergreen VA High Income Fund for shares of Mentor Trust's Mentor VIP High Income Portfolio and shares of Evergreen Trust's Evergreen VA Perpetual International Fund for shares of Mentor Trust's Mentor VIP Perpetual International Portfolio currently held by those unit investment trusts to support certain deferred premium variable annuity contracts ("Contracts"). Applicants also request an order exempting them from Section 17(a) of the Act to the extent necessary to permit certain in-kind redemption and purchase transactions in connection with the substitutions.

APPLICANTS: Hartford Life and Annuity Insurance Company ("Hartford Life and Annuity"), Hartford Life and Annuity Insurance Company Separate Account One ("Hartford Life and Annuity Account"), Hartford Life Insurance Company ("Hartford Life"), Hartford Life Insurance Company Separate Account Two ("Hartford Life Account"), PFL Life Insurance Company ("PPL") and PFL Retirement Builder Variable Annuity Account ("PFL Account", and together with Hartford Life and Annuity Account and Hartford Life Account, the "Accounts"), Mentor Variable Investment Portfolios and Evergreen Variable Annuity Trust.

FILING DATE: The application was filed on July 23, 1999 and amended on December 9, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested person may request a hearing on the application by writing to

the Secretary of the Commission and serving Applicants with a copy of the request personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 11, 2000, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants: Marianne O'Doherty, Counsel, Hartford Life and Annuity Insurance Company, Hartford Life Insurance Company, 200 Hopmeadow Street, Simsbury, Connecticut 06089; Frank A. Camp, PFL Life Insurance Company, 4333 Edgewood Road, NE., Cedar Rapids, Iowa 52499; Michael H. Koonce, Mentor Variable Investment Portfolios, Evergreen Variable Annuity Trust, 200 Berkeley Street, Boston, Massachusetts 02116. Copies to Robert N. Hickey, Sullivan & Worcester LL, 1025 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management at (202) 942-0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20542-0102 (tel. (202) 942-8090).

Applicants' Representations

1. Hartford Life and Annuity is a stock life insurance company incorporated in Connecticut. Hartford Life and Annuity is engaged in the business of writing individual and group life insurance and annuity contracts in the District of Columbia and all states except New York. Hartford Life and Annuity is the depositor and sponsor of the Hartford Life and Annuity Account. Hartford Life and Annuity is ultimately controlled by Hartford Financial Services Group, Inc.

2. Hartford Life is a stock life insurance company incorporated in Connecticut. Hartford Life is engaged in the business of writing individual and group life insurance and annuity contracts in the District of Columbia and all states. Hartford Life is the depositor

and sponsor of the Hartford Life Account. Hartford Life is ultimately controlled by Hartford Financial Services Group, Inc.

3. PFL is a stock life insurance company incorporated in Iowa. PFL is principally engaged in the sale of life insurance and annuity policies in the District of Columbia, Guam, and all states except New York. PFL is the depositor and sponsor of the PFL Account. PFL is a wholly-owned indirect subsidiary of AEGON USA, Inc., which in turn is indirectly owned by AEGON, N.V.

4. The Hartford Life and Annuity Account is registered under the Act as a unit investment trust (File No. 811-7426). The assets of the Hartford Life and Annuity Account support certain Contracts, and interests in the Hartford Life and Annuity Account offered through such Contracts have been registered under the Securities Act of 1933 ("1933 Act") on Form N-4 (File No. 333-69487). The Hartford Life and Annuity Account currently has eighteen subaccounts. Each subaccount invests exclusively in shares representing an interest in a separate corresponding investment portfolio ("Fund") of one of two series-type management investment companies ("Management Companies") and twelve separate management investment companies. One of these Management Companies is Mentor Trust.

5. The Hartford Life Account is registered under the Act as a unit investment trust (File No. 811-4732). The assets of the Hartford Life Account support certain Contracts, and interests in the Hartford Life Account offered through such Contracts have been registered under the 1933 Act on Form N-4 (File No. 333-69485). The Hartford Life Account currently has eighteen subaccounts. Each sub-account invests exclusively in shares of a corresponding Fund of one of two Management Companies and twelve separate investment management companies. One of the Management Companies is Mentor Trust.

6. The PFL Account is registered under the Act as a unit investment trust (File No. 811-7689). The assets of the PFL Account support certain Contracts, and interests in the PFL Account offered through such policies have been registered under the 1933 Act on Form N-4 (File No. 333-7509). The PFL Account currently has sixty-two subaccounts. Each sub-account invests exclusively in shares of a corresponding Fund of one of thirteen Management Companies. Two of these Management Companies are Mentor Trust and Evergreen Trust.

7. Mentor Trust, a Massachusetts business trust, is registered under the Act as an open-end management investment company (File No. 811-8153). Mentor Trust comprises five Funds, four of which currently offer shares to the Hartford Life and Annuity Account and the Hartford Life Account and three of which currently offer shares to the PFL Account. Such Funds would be involved in the proposed substitutions. Mentor Trust issues a separate series of shares of beneficial interest in connection with each Fund. Those shares are registered under the 1993 Act on Form N-1A (File No. 333-23939). Mentor Investment Advisors, LLC ("Mentor Advisors") serves as the investment adviser to Mentor VIP Capital Growth Portfolio, Mentor VIP Growth Portfolio and Mentor VIP High Income Portfolio. Mentor Perpetual Advisors, LLC ("Mentor Perpetual") serves as the investment adviser to the Mentor VIP Perpetual International Portfolio.

8. Mentor Advisors is an indirect wholly-owned subsidiary of First Union Capital Markets Corp. First Union Capital Markets Corp. is a wholly-owned subsidiary of First Union Corporation ("First Union").

9. Mentor Perpetual is owned equally by Perpetual PLC and Mentor Advisors.

10. Mentor VIP Capital Growth Portfolio seeks capital growth and current income. Mentor VIP Growth Portfolio seeks long-term capital growth. Mentor VIP High Income Portfolio seeks high current income; capital growth is a secondary objective when consistent with the objective of seeking high current income. Mentor VIP Perpetual International Portfolio seeks long-term capital appreciation.

11. Evergreen Trust, a Delaware business trust, is registered under the Act as a diversified, open-end management investment company (File No. 811-8716). Evergreen Trust currently comprises fifteen Funds. Evergreen Trust issues a separate series of shares of beneficial interest in connection with each Fund and has registered these shares under the 1933 Act on Form N-1A (File No. 33-83100). Investment advisory affiliates of First Union serve as investment advisers to Evergreen Trust.

12. As part of the process of combining the Mentor fund family with the Evergreen fund family, Evergreen Trust has filed a post-effective amendment to its registration statement to register the shares of four new series: Evergreen VA Capital Growth Fund, Evergreen VA Growth Fund, Evergreen VA High Income Fund and Evergreen VA Perpetual International Fund. The

investment objective(s) and policies of each of these new series are substantially identical to those of the corresponding series of Mentor Trust. Mentor Advisors or Mentor Perpetual, as the case may be, is the investment adviser of each new Evergreen Trust series.

13. Mentor Advisors and Mentor Perpetual, as affiliates of First Union, have received an order from the Commission (the "Multi-Manager Order") that permits each investment adviser, or any entity controlling, controlled by, or under common control (within the meaning of Section 2(a)(9) of the Act) with Mentor Advisors or Mentor Perpetual, subject to certain conditions, including approval of the Board of Trustees of Evergreen Trust, and without the approval of shareholders to: (a) Employ a new sub-adviser or adviser for any portfolio pursuant to the terms of a new subadvisory agreement, in each case either as a replacement for an existing sub-adviser or as an additional sub-adviser; (b) change the terms of any sub-advisory agreement; and (c) continue the employment of an existing sub-adviser on the same contract terms where a contract has been assigned because of a change of control to the sub-advisers.¹ In such circumstances, contract owners would receive notice of any such action, including information concerning any new-subadviser that normally is provided in proxy materials.

14. The Contracts are flexible premium individual and group flexible premium deferred variable annuity contracts. The Contracts provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and provide for settlement or annuity payment options on a variable basis, fixed basis, or both. Under the Contracts issued by Hartford Life and Annuity and Hartford Life, a Contract owner or certificate owner (together, "Contract owner") may make

¹ See Evergreen Equity Trust, et al., Investment Company Act Rel. No. 23636 (January 8, 1999) (order) and Investment Company Act Rel. No. 23605 (December 16, 1998) (notice). Before any of the new Evergreen Trust Funds may rely on the Multi-Manager Order, the operation of such Fund as a multi-manager fund, as described in the application for the Multi-Manager Order, will be approved following the substitutions proposed in this application, by a majority of that Fund's outstanding voting securities in a manner consistent with an order received from the Commission granting exemptions from the Act to permit shares of Evergreen Trust to be offered to separate accounts of affiliated and unaffiliated insurance companies that offer either variable life insurance policies or annuity contracts. See Evergreen Variable Annuity Trust, et al., Investment Company Act Rel. No. 21806 (March 5, 1996) (order) and Investment Company Act Rel. No. 21734 (February 5, 1996) (notice.)

unlimited transfers of at least \$500 between the sub-accounts available under the Contract or the relevant insurance company's general account. Although there is no charge for transfers, Hartford Life and Annuity and Hartford Life each reserves the right to limit the number of such transfers to twelve per Contract year. Under the PFL Contracts, an unlimited amount of transfers of cash value can be made between the sub-accounts available under the Contracts without the imposition of a transfer charge. Transfers are subject to a minimum amount of the lesser of \$500 or the entire sub-account value. All of the PFL Contracts reserve to PFL the right to restrict transfers, or to charge up to \$10 for any transfer in excess of twelve per Contract year.

15. Except with respect to Mentor Perpetual, the investment advisers to the Funds comprising the Evergreen Trust and Mentor Trust are, or are in the process of becoming, wholly-owned subsidiaries of First Union. Mentor Perpetual is owned 50% by an unaffiliated person and 50% by a subsidiary of First Union. First Union has determined to consolidate the fund operations of Mentor Advisors and Mentor Perpetual with those of its other affiliates. In connection with this consolidation, it has been determined that the First Union mutual fund organization needs only one Management Company as an investment vehicle for variable life insurance and variable annuity contracts and that Evergreen Trust, rather than Mentor Trust, should be that vehicle. As a result, Mentor Trust will be terminated and will therefore be unable to continue to offer its shares to the Accounts.

16. Under the Contracts, Hartford Life and Annuity, Hartford Life and PFL reserve the right to substitute shares of one Fund for shares of another, including a Fund of a different Management Company. The prospectuses for the Contracts issued through Hartford Life and Annuity and Hartford Life, and the Statement of Additional Information for the Contracts issued through PFL, disclose this right.

17. Hartford Life and Annuity, Hartford Life and PFL propose, as applicable, to substitute shares of Evergreen Trust's Evergreen VA Capital Growth Fund for shares of Mentor Trust's Mentor VIP Capital Growth Portfolio, shares of Evergreen Trust's Evergreen VA Growth Fund for shares of Mentor Trust's Mentor VIP Growth Portfolio, shares of Evergreen Trust's Evergreen VA High Income Fund for shares of Mentor Trust's VIP High Income Portfolio and shares of

Evergreen Trust's Evergreen Perpetual International Fund for shares of Mentor Trust's Mentor VIP Perpetual International Portfolio. Hartford Life and Annuity, Hartford Life and PFL propose to carry out the substitutions by redeeming shares issued by the Mentor Trust Funds in kind and using the redemption proceeds to purchase shares issued by the counterpart Evergreen Trust Funds.

18. With respect to the proposed substitutions, Applicants assert that in anticipation of Mentor Trust's termination, Evergreen Trust has established four new investment portfolios, the Evergreen VA Capital Growth Fund, Evergreen VA Growth Fund, Evergreen VA High Income Fund and Evergreen VA Perpetual International Fund. Each of these Funds has been designated as a replacement for its Mentor Trust counterpart. As such, each has an investment objective (or objectives) that is virtually or substantially identical to that of its Mentor Trust counterpart and pursues such objective(s) using substantially identical investment policies. The effect of the foregoing four proposed substitutions would be to "transfer" these Mentor Trust Funds intact to the Evergreen Trust. Each of the new Evergreen Trust Funds will be advised by the same investment adviser which provided investment advisory services to the former Funds comprising Mentor Trust. Mentor Advisors and Mentor Perpetual have informed the Applicants that the contractual advisory fees for each of the new Evergreen Trust Funds will be the same percentage of assets as that for its Mentor Trust Fund counterpart.

19. For the fiscal year ended December 31, 1998, the total operating expenses of each of the Mentor Trust Funds, after waivers and reimbursements, were as follows: Mentor VIP Capital Growth Portfolio, 1.05%; Mentor VIP Growth Portfolio, .97%; Mentor VIP Perpetual International Portfolio, 1.60%. Mentor VIP High Income Portfolio commenced operations on June 30, 1999 and its expenses for the fiscal year ended December 31, 1999, after waivers and reimbursements are estimated to be 1.00%. Without waivers and reimbursements, for the fiscal year ended December 31, 1998, the total operating expenses of each of the Mentor Trust Funds were as follows: Mentor VIP Capital Growth, 1.36%; Mentor VIP Growth Portfolio, 1.77%; Mentor VIP Perpetual International Portfolio, 2.79%. Without waivers and reimbursements, the total annual operating expenses of Mentor VIP High

Income Portfolio are estimated to be 1.77% for the fiscal year ended December 31, 1999.

20. Without waivers and reimbursements, for the fiscal year ended December 31, 2000, the total operating expenses of each of the Evergreen Trust Funds are anticipated to be as follows: Evergreen VA Capital Growth Fund, 1.14%; Evergreen VA Growth Fund, 1.04%; Evergreen VA Perpetual International Fund, 1.45%; and Evergreen VA High Income Fund, 1.31%.

21. Applicants state that each investment adviser has undertaken to waive its management fee and/or reimburse expenses for the counterpart Evergreen Trust Fund during the Fund's first year of operations to the extent necessary to limit the Fund's total expenses for the fiscal year ended December 31, 2000, to the amounts set forth above (after waivers and reimbursements) for the fiscal year ended December 1998 for the Mentor VIP Capital Growth Portfolio, Mentor VIP Growth Portfolio and Mentor VIP Perpetual International Portfolio and, in the case of the counterpart to the Mentor VIP High Income Portfolio, 1.00%.

22. By supplements to the various prospectuses for the Contracts and the Accounts, Hartford Life and Annuity, Hartford Life and PFL will each notify all owners of the Contracts of its intention to take the necessary actions, including seeking the order requested by the application, to substitute shares of the Funds as described herein. The prospectus supplements for the Accounts will advise Contract owners that from the date of the supplement until the date of the proposed substitution, owners are permitted to make one transfer of all amounts under a Contract invested in any one of the affected sub-accounts to another sub-account available under a Contract other than one of the other affected sub-accounts without that transfer counting as a "free" transfer permitted under a Contract. The supplements will also inform Contract owners that Hartford Life and Annuity, Hartford Life and PFL will not exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the proposed substitution.

23. Before the date of the proposed substitutions, affected Contract owners will also be provided with a prospectus for the Evergreen VA Capital Growth, Evergreen VA Growth, Evergreen VA High Income and Evergreen VA Perpetual International Funds. Thus, any owner affected by the substitutions will have received prospectus disclosure for the Evergreen VA Capital

Growth, Evergreen VA Growth, Evergreen VA High Income and Evergreen VA Perpetual International Funds in advance of the proposed substitutions.

24. On the date of the proposed substitutions, shares of each Mentor Trust Fund held by the Accounts will be redeemed by Hartford Life and Annuity, Hartford Life and PFL, as applicable. The proceeds of such redemptions, which to the extent practical will be effected substantially in-kind, will then be used to purchase the appropriate number of shares of each counterpart Evergreen Trust Fund. The Accounts will redeem all of their shares of the Mentor Trust Funds. Each Mentor Trust Fund will transfer the redemption proceeds (securities and cash) to the Evergreen Trust, and shares of each Evergreen Trust Fund, as the case may be, of equal value will be issued to the Accounts. The purpose of transferring assets in-kind is to avoid commission expenses.

25. The proposed substitutions will take place at relative net asset value with no change in the amount of any Contract owner's cash value or death benefit or in the dollar value of his or her investment in any of the Accounts. Contract owners will not incur any fees or charges as a result of the substitutions, or will their rights or Hartford Life and Annuity's, Hartford Life's or PFL's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitutions, including legal, accounting and other fees and expenses, will be paid by First Union or one of its advisory affiliates. In addition, the proposed substitutions will not impose any tax liability on Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the substitutions. The proposed substitutions will not be treated as a transfer for the purpose of assessing transfer charges or for determining the number of remaining permissible transfers in a Contract year. Neither Hartford Life and Annuity, Hartford Life nor PFL will exercise any right it may have under the Contracts to impose additional restrictions on transfers under any of the Contracts for a period of at least 30 days following the proposed substitutions.

26. In addition to the prospectus supplements distributed to owners of Contracts, within five days after the proposed substitutions, any Contract owners who were affected by the proposed substitutions will be sent a

written notice informing them that the proposed substitutions were carried out and that they may transfer all Contract value or cash value under a Contract invested in each of the affected sub-accounts to other available sub-account(s). The notice will also reiterate the fact that neither Hartford Life and Annuity, Hartford Life nor PFL will exercise any rights reserved by it under the Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. The notice as delivered in certain states may also explain that, under the insurance regulations in those states, Contract owners who are affected by the substitutions may exchange their Contracts for fixed-benefit life insurance contracts or annuity contracts issued by Hartford Life and Annuity, Hartford Life or PFL (or one of the affiliates) during the 60 days following the proposed substitutions. The notices will be accompanied by current prospectuses for Evergreen Trust.

Applicants' Legal Analysis

1. Section 26(b) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to obtain Commission approval before substituting the securities held by the trust. Specifically, Section 26(b) states: It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.

2. Applicants state that the proposed substitutions appear to involve substitutions of securities within the meaning of Section 26(b) of the Act and request that the Commission issue an order pursuant to Section 26(b) of the Act approving the proposed substitutions.

3. The Contracts expressly reserve for Hartford Life and Annuity, Hartford Life and PFL the right, subject to Commission approval, to substitute shares of another Management Company for shares of a Management Company held by a subaccount of the Accounts. Applicants assert that the statements of additional information and prospectuses for the Contracts and the Accounts contain appropriate disclosure of this right.

4. Applicants request an order of the Commission pursuant to Section 26(b) of the Act approving the proposed substitutions by Hartford Life and Annuity, Hartford Life and PFL. Applicants assert that the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants assert that in the cases of the proposed substitution of shares of Evergreen Trust's Evergreen VA Capital Growth Fund, Evergreen VA Growth Fund, Evergreen VA High Income Fund and Evergreen VA Perpetual International Fund for shares of Mentor Trust's VIP Capital Growth Portfolio, Mentor VIP Growth Portfolio, Mentor VIP High Income Portfolio and Mentor VIP Perpetual International Portfolio, respectively, the Mentor Trust Funds would be replaced by essentially the same Fund under a different name. As noted above, Evergreen Trust has established four new Funds to mirror the current investment objectives and policies of each of the Mentor Trust Funds. Not only will the investment objectives, investment adviser, portfolio managers and fees of each of the new Evergreen Trust Funds be identical to those of the replaced counterpart mentor Trust Fund, but also, following the in-kind redemption and purchase procedure described herein, the investment securities held by each new Evergreen Trust Fund on the substitution date will be substantially similar in composition to those held by the counterpart Mentor Trust Fund on the previous business day.

6. Applicants assert that they anticipate that Contract owners will be at least as well off with the array of sub-accounts offered after the proposed substitutions as they have been with the array of sub-accounts offered prior to the substitutions. Applicants assert that the proposed substitutions retain for Contract owners the investment flexibility which is a central feature of the Contracts. If the proposed substitutions are carried out, all Contract owners will be permitted to allocate purchase payments and transfer Contract values and cash values between and among the same number of sub-accounts as they could before the proposed substitutions.

7. Applicants assert that each of the proposed substitutions is not the type of substitution which Section 26(b) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide that

each Contract owner has the right to exercise his or her own judgment and transfer Contract or cash value into other sub-accounts. Moreover, the Contracts will offer Contract owners the opportunity to transfer amounts out of the affected sub-accounts into any of the remaining sub-accounts without cost or other disadvantage. Applicants assert that the proposed substitutions, therefore, will not result in the type of costly forced redemption which Section 26(b) was designed to prevent.

8. Section 17(a)(1) of the Act prohibits any affiliated person, or an affiliate of an affiliated person, of a registered investment company from selling any security or other property to such registered investment company. Section 17(a)(2) of the Act prohibits such affiliated persons from purchasing any security or other property from such registered investment company.

9. Section 17(b) of the Act authorizes the Commission to issue an order exempting any transaction from the prohibitions of Section 17(a) if: (a) The terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

10. Mentor Trust, Evergreen Trust, Hartford Life and Annuity, Hartford Life and Annuity Account, Hartford Life and Hartford Life Account (the "Section 17 Applicants") request an order pursuant to Section 17(b) of the Act exempting them, Mentor Trust and Evergreen Trust from the provisions of Section 17(a) to the extent necessary to permit Hartford Life and Annuity and Hartford Life to carry out the proposed substitutions.

11. The Section 17 Applicants assert that the terms of the proposed substitutions by Hartford Life and Annuity and Hartford Life including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Section 17 Applicants also assert that the proposed substitutions by Hartford Life and Annuity and Hartford Life are consistent with the policies of: (1) Mentor trust and of its Mentor VIP Capital Growth Portfolio, Mentor VIP Growth Portfolio, Mentor VIP High Income Portfolio and Mentor VIP Perpetual International Portfolio; and (2) Evergreen Trust and of its Evergreen VA Capital Growth Fund, Evergreen VA Growth Fund, Evergreen VA High Income Fund and Evergreen VA Perpetual International Fund, as recited in the current registered

statements and reports filed by each under the Act. Finally, the Section 17 Applicants submit that the proposed substitutions are consistent with the general purposes of the Act.

12. The boards of trustees of Mentor Trust and Evergreen Trust have adopted procedures, as required by paragraph (e)(1) of Rule 17a-7, pursuant to which the Funds of each may purchase and sell securities to and from their affiliates. Hartford Life and Annuity, Hartford Life, Mentor Trust and Evergreen Trust will carry out the proposed Hartford Life and Annuity and Hartford Life substitutions in conformity with all of the conditions of Rule 17a-7 and each Trust's procedures thereunder, except that the consideration paid for the securities being purchased or sold may not be entirely cash. The Section 17 Applicants also state that the transactions will conform substantially with the conditions enumerated in Rule 17a-7. The Section 17 Applicants assert that to the extent that the proposed transactions do not comply fully with all of the conditions of Rule 17a-7 and each Trust's procedures thereunder, the circumstances surrounding the proposed substitutions will be such as to offer the same degree of protection to each Fund of Mentor Trust and the affected Funds of Evergreen Trust from overreaching that Rule 17a-7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business.

13. The Section 17 Applicants assert that because of the circumstances surrounding the proposed Hartford Life and Annuity and Hartford Life substitutions, Mentor Trust could not "dump" undesirable securities on Evergreen Trust or have their desirable securities transferred to other advisory client of First Union and its advisory affiliates or to Funds other than those in Evergreen Trust supporting the Accounts. Nor can Hartford Life and Annuity and Hartford Life (or any of their affiliates) effect the purpose transactions at a price that is disadvantageous to any Mentor Trust Fund or Evergreen Trust Fund. Although the transactions may not be entirely for cash, each will be effected based upon: (a) The independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a-7; and (b) the net asset value per share of each Fund involved valued in accordance with the procedures disclosed in the respective Trust's registration statement and as required by Rule 22c-1 under the Act. The Section 17 Applicants assert that no

brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed transactions. In addition, the Section 17 Applicants assert that the boards of trustees of each Trust will subsequently review and proposed substitutions and make the determinations required by paragraph (e)(3) of Rule 17a-7.

14. The Section 17 Applicants assert that the proposed transactions are consistent with the general purposes of the Act and that the proposed transactions do not present any of the conditions or abuses that the Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons summarized above, the proposed substitutions are consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-33341 Filed 12-22-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27115]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

December 16, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 10, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with