

SECURITIES AND EXCHANGE COMMISSION

[Rule 489 and Form F-N, SEC File No. 270-361, OMB Control No. 3235-0411; Form 24F-2, SEC File No. 270-399, OMB Control No. 3235-0456]

**Submission for OMB Review;
Comment Request: Upon Written
Request, Copies Available From:
Securities and Exchange Commission,
Office of Filings and Information
Services, Washington, DC 20549**

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("Act") [44 U.S.C. 3501 *et seq.*], the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collections of information discussed below.

Rule 489 under the Securities Act of 1933 [17 CFR 230.489] requires foreign banks and foreign insurance companies and holding companies and finance subsidiaries of foreign banks and foreign insurance companies that are excepted from the definition of "investment company" by virtue of Rules 3a-1, 3a-5, and 3a-6 under the Investment Company Act of 1940 to file Form F-N to appoint an agent for service of process in the United States when making a public offering of securities. Approximately seven entities are required by Rule 489 to file Form F-N, which is estimated to require an average of one hour to complete. The estimated annual burden of complying with the rule's filing requirement is approximately eight hours, as one of the entities has submitted multiple filings.

Under 17 CFR 270.24f-2, any open-end management companies ("mutual funds"), unit investment trusts ("UITs") or face-amount certificate companies (collectively, "funds") that are deemed to have registered an indefinite amount of securities must, not later than 90 days after the end of any fiscal year in which it has publicly offered such securities, file Form 24F-2 with the Commission. Form 24F-2 is the annual notice of securities sold by funds that accompanies the payment of registration fees with respect to the securities sold during the fiscal year.

The Commission estimates that 8,203 funds file Form 24F-2 on the required annual basis. The average annual burden per respondent for Form 24F-2 is estimated to be one hour. The total annual burden for all respondents to Form 24F-2 is estimated to be 8,203 hours.

Compliance with the collection of information required by Form 24F-2 is

mandatory. The Form 24F-2 filing that must be made to the Commission is available to the public.

The estimates of average burden hours are made solely for the purposes of the Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. 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.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 16, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-16204 Filed 6-26-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-24505/File No. 812-12012]

Massachusetts Mutual Life Insurance Company, et al.

June 20, 2000.

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

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940, as amended (the "1940 Act"), approving substitutions of underlying fund shares (the "Substitutions").

SUMMARY OF APPLICATION: Applicants request an order approving the proposed substitutions of the Oppenheimer Multiple Strategies Fund/VA of the Oppenheimer Variable Account Funds (the "Multiple Strategies Fund"), the Oppenheimer Main Street Growth & Income Fund/VA of the Oppenheimer Variable Account Funds (the "Main Street Fund"), and the MML Blend Fund of the MML Series Investment Fund (the "MML Blend Fund," and together with the Multiple Strategies Fund and the Main Street Fund, the

"Replacement Portfolios") for shares of the Panorama LifeSpan Balanced Portfolio (the "Balanced Portfolio"), Panorama LifeSpan Capital Appreciation Portfolio (the "Capital Appreciation Portfolio"), and Panorama LifeSpan Diversified Income Portfolio (the "Diversified Income Portfolio," and together with the Balanced Portfolio and the Capital Appreciation Portfolio, the "Eliminated Portfolios"), respectively. With respect to one of the contracts funded by MassMutual Variable Life Separate Account I, the Multiple Strategies Fund, instead of the MML Blend Fund, will be substituted for the Diversified Income Portfolio. Each of the Eliminated Portfolios is a portfolio of the Panorama Series Fund, Inc.

Applicants: Massachusetts Mutual Life Insurance Company ("MassMutual"), C.M. Life Insurance Company ("CM Life," and together with MassMutual, the "Insurance Companies"), MML Distributors, LLC ("MML Distributors"), MML Investors Services, Inc. ("MML Services"), Massachusetts Mutual Variable Annuity Separate Account 4 ("MassMutual Account 4"), Massachusetts Mutual Variable Life Separate Account I ("MassMutual Account I"), C.M. Multi-Account A ("CM Account A"), and C.M. Life Variable Life Separate Account I ("CM Account I," and together with MassMutual Account 4, MassMutual Account I and CM Account A, the "Accounts," the Accounts, together with the Insurance Companies, MML Distributors and MML Services, the "Applicants").

FILING DATES: The application was filed on March 3, 2000, and amended and restated on May 15, 2000.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by 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 July 17, 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, N.W., Washington, D.C. 20549-0609.

Applicants: c/o Massachusetts Mutual Life Insurance Company, 1295 State Street, Springfield, MA 01111-0001, Attn: James M. Rodolakis, Esq.

FOR FURTHER INFORMATION CONTACT: Lisa Deitch, Senior Counsel, or Keith E. Carpenter, 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 is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549-0102 (tel. (202) 942-8090).

Applicants' Representations

1. MassMutual is a mutual life insurance company established under the laws of Massachusetts on May 14, 1851. MassMutual's home office is located in Springfield Massachusetts. MassMutual is currently licensed to transact life, accident, and health insurance in all states, the District of Columbia, Puerto Rico, and certain provinces of Canada.

2. CM Life is a stock life insurance company organized in Connecticut on April 25, 1980. CM Life's home office is located in Hartford, Connecticut. CM Life is primarily engaged in the sale of life insurance and annuities and is licensed in all states except New York. CM Life is a wholly-owned subsidiary of MassMutual.

3. MassMutual Account 4 was established as a separate account under Massachusetts law on July 9, 1997, pursuant to a resolution of the Board of Directors of MassMutual. MassMutual Account 4 is registered with the Commission as a unit investment trust ("UIT") under the 1940 Act. MassMutual Account 4 funds certain variable annuity contracts that are issued by MassMutual (the "MassMutual VA Contracts"). MassMutual Account 4 is divided into 41 "Subaccounts," each of which invests in a different investment portfolio ("Portfolio") of one of fourteen underlying mutual funds: Calvert Variable Series, Inc., INVESCO Variable Investment Funds, Inc., Panorama Series Fund, Inc. ("Panorama Fund"), Oppenheimer Variable Account Funds ("Oppenheimer Funds"), Fidelity Variable Insurance Products Fund ("Fidelity VIP"), Fidelity Variable Insurance Products Fund II ("Fidelity VIP II"), Fidelity Variable Insurance Products Fund III ("Fidelity VIP III"), American Century Variable Portfolios, Inc., T. Rowe Price Equity Series, Inc. ("T. Rowe Price Fund"), MML Series

Investment Fund ("MML Series Fund"), Janus Aspen Series, Franklin Templeton Variable Insurance Products,¹ Deutsche Asset Manager Management VIT Funds,² and MFS Variable Insurance Trust ("MFS Trust").

4. MassMutual Account I was established as a separate account under Massachusetts law on July 13, 1988, pursuant to a resolution of the Board of Directors of MassMutual. MassMutual Account I is registered with the Commission as a UIT under the 1940 Act. MassMutual has established designated segments of MassMutual Account I to fund certain variable life insurance policies (the "Variable Life Contracts") and variable riders to certain fixed life insurance policies (the "Variable Rider Contracts") that are issued by MassMutual. The designated segment of MassMutual Account I funding the Variable Life Contracts is divided into 28 "Divisions," each of which invests in a different investment Portfolio of one of six underlying mutual funds: MML Series Fund, Panorama Fund, MFS Trust, T. Rowe Price Fund, Oppenheimer Funds, and Goldman Sachs Variable Insurance Trust. The designated segment of MassMutual Account I funding the Variable Rider Contracts is divided into 26 Divisions, each of which invests in a different investment Portfolio of one of six underlying mutual funds: MML Series Fund, Panorama Fund, MFS Trust, Fidelity VIP II, Oppenheimer Funds, and T. Rowe Price Fund.

5. CM Account A was established as a separate account under Connecticut law on August 3, 1994, pursuant to a resolution of the Board of Directors of CM Life. CM Account A is registered with the Commission as a UIT under the 1940 Act. CM Account A funds certain variable annuity contracts that are issued by CM Life (the "CMVA Contracts"). CM Account A is divided into 41 Subaccounts, each of which invests in a different investment Portfolio of one of fourteen underlying mutual funds. The fourteen underlying funds and their corresponding Portfolios are identical to those available under MassMutual Account 4.

6. CM Account I was established as a separate account under Connecticut law on February 2, 1995, by the Board of Directors of CM Life. CM Account I is registered with the Commission as a UIT under the 1940 Act. CM Account I funds certain variable life insurance policies that are issued by CM Life (the "CMVUL

Contracts," together with the MassMutual VA Contracts, Variable Life Contracts, Variable Rider Contracts, and CMVA Contracts, the "Contracts"). CM Account I is divided into 10 Subaccounts, each of which invests in a different investment Portfolio of one of four underlying mutual funds: Panorama Fund, Oppenheimer Funds, Fidelity VIP, and Fidelity VIP II.

7. The Accounts fund the respective variable benefits under the Contracts issued by the Insurance Companies. Units of interest in the Accounts under the Contracts are registered under the Securities Act of 1933, as amended (the "1933 Act"). The assets of each Account are held separately from other assets of the respective Insurance Companies and are not chargeable with the Insurance Companies' liabilities incurred in any other business operations. Accordingly, the income, capital gains, and capital losses incurred on the assets of each Account are credited to or charged against the assets of that Account, without regard to the income, capital gains or capital losses arising out of any other business the respective Insurance Company may conduct.

8. MML Distributors, a Connecticut limited liability company, serves as the principal underwriter for the Contracts. MML Services, a Massachusetts corporation, also serves as co-underwriter for the Contracts. Both MML Distributors and MML Services are wholly-owned subsidiaries of MassMutual, are registered with the Commission as broker-dealers, and are members of the National Association of Securities Dealers, Inc.

9. The MassMutual VA Contracts are group, flexible premium, combination fixed and variable annuity contracts. The MassMutual VA Contracts are sold without an initial sales load, but have a contingent deferred sales charge of up to 7% for any withdrawals made during the first seven contract years that exceed the free withdrawal amount. The MassMutual VA Contracts' variable investment options consist of 41 Portfolios.

10. The Variable Life Contracts are individual, flexible premium, combination fixed and variable whole life insurance contracts that are offered by MassMutual. The Variable Life Contracts have a front-end sales load of up to 18% of specified premiums paid through policy year five and up to 6% of specified premiums paid through policy year 6 or more, depending on when the policies are installed on the administration system. The Variable Life Contracts' variable investment options consist of 28 Portfolios.

¹ Prior to May 1, 2000, this fund was called the Templeton Variable Products Series Fund.

² Prior to May 1, 2000, this fund was called the BT Insurance Funds Trust.

11. The Variable Rider Contracts are issued in connection with group, flexible premium, adjustable life insurance policies that are offered by MassMutual. The Variable Rider Contracts' variable investment options consist of 26 Portfolios.

12. The CMVA Contracts are individual, flexible premium, combination fixed and variable annuity contracts. The sales load and variable investment options of the CMVA Contracts are identical to those of the MassMutual VA Contracts discussed earlier.

13. The CMVUL Contracts are individual, flexible premium, combination fixed and variable universal life insurance policies. The CMVUL Contracts have a premium charge that is applied to premium payments received during the first seven policy years after issue or the effective date of an increase in the specified amount (the amount of insurance coverage applied for). The maximum premium charge applied in a policy year will be 6% of premiums received during that policy year, up to the annual target premium (that varies by insured's age, underwriting class, and tobacco status) for the policy. The CMVUL Contracts' variable investment options consist of 10 Portfolios.

14. The Balanced Portfolio, the Capital Appreciation Portfolio, and the Diversified Income Portfolio (collectively, the "Eliminated Portfolio") of the Panorama Fund are currently investment options under each of the Contracts. The Panorama Fund is an open-end management investment company. Shares of the Panorama Fund are sold only as underlying investments for variable life insurance policies and variable annuity contracts issued by MassMutual or CM Life. OppenheimerFunds, Inc. ("OFI") is the investment adviser to the Panorama Fund.

15. Applicants state that the Eliminated Portfolios are asset allocation Portfolios that seek their objectives by allocating their assets between two asset classes—stocks and bonds. The stock class includes all types of equity securities, such as common stocks, preferred stocks, warrants and other securities convertible into common stocks. The bond class includes a variety of debt securities, such as long-term and short-term corporate and government debt securities, mortgage-related obligations, and notes.

16. Applicants represent that the investment objective of the Balanced Portfolio is to seek a blend of capital appreciation and income. It allocates its

investments among stocks (predominantly in common stocks and other equity securities) and bonds (corporate and government bonds, including high-yield bonds), with a slightly stronger emphasis on stocks. Applicants also represent that the expense ratio of the Balanced Portfolio for the last three years was as follows: 1999: 0.91% (management fee of 0.85% and other expenses of 0.06%); 1998: 0.93% (management fee of 0.85% and other expenses of 0.08%); and 1997: 0.97% (management fee of 0.085% and other expenses of 0.12%). As of December 31, 1999, the Balanced Portfolio had approximately \$97 million in assets, of which approximately \$41.1 million represented Contract owner money, with the balance being seed money MassMutual provided.

17. Applicants represent that the investment objective of the Capital Appreciation Portfolio is to seek long-term capital appreciation; current income is not a primary consideration. It emphasizes investments in domestic and foreign common stocks, as well as some preferred stocks and other equity securities, but also holds some corporate bonds and notes, U.S. Government securities, and lower-grade high-yield securities. Applicants also represent that the expense ratio of the Capital Appreciation Portfolio for the last three years was as follows: 1999: 0.93% (management fee of 0.85% and other expenses of 0.08%); 1998: 0.93% (management fee of 0.85% and other expenses of 0.08%); and 1997: 0.99% (management fee of 0.85% and other expenses of 0.14%). As of December 31, 1999, the Capital Appreciation Portfolio had approximately \$81 million in assets, of which approximately \$35 million represented Contract owner money, with the balance being seed money MassMutual provided.

18. Applicants represent that the investment objective of the Diversified Income Portfolio is to seek high current income, with opportunities for capital appreciation. It emphasizes investments in bonds, such as U.S. Government securities, mortgage-related and asset-backed securities, and corporate bonds, including high-yield bonds, but holds some common stocks. Applicants further represent that the expense ratio of the Diversified Income Portfolio for the last three years was as follows: 1999: 0.83% (management fee of 0.75% and other expenses of 0.08%); 1998: 0.84% (management fee of 0.75% and other expenses of 0.09%); and 1997: 0.84% (management fee of 0.75% and other expenses of 0.09%). As of December 31, 1999, the Diversified Income Portfolio had approximately \$46 million in

assets, of which \$20 million represented Contract owner money, with the balance being seed money MassMutual provided.

19. The MML Blend Fund, a separate series of the MML Series Fund, is currently an investment option under the Mass Mutual VA Contracts, Variable Life Contracts, and the CMVA Contracts, and is the proposed substitute portfolio for the Diversified Income Portfolio. The MML Series Fund is a no-load, open-end investment management company. Applicants state that shares of the MML Series Fund are sold only as underlying investments for variable life insurance policies and variable annuity contracts issued by Mass Mutual, CM Life, or another MassMutual wholly-owned subsidiary, MML Bay State Life Insurance Company. MassMutual serves as the investment adviser to the MML Series Fund. Applicants also state that the investment objective of the MML Blend Fund is to seek a high total rate of return over an extended period of time, consistent with prudent investment risk and capital preservation, by investing in equity, fixed income, and money market securities. The expense ratio of the MML Blend Fund for the last three years was as follows: 1999: 0.38% (management fee of 0.37% and other expenses of 0.01%); 1998: 0.37% (management fee of 0.37% and other expenses of 0.00%); and 1997: 0.38% (management fee of 0.38% and other expenses of 0.00%). As of December 31, 1999, the MML Blend Fund had approximately \$2.73 billion in assets.

20. The Main Street Fund and the Multiple Strategies Fund (together with the Main Street Fund and the MML Blend Fund, the "Replacement Portfolios") are separate series of the Oppenheimer Funds, an open-end diversified management in investment company. The Main Street Fund is an investment option under the MassMutual VA Contracts, Variable Life Contracts, Variable Rider Contracts, and CMVA Contracts. The Multiple Strategies Fund is an investment option under the Variable Life Contracts and the Variable Rider Contracts, and as of May 1, 2000, is an investment option under the MassMutual VA Contracts and the CMVA Contracts. OFI is the investment adviser to the Oppenheimer Funds.

21. Applicants represent that the investment objective of the Main Street Fund is to seek a high total return, which includes growth in the value of its shares as well as current income, from investments in mostly common stocks and other equity securities and some debt securities. Applicants also

represent that the expense ratio of the Main Street Fund for the last three years was as follows: 1999: 0.78% (management fee of 0.73% and other expenses of 0.05%); 1998: 0.79% (management fee of 0.74% and other expenses of 0.05%); and 1997: 0.83% (management fee of 0.75% and other expenses of 0.08%). As of December 31, 1999, the Main Street Fund had approximately \$555 million in assets.

22. Applicants state that the investment objective of the Multiple Strategies Fund is to seek total return, which includes current income and capital appreciation in the value of its shares. It emphasizes allocation of its investments among common stocks and other equity securities, bonds and other debt securities, and money market securities. Applicants further state that the expense ratio of the Multiple Strategies Fund for the last three years was as follows: 1999: 0.73% (management fee of 0.72% and other expenses of 0.01%); 1998: 0.76%

(management fee of 0.72% and other expenses of 0.04%); and 1997: 0.75% (management fee of 0.72% and other expenses of 0.03%). As of December 31, 1999, the Multiple Strategies Fund had approximately \$580 million in assets.

23. Applicants propose to exercise their rights to substitute the Replacement Portfolios for the Eliminated Portfolios as follows: (i) the substitution of units of the Divisions of Subaccounts investing in the MML Blend Fund for units of the Divisions or Subaccounts investing in the Diversified Income Portfolio (except that, with respect to MassMutual's Variable Rider Contracts funded by MassMutual Account I, the Diversified Income Portfolio will be substituted with the Multiple Strategies Fund instead of the MML Blend Fund in order to maintain an even mix of MassMutual funds and outside funds); (ii) the substitution of units of the Divisions or Subaccounts investing in the Multiple Strategies Fund for units of the Divisions or

Subaccounts investing in the Balanced Portfolio; and (iii) the substitution of units of the Divisions or Subaccounts investing in the Main Street Fund for units of the Divisions or Subaccounts investing in the Capital Appreciation Portfolio. To the extent required by applicable law, substitutions of shares attributable to a Subaccount will not be made unless affected contract owners have been notified of the change and until the Commission has approved the change.

24. Applicants represent that the Eliminated Portfolios were established in 1995 to satisfy a perceived need for asset allocation funds. Applicants also represent that these Portfolios have not attracted a large amount of interest from the Insurance Companies' variable Contract owners, and that the Insurance Companies have no reason to believe Contract owner interest will adequately increase. Much of the assets that reside within these Portfolios consist of seed money.

Fund name	Assets at December 31, 1999	Percentage seed money
Balanced Portfolio	\$96,660,173.27	57.5
Capital Appreciation Portfolio	80,792,123.80	56.2
Diversified Income Portfolio	46,046,958.44	57.4

Applicants further represent that, as a result, there are not enough assets in the Eliminated Portfolios to provide the portfolio management flexibility and diversification, which benefit Contract owners. Applicants also represent that the performance returns for these Portfolios have been fair at best, and the Portfolio fees have been relatively high. While there is still a demand for asset allocation, Applicants believe that this need can be satisfied best with guidance on how to properly allocate assets among the existing investment options offered by each Contract rather than by offering stand-alone asset allocation Portfolios.

25. Applicants believe the Substitutions will benefit Contract owners by replacing the Eliminated Portfolios with Replacement Portfolios having comparable investment objectives and policies and generally better historical performance returns, and which the Applicants believe are more likely to provide Contract owners with favorable investment performance in the future.³ Applicants state that, in

addition, the Substitutions will benefit Contract owners because the Replacement Portfolios have lower expense ratios than the Eliminated Portfolios.

26. Applicants represent that each Substitution will take place at the relative accumulation unit values determined on the date of the Substitution in accordance with Section 22 of the Act and Rule 22c-1 thereunder. Accordingly, there will be no immediate financial impact on any Contract owner as a result of the Substitutions. Applicants also represent that each Substitution will be effected by having each Division or Subaccount that invests in the Eliminated Portfolio redeem its shares of the Eliminated Portfolio at the net asset value calculated on the date of the Substitutions. The Insurance Companies would then cancel the accumulation units of that Division of Subaccount credited to the Contracts and credit (in an equal dollar amount) units of the Divisions or Subaccounts that invest in the Replacement Portfolio. The Insurance Companies would use the proceeds of its redemption of shares of

because of its lower expense ratio and larger asset base.

the Eliminated Portfolio to purchase shares of the Replacement Portfolio.

27. Applicants represent that the Insurance Companies will schedule the Substitutions to occur as soon as practicable following the issuance of an order by the Commission granting the relief requested in the application. Applicants further represent that, by way of sticker, the prospectuses will disclose the proposed Substitutions for several months prior to that date. Applicants also represent that the stickers will inform existing Contract owners that no additional amounts may be allocated to the Subaccounts that invest in the Eliminated Portfolios on or after the date of the Substitutions. The stickers also will inform affected Contract owners that they will have an opportunity to reallocate accumulation value prior to the Substitutions, from the Subaccounts investing in the Eliminated Portfolios, or for 30 days after the Substitutions, from the Subaccounts investing in the Replacement Portfolios, to Subaccounts investing in other Portfolios under the Contracts, without the imposition of any transfer charge. Applicants also represent that such a transfer will not count against the number of free transfers permitted under the Contract. Applicants also represents that, after the

³ Applicants state that, although the Balanced Portfolio in the past year (but not since inception) has had better historical performance returns than the Multiple Strategies Fund, they believe the Multiple Strategies Fund is more attractive fund

order is issued, a second notification will be provided to all affected Contract owners again advising them of the pending Substitutions and of their ability to transfer free of charge to the remaining investment Divisions or Subaccounts of their choice, or remain in the Eliminated Portfolios until the automatic Substitutions on that date. Applicants also state that within five days after the Substitutions, the Insurance Companies will send affected Contract owners written confirmation that the Substitutions have occurred.

28. Applicants represent that the Insurance Companies will pay all expenses and transactions costs of the Substitutions; none will be borne by Contract owners. Applicants also represent that affected Contract owners will not incur any fees or charges as a result of the Substitutions, nor will their rights or the obligations of the Insurance Companies under the Contracts be altered in any way. Applicants further represent that the Substitutions will not cause the fees and charges under the Contracts currently being paid by Contract owners to be greater after the Substitutions than before the Substitutions. Applicants also represent that the Substitutions, will have no adverse tax consequences to Contract owners and will in no way alter the tax benefits to Contract owners.

29. Applicants believe that their request satisfies the standards for relief of Section 26(b), as set forth below, because: (i) each Substitution involves Portfolios with similar investment objectives; (ii) after each Substitution, affected Contract owners will be invested in a Replacement Portfolio whose actual performance has been better on a historical basis than that of the Eliminated Portfolio; and (iii) after each Substitution, affected Contract owners will be invested in a Replacement Portfolio whose expenses have been less, and are expected to continue to be less on an estimated basis, than those of the Eliminated Portfolio.

Applicant's Analysis of Law

1. Section 26(b) of the 1940 Act makes it unlawful for any depositor or trustee of a registered UIT holding the security of a single issuer to substitute another security for such security unless the Commission approves the substitution. The Commission will approve such a 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 the 1940 Act.

2. Section 26(b) of the 1940 Act was enacted as part of the Investment

Company Act Amendments of 1970 ("1970 Amendments"). Prior to the enactment of the 1970 Amendments, Section 26(a)(4)(b) of the Act only required that the trust instrument of a UIT provide that the sponsor or trustee notify the trust's shareholders within five (5) days after a substitution of the underlying securities. The legislative history of Section 26(b) describes the underlying purpose of the amendment to the section: "The proposed amendment recognizes that in the case of a unit investment trust holding the securities of a single issuer notification to shareholders does not provide adequate protection since the only relief available to the shareholders, if dissatisfied, would be to redeem their shares. A shareholder who redeems and reinvests the proceeds in another unit investment trust or in an open-end company would under most circumstances be subject to a new sales load. The proposed amendment would close this gap in shareholder protection by providing for Commission approval of the substitution. The Commission would be required to issue an order approving the substitution if it finds the substitution consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act."

3. The legislative history makes clear that the purpose of Section 26(b) is to protect the expectation of investors in a UIT that the UIT will accumulate shares of a particular issuer by preventing scrutinized unsubstitutions which might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial premium payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Moreover, in the issuance product context, a Contract owner forced to redeem may suffer adverse tax consequences. Section 26(b) affords protection to investors by preventing a depositor or trustee of a UIT holding the shares of one issuer from substituting for those shares of another issuer, unless the Commission approves that substitution.

4. Applicants submit that the purposes, terms and conditions of the Substitutions are consistent with the principles and purposes of Section 26(b) and do not entail any of the abuses that Section 26(b) is designed to prevent. Applicants assert that substitution is an appropriate solution to the unfavorable performance, on a relative basis, and higher relative expenses of the Portfolios to be eliminated. Applicants believe that the Replacement Portfolios

will better serve Contract owner interests because the Portfolios' performance returns have been better than the performance of, and their expenses have been lower than the expenses of, the corresponding Eliminated Portfolios. Applicants also submit that the Commission has routinely approved substitutions of this type.

5. Applicants maintain that the Substitutions will not result in the type of costly forced redemption that Section 26(b) was intended to guard against and, for the following reasons, are consistent with the protection of investors and the purposes fairly intended by the Act: (i) Each Substitute Portfolio has investment objectives that are similar to those of the corresponding Eliminated Portfolio, and permits Contract owners continuity of their investment objectives and expectations; (ii) the costs of the Substitutions, including any brokerage costs, will be borne by the Insurance Companies and will not be borne by Contract owners and no charges will be assessed to effect the Substitutions; (iii) the Substitutions will, in all cases, be at net asset values of the respective units, without the imposition of any transfer or similar charge and with no change in the amount of any Contract owner's accumulation value; (iv) the Substitutions will not cause the fees and charges under the Contracts currently being paid by Contract owners to be greater after the Substitutions than before the Substitutions; (v) the Contract owners will be given notice prior to the Substitutions and will have an opportunity to reallocate accumulation values among other available Divisions or Subaccounts without the imposition of any transfer charge or limitation, or the transfer counting against any limit on the number of permitted or charge-free transfers during a year; (vi) within five days after the Substitutions, the Insurance Companies will send to affected Contract owners written confirmation that the Substitutions have occurred; (vii) the Substitutions will in no way alter the insurance benefits to Contract owners or the contractual obligations of the Insurance Companies; and (viii) the Substitutions will have no adverse tax consequences to Contract owners and will in no way alter the tax benefits to Contract owners.

Conclusion

Applicants request an order of the Commission pursuant to Section 26(b) of the 1940 Act approving the proposed Substitutions. Section 26(b), in pertinent part, provides that the Commission shall issue an order approving a substitution of securities if

the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. For the reasons and upon the facts set forth above, applicants state that the requested order meets the standards set forth in Section 26(b) and should, therefore, be granted.

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

Jonathan G. Katz,
Secretary.

[FR Doc. 00-16147 Filed 6-26-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42966; File No. SR-Amex-00-03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Reporting of Options Transactions

June 20, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 22, 2000, the American Stock Exchange LLC ("Amex" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change relating to the reporting of options transactions. The Amex filed Amendment 1 to this proposal on June 12, 2000.³ The proposed rule change, as amended, is described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange has filed with the Commission a proposed rule change adopting a new rule, Amex Rule 992, to require the reporting of options transactions within 90 seconds. The text

of the proposed rule change, as amended, is set forth below. Additions are in italics.

Trade Reporting Rules

Section 9. Miscellaneous Provisions Applicable to Options

Rule 992.

(a) *A member or member organization initiating an options transaction, whether acting as principal or agent, must report or ensure the transaction is reported within 90 seconds of the execution to the Amex Options Market Data System for dissemination to the Options Price Reporting Authority.*

(b) *Transactions not reported within 90 seconds after execution shall be designated as late. A pattern or practice of late reporting without exception circumstances may be considered conduct inconsistent with just and equitable principles of trade.*

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

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

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

1. Purpose

The Exchange proposes to adopt a new rule, Amex Rule 992, to require options transactions reporting within 90 seconds. The Amex represents that it is Exchange policy that any member initiating an options transaction on the floor of the Exchange, whether acting as principal or agent, must ensure that the trade is properly reported or "printed on the tape."⁴

The reporting of options transactions is currently handled by the Amex Options Display Book ("AODB").⁵ The

AODB handles the execution processing of orders routed to it both electronically and manually. Orders routed electronically are either executed automatically by the Exchange's Auto-Ex system or executed by the specialist through the AODB. These options transactions are immediately reported to the Amex Option Market Data System, which processes all Amex trades, and the Options Price Reporting Authority, which disseminates trade information to the Amex's members and the investing public through vendors. Orders manually routed to the Exchange through a floor broker and executed in the trading crowd are reported to the specialist or his clerk for entry into the AODB and processed in the same manner as electronically routed and executed trades.⁶

Although Amex estimates that 60-70% of options transactions are electronically routed and executed orders that are immediately reported and printed on the tape, the Exchange believes that the adoption of a specific options trade reporting rule is appropriate, particularly for those orders routed and executed manually. Under the proposed rule, transactions not reported within 90 seconds after execution will be designated as late. Patterns or practices of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade.⁷

2. Statutory Purpose

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general and furthers the objectives of Section 6(b)(5),⁹ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

upon what was once a paper-based specialist's book.

⁶ An example of such a trade is one that does not include either the specialist or a customer limit order as a party to the trade.

⁷ In Amendment No. 1, the Amex clarified that a failure to report a single options transaction within 90 seconds would be considered a violation of the proposed options rule. See Amendment No. 1, *supra* note 3.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Claire P. McGrath, Vice President and Special Counsel, Derivative Securities, Amex to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated June 9, 2000. ("Amendment No. 1"). In Amendment No. 1, the Exchange clarified the proposed rule text and confirmed that a member's failure to report an options transaction within 90 seconds would be considered a violation of proposed Amex Rule 992.

⁴ The Exchange represents that this is currently an informal policy of the Exchange, which Amex is seeking to codify by adopting Amex Rule 992, as proposed in this filing. Voice Mail Message from Scott G. Van Hatten, Legal Counsel, Derivative Securities, Amex, to Melinda R. Diller, Attorney, Division, Commission, on March 28, 2000.

⁵ According to the Exchange, the AODB is an electronic order book and execution-processing system that was adopted to replace and improve