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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 232, 239, and 274

[Release No. 33-11250; 34-98624; IC-35028; File No. S7-16-23]

RIN: 3235-AN30

Registration for Index-Linked Annuities; Amendments to Form N-4 for Index-Linked and Variable Annuities

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing rule and form amendments to provide a tailored form to register the offerings of registered index-linked annuities ("RILAs"). Specifically, the Commission is proposing to amend the form currently used by most variable annuity separate accounts, Form N-4, to require issuers of RILAs to register offerings on that form as well. To facilitate this amendment, the Commission is also proposing to amend certain filing rules and make other related amendments. These changes would, if adopted, implement the requirements relating to RILAs contained in Division AA, Title I of the Consolidated Appropriations Act, 2023. Further, the Commission is proposing other amendments to Form N-4 that would apply to all issuers that would use that form under the proposal. The Commission is also proposing to apply to RILA advertisements and sales literature a current Commission rule that provides guidance as to when sales literature is materially misleading under the Federal securities laws. The Commission is proposing a technical amendment to Form N-6 to correct an error from a prior Commission rulemaking. Finally, the

Commission requests comment as to whether to require the registration of market-value adjustments associated with certain annuities on Form N-4 as well.

DATES: Comments should be submitted on or before November 28, 2023.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (https://www.sec.gov/rules/2023/09/rila); or
- Send an email to rule-comments@sec.gov. Please include File Number S7-16-23 on the subject line.

Paper Comments:

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-16-23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's website (https://www.sec.gov/rules/2023/09/rila). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission's public reference room. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright

protection. Retail investors seeking to comment on their experiences with annuities generally and RILAs in particular may want to submit a short Feedback Flyer, available at Appendix D.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the "Stay Connected" option at www.sec.gov to receive notifications by email.

A summary of the proposal of not more than 100 words is posted on the Commission's website (https://www.sec.gov/rules/2023/09/rila).

FOR FURTHER INFORMATION CONTACT: Christian Corkery, Michael Khalil, Rachael Hoffman, James Maclean, Amy Miller, or Laura Harper Powell, Senior Counsels; Bradley Gude, Branch Chief; Amanda Hollander Wagner, Senior Special Counsel; or Brian McLaughlin Johnson, Assistant Director, Investment Company Regulation Office, at (202) 551-6792; Elisabeth Bentzinger or Min Oh, Senior Counsels; Michael Kosoff, Senior Special Counsel, Disclosure Review and Accounting Office, at (202) 551-6921, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-8549.

SUPPLEMENTARY INFORMATION: The Commission is proposing amendments to the following rules and forms:

Commission Reference	CFR Citation (17 CFR)
Securities Act of 1933 ("Securities Act")[1]	
Rule 156	§230.156
Rule 172	§230.172
Rule 405	§230.405

[1] 15 U.S.C. 77a *et seq*.

Commission Reference	CFR Citation (17 CFR)
Rule 415	§230.415
Rule 424	§230.424
Rule 456	§230.456
Rule 457	§230.457
Rule 485	§230.485
Rule 497	§230.497
Rule 498A	§230.498A
Regulation S-T	
Rule 313 of Regulation S-T	§232.313
Rule 405 of Regulation S-T	§232.405
Forms	
Form N-4	§239.17b and 274.11c
Form N-6	§239.17c and 274.11d
Form 24F-2	§239.66 and §274.24

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I. INTRODUCTION AND BACKGROUND

An annuity contract ("annuity" or "contract") is a type of insurance product in which an investor makes a lump-sum payment or a series of payments in return for future payments from the insurance company to meet retirement and other long-term financial goals. A RILA is one of several types of annuity contracts offered by insurance companies. An investor in a RILA allocates purchase payments to one or more investment options under which the investor's returns (both gains and losses) are based at least in part on the performance of an index or other

benchmark (collectively, "indexes"), over a set period of time ("crediting period").[2] In some cases, insurance companies offer RILAs on a standalone basis with various index-linked investment options ("index-linked options") for investors to choose from. In other cases, insurance companies offer "combination" annuity contracts that provide index-linked options together with other investment options, such as mutual funds ("portfolio companies") offered as investment options under a variable annuity ("variable options").[3] An investor purchasing a combination contract, for example, may have the ability to allocate purchase payments under the contract to index-linked options; variable options that pass on the returns of mutual funds selected by the investor; and/or fixed account options for which the insurance company promises to pay a fixed and stated minimum rate of interest. The market for RILAs has grown significantly in recent years, with annual RILA sales of $41.1 billion in 2022 alone, more than

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[2] Insurance companies frequently refer to crediting periods as "investment terms" or sometimes simply "terms." *See, e.g.*, Investor Testing Report on Registered Index Linked Annuities, Office of Investor Advocate Division ("OIAD Report") at Section 2, RILAs: Structure of Contracts and Investment Options, Investment Terms. As noted in OIAD's report, investor testing suggested that investors consistently struggled with this terminology, and a number of participants seemed to equate "investment term" or "term" with the length of the insurance contract rather than the length of the investment product options within the RILA contract, leading them to misunderstand the operation of the RILA. *Id.* at Section 5, Qualitative Testing, Results from Round 1. In an effort to mitigate that confusion, we have opted to use the term crediting period in this release and in the proposed amendments to Form N-4. The most common crediting periods are one, three, and six years. *See id.* at Section 3, Overview of the RILA Market and Simulated Performance over Historical Periods, RILA Indexes, Investment Terms, and Insurance Features, Figure 2.

[3] Variable annuity contracts and variable life insurance contracts (together, "variable contracts") combine both investment and insurance features. Investors generally allocate their purchase payments to a range of investment options, typically mutual funds which are separately registered and have their own prospectuses. The investor's account value changes depending on the performance of the investment options selected. Variable annuities allow investors to receive periodic payments for either a definite period (*e.g.*, 20 years), or for an indefinite period (*e.g.*, the life of the investor). *See* Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts, Investment Company Act Release No. 33814 (Mar. 11, 2020) [85 FR 25964 (May 1, 2020)] ("VASP Adopting Release") at nn.4-5 *and* n.8 and accompanying text.

tripling since 2017.[4] We understand that RILAs are predominantly sold by broker-dealers, although investment advisers may also provide advice on RILAs, and insurance companies also may offer RILAs directly.

RILAs are securities for purposes of the Securities Act of 1933 ("Securities Act").[5] Unlike variable annuity contracts for which the Commission has adopted a specific registration form tailored to those products, insurance companies currently register offerings of RILAs on Securities Act registration Forms S-1 or S-3.[6] In 2022, Congress enacted Division AA, Title I of the Consolidated Appropriations Act, 2023 ("RILA Act"), directing the Commission to adopt a new registration form for RILAs within 18 months of enactment.[7] The RILA Act requires the

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4 *See* LIMRA, "LIMRA: Record Annuity Sales in 2022 Expected to Continue Into First Quarter 2023," news release, Mar. 8, 2023 (reporting 2022 RILA sales of $41.1 billion), https://www.limra.com/en/newsroom/news-releases/2023/limra-record-annuity-sales-in-2022-expected-to-continue-into-first-quarter-2023/ and LIMRA, "LIMRA Secure Retirement Institute: Total Annuity Sales Continued to Decline in 2017," news release, Feb. 21, 2018 (reporting 2017 sales of structured annuity products, *i.e.*, RILAs, of $9.2 billion), https://www.limra.com/en/newsroom/news-releases/2018/limra-secure-retirement-institute-total-annuity-sales-continued-to-decline-in-2017/.

5 Depending on the context, "RILA" is also used in this release to collectively refer to both stand-alone RILAs and the index-linked options available in a combination contract. When referring to the entity registering the RILA, we use the term "RILA issuer" or "insurance company." Index annuities that meet the requirements of section 989J of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203) or section 3(a)(8) of the Securities Act are treated as exempt securities for purposes of the Securities Act, but RILAs do not fall within this exemption due, in large part, to the shifting of a significant level of investment risk from the RILA issuer to the investor. RILAs and index-linked option, as used in this release, refer only to those index annuities that are securities for the purposes of the Securities Act. *See, e.g.,* sections 101(a)(5) and (6) of Division AA, Title I of the Consolidated Appropriations Act, 2023.

6 The registration forms for variable annuity contracts are Form N-3 (for variable annuity separate accounts structured as management companies) and Form N-4 (for variable annuity separate accounts structured as unit investment trusts). The separate account established by the sponsoring insurance company is the legal entity that registers its securities. Separate accounts are typically registered as investment companies under the Investment Company Act. *See* section 2(a)(37) of the Investment Company Act. The Commission first adopted the registration form for variable annuities over 30 years ago. *See* Registration Forms for Insurance Company Separate Accounts that Offer Variable Annuity Contracts, Investment Company Act Release No. 14575 (June 14, 1985) [50 FR 26145] (June 25, 1985)]. In this release, we focus only on Form N-4, and not Form N-3, because Form N-4 is the registration form identified in the RILA Act and the form used to register the majority of variable annuity contracts.

7 Pub. L. 117-328; 136 Stat. 4459 (Dec. 29, 2022).

Commission to design the form to ensure that a purchaser using the form receives the information necessary to make knowledgeable decisions, taking into account (1) the availability of information; (2) the knowledge and sophistication of that class of purchasers; (3) the complexity of the RILA; and (4) any other factor the Commission determines appropriate. The RILA Act also requires the Commission to engage in investor testing as part of its rulemaking process and to incorporate the results of the testing in the design of the form, with the goal of ensuring that key information is conveyed in terms that a purchaser is able to understand. If the Commission fails to adopt the form within 18 months of enactment, the RILA Act provides that RILA issuers can begin registering RILA offerings on existing Form N-4.

We are proposing to amend Form N-4 to require RILA issuers to register RILA offerings, including associated features of the RILA such as any contract adjustments, on that form and to tailor the form's requirements accordingly.[8] We also are proposing to amend other rules related to the securities offering process to allow these issuers to conduct RILA offerings in the same way issuers conduct offerings of variable annuities. Consistent with the RILA Act, these proposed amendments collectively are designed to provide investors disclosures tailored to RILAs and highlight key information about these complex products, building on the Commission's layered disclosure framework in place for variable annuities. We are also proposing certain amendments to Form N-4 that would apply to offerings of variable annuities, based on our experience with the form since its last amendment and the investor testing

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[8] Under this proposal, the amended Form N-4 will not register the RILA issuers themselves, only the offering of RILA securities. Unlike separate accounts which register variable annuities, RILA issuers are not investment companies, and thus need not register with the Commission as an investment company as separate accounts do.

conducted in connection with this rulemaking.[9] In addition, we are proposing to apply a current Commission rule that provides guidance as to when sales literature is materially misleading under the Federal securities laws to RILA advertisements and sales literature. Finally, we are proposing a technical amendment to Form N-6 to correct an error from a prior Commission rulemaking.

A. Typical RILA Features

RILAs are complex financial products that are sold to retail investors. The following are some of the most prevalent features that contribute to this complexity, and that might make it challenging for an investor to assess the features, risks, and possible return profile of a RILA. These features also are important ones for financial professionals to consider when recommending that an investor purchase a RILA.

- Bounded Return Structure. Under a RILA, the insurance company will credit positive or negative "interest" to the investor's contract value at the end of each crediting period. The amount credited is based, in part, on the performance of the specified index (*e.g.*, the S&P 500).[10] The amount of any positive interest credited will also depend on whether the contract includes provisions such as a "cap rate" or "participation rate." A cap rate places an upper limit on an investor's ability to participate in the index's upside performance directly (*e.g.*, with a current cap rate of 5%, if the index is up 10% at the end of the crediting period, the investor's contract value will be credited with only 5% positive interest). A "participation rate" sets an

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9 *See* VASP Adopting Release.

10 Insurance companies typically choose indexes for the RILA contract where any gains in the value of the index do not include dividends paid on the securities that make up the index.

investor's return to some specified percentage of the index's return (*e.g.*, an 80% participation rate would result in an investor receiving positive interest of 80 cents on the dollar of gains in the index). The contract generally will include one of these limits on how much the insurance company will credit the investor if the performance of the index goes up in value by the end of the crediting period (collectively "limits on gains"). Similarly, the contract generally will include terms limiting the investor's losses to some extent if the performance of the index goes down in value. This might include a "buffer" (which limits the investor's exposure to losses up to a fixed percentage), or a "floor" (which places a lower limit on the investor's exposure to loss) (collectively "limits on losses"). For example, with a "buffer" of -5%, if the index is down 2%, that investor will not lose anything, but if the index is down 7% the investor will lose 2% (the difference between the loss and the buffer rate). With a "floor" of -5%, if the index is down 2%, the investor will lose 2%, but if the index is down 7%, the investor will only lose 5%. These limits can be complex and overlapping, and may change at the beginning of each new crediting period, subject to certain minimum guarantees stated in the contract. Over time, the investor's contract value will increase or decrease, depending on the performance of the index and the particular contract provisions (such as the bounded return structure). Despite the bounded return structure, a RILA is not necessarily a low-risk investment product as the investor could lose a significant amount of money if the index performs poorly.

- Fees and Expenses. For many RILAs, the investor pays no direct or explicit ongoing fees and expenses under the RILA, and this is sometimes a feature disclosed in RILA marketing materials. However, the RILA's bounded return structure requires

investors to agree to tradeoffs that come with their own economic costs. In exchange for some protection against losses if the index goes down in value, investors must also agree to contractual provisions limiting the amount of gains they will receive if the index goes up in value. A RILA's upside limits on gains can reduce an investor's return in the same way that a direct fee can and can help make the RILA more profitable to the insurance company.

- Charges and Penalties for Early Withdrawals. Investors also can lose significant money if they withdraw their money early from an investment option or from the contract. This can arise in several circumstances. First, a RILA typically will specify a period of time during which a "surrender charge" will apply, for example nine years following an investor's last premium payment. Typically, this charge is greatest in the first year of the surrender period, decreasing each year until the end of the surrender period. An investor who withdraws money during this period will pay a fee, such as 9% of the amount withdrawn. Second, an insurance company may make an adjustment, either to the investor's contract value or to the amount paid to the investor, if amounts are withdrawn from an index-linked option before the end of its crediting period or from the contract before the end of a specified period. For example, when an investor in a RILA chooses a particular index-linked option, the RILA may provide that the index-linked option's crediting period is one year. If amounts are removed from that index-linked option before the end of this one-year crediting period, typically for any reason, the insurance company will apply an "interim value adjustment" or "IVA." The IVA will adjust the contract value based, generally, on a complex formula where the IVA may change daily and can be positive

or negative.[11] As a result, the investor could lose a significant amount of money, even if the index has a gain at the time of the withdrawal.

Similarly, the insurance company might apply a positive or negative "market value adjustment" or "MVA" (collectively with IVAs, a "contract adjustment") to the contract value if the investor partially or fully withdraws amounts from the contract. Contract adjustments could be made in response to a number of contract transactions, such as a surrender, withdrawal, payment of the death benefit, or the start of annuity payments, and an investor could experience a negative contract adjustment even when the investor takes an otherwise permissible withdrawal, such as under a guaranteed living benefit.[12] These adjustments can also negatively impact other values under the contract, such as the surrender value and death benefit. Moreover, these fees and adjustments are not always mutually exclusive. Indeed, under the terms of certain RILA contracts, an investor could experience a decrease in contract value from a negative interim value adjustment *and* a negative market value adjustment, depending on the timing of the withdrawal, and *also* pay a surrender charge. An investor may

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[11] Common methods of calculating this adjustment include prorating the crediting method based on the number of days that have elapsed since the start of the crediting period, employing a market-based formula designed to approximate the present value of the index and/or employing interest-rate-based MVAs to offset certain insurer losses and costs, or some combination of these two. *See* Clifford E. Kirsch, Variable Annuities and Other Insurance Investment Products (Third Edition 2022) at 29-8, *available at* https://plus.pli.edu/Details/Details?start=0&rows=50&fq=%7e2B%7etitle_id%7e3A282B22%7e240085%7e2229%7e&fq=%7e2B%7eid%7e3A282B22%7e240085-CH29%7e2229%7e&sort=s_date+desc&origin=title.

[12] *Id.* at 29-13. Under these benefits, RILA investors are permitted to take a certain amount of guaranteed withdrawals from their contract each year without reducing the value of guaranteed withdrawals for future years. These can be a standard feature or an optional rider chosen by an investor. *Id.* at 29-12.

also be subject to income taxes and face a Federal income tax penalty if the investor withdraws money before a certain age.[13]

- Changes by Insurer. Crediting periods for an index-linked option in a RILA contract generally range from one to six years. The insurance company may change or remove key features of index-linked options, such as the cap rates, floors, or even change the index. These changes may often be made at the insurance company's discretion and renewal provisions can and do change over time. Also, RILA contracts typically state that an investor will be automatically renewed at the end of a crediting period into the same or substantially similar index-linked option, often with a new limit on gains. If the same index-linked option is unavailable, the terms of the contract generally provide that the insurance company may place the investor into a more conservative investment option as a default, such as a fixed account or an index-linked option with a 0% floor.
- Taxes. Special tax rules generally apply to RILAs and other annuities, with both tax advantages and potential adverse tax impacts in certain circumstances. For example, assets within a RILA generally grow tax-deferred. As discussed above, however, investors may face a Federal income tax penalty if money is withdrawn before the investor reaches a certain age.[14]

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13 *See* Updated Investor Bulletin: Indexed Annuities, SEC's Office of Investor Education and Advocacy, July 31, 2020, https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_indexedannuities. Staff reports and other staff documents (including those cited herein) represent the views of Commission staff and are not a rule, regulation, or statement of the Commission. The Commission has neither approved nor disapproved the content of these documents and, like all staff statements, they have no legal force or effect, do not alter or amend applicable law, and create no new or additional obligations for any person.

14 For these and other reasons, insurance companies generally advertise RILAs as a long-term investment. This is similar to the treatment of variable annuities. *See* VASP Adopting Release at n.14 and accompanying text.

Providing investors with key information is particularly important in the context of RILAs, since their features are typically complex and their risks may not be apparent or easily understood by prospective investors absent clear disclosure. Form N-4's existing disclosure requirements regarding features of annuities would complement the proposed RILA-specific disclosures, such that the amended Form N-4 would provide investors with key information both about the annuity contract and the associated registered index-linked or variable investment options.

B. Current Registration Process

The current requirements for issuers offering RILAs and variable annuities differ in many respects, both in terms of the disclosure issuers must provide, and with respect to the registration process. We highlight here some of these key differences.

On required disclosure, because the Commission currently does not have a specific registration form for RILAs, insurance companies register the offerings of RILAs on Forms S-1 or S-3.[15] Although specific disclosure requirements apply for certain securities such as capital stock or debt, the forms' disclosure requirements are not specifically tailored to particular kinds of securities given the wide range of securities offerings that can be registered on the forms.[16] Forms S-1 and S-3 thus do not include specific line-item requirements addressing disclosures about RILAs and their complex features, such as how limits on gains operate or the application of contract adjustments. These forms also require issuers to disclose information about the

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15 *See, e.g.,* General Instruction I of Form S-1 ("This Form shall be used for the registration under the Securities Act of 1933 ('Securities Act'); of securities of all registrants for which no other form is authorized or prescribed").

16 *See* Item 9 of Forms S-1 and S-3 and 17 CFR 229.202 (providing specific disclosure requirements for certain securities such as capital stock, debt, warrants or rights, and directing issuers of other types of securities to include a brief description that is comparable to that required for the specified kinds of securities).

offering itself as well as extensive information about the registrant issuing the securities that may be less material to a RILA investor than information about the contract's features. Required information about the registrant includes, for example, management's discussion and analysis of financial condition and results of operations ("MD&A"), which requires a narrative discussion of the registrant's financial statements, and disclosure about executive compensation. Domestic registrants also must include financial statements prepared in accordance with U.S. generally accepted accounting principles ("GAAP").[17]

Most variable annuities, in contrast, are registered on Form N-4.[18] This form is designed for variable annuities and has disclosure requirements tailored to these investments. Providing investors with key information in a reader-friendly format is particularly important in the context of variable annuity contracts because their structure is complex. Accordingly, Form N-4's disclosure requirements are designed to provide investors with key information relating to a variable contract's provisions, benefits, and risks in a concise and reader-friendly presentation, along with targeted information about the insurance company and the offering. Form N-4's disclosure requirements thus focus more on the specific features of variable annuities than on the issuing insurance company. This presentation is designed to highlight the most important information for an investor in a variable annuity, so that the only matters included in the prospectus are those for which there is a substantial likelihood that a reasonable investor would

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17 *See* 17 CFR 210.4-01(a)(1) (stating that financial statements filed with the Commission which are not prepared in accordance with GAAP will be presumed to be misleading or inaccurate unless the Commission has otherwise provided). *See also infra* footnote 20.

18 According to Form N-CEN filings received through March 23, 2023, there were 419 variable annuity separate accounts registered as unit investment trusts ("UITs") in 2022.

consider them important in deciding whether to invest.[19] This focus on the provisions of the variable contract itself, rather than certain details about the operation of the insurance company, reflects that a variable annuity contract is not a direct investment in the capital stock or debt of the insurance company, but rather a contract with the insurance company under which the investor's exposure to the insurance company generally is limited to the company's ability to honor any guarantees associated with the contract. In addition, rule 498A together with Form N-4 implements a layered disclosure approach for variable annuities by permitting insurance companies and others to use a summary prospectus framework for variable annuities while making the more-detailed statutory prospectus, as well as the contract's statement of additional information ("SAI"), available online. Form N-4 also provides a limited exception for insurance companies to file financial statements prepared in accordance with statutory accounting principles ("SAP"), referred to as "statutory requirements" in the form instructions, rather than GAAP. Specifically, insurance companies, which act as the depositors of variable annuity separate accounts registered on Form N-4, may use SAP financials solely when the insurance company does not otherwise prepare GAAP financial statements or GAAP financial information

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[19] The Commission has long sought to tailor disclosures for annuity products. *See* Registration Forms for Insurance Company Separate Accounts, Investment Company Act Release No. 13689 (Dec. 23, 1983) [49 FR 614 (Jan. 5, 1984)] ("Form[] N-4 would permit shorter and simpler prospectuses than are required under current practice,... by incorporating many of the reduced disclosure requirements of Form N-1A. Separate account disclosure requirements that experience has shown are unnecessary also would be eliminated, as well as certain disclosure requirements that are holdovers from the requirements applicable to non-separate account unit investment trust."); Registration Form Used By Open-End Management Investment Companies, Investment Company Act Release No. 12927 (Dec. 27, 1982) [48 FR 813 (Jan. 7, 1983)] ("In order to shorten and simplify the prospectus for mutual funds, the Commission has concluded that it is necessary to eliminate certain types of information from the prospectus, so that only matters of fundamental importance to most mutual fund investors will be included in the prospectus").

for use by a parent in the parent's Securities Exchange Act of 1934 ("Exchange Act") reports or the parent's registration statements filed under the Securities Act.[20]

With respect to the registration process, insurance companies registering an offering of RILA securities are required under the Securities Act to pay a registration fee to the Commission at the time of filing a registration statement.[21] This means that they pay registration fees at the time they register the offer and sale of the securities, regardless of when (or if) they sell them. The registration statement for the RILA offering also must include current financial information, including any annual update required by section 10(a)(3) of the Securities Act.[22] An insurance company registering a RILA offering on Form S-1 must provide any section 10(a)(3) update to

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20 *See, e.g.*, Instruction 1 to Item 31(b) in Form N-3 and Instruction 1 to Item 26(b) in Form N-4. In addition, although Form S-1 requires GAAP financial statements, exemptions have been granted pursuant to 17 CFR 210.3-13 that permit insurance companies to substitute SAP financials in lieu of GAAP financials when registering RILAs on Form S-1 in circumstances permitted by Form N-4. *See, e.g.*, Letter from Jenson Wayne, Chief Accountant, Division of Investment Management, to Stephen E. Roth, Eversheds Sutherland (US) LLP, regarding Fidelity & Guaranty Life Insurance Company and Fidelity & Guaranty Life Insurance Company of New York (Mar. 17, 2023) (available at https://www.sec.gov/files/fidelity-guaranty-031723.pdf) ("F&G Life Letter").

21 Section 6(b)(1) of the Securities Act [15 U.S.C. 77f(b)(1)]. Certain "well-known seasoned issuers" or "WKSIs" can use a different registration process than what is described here. *See generally* Securities Offering Reform, Investment Company Act Release No. 26993 (July 19, 2005) [70 FR 44722 (Aug. 3, 2005)] ("Offering Reform Release"). None of the insurance companies offering RILAs are WKSIs, however, and we generally do not anticipate that RILA issuers will meet the conditions to operate as a WKSI. We therefore do not generally discuss the WKSI registration process in this release. Even if a RILA issuer were to qualify as a WKSI, the Securities Act rules that provide a streamlined offering process for WKSIs generally would be inapplicable to RILA offerings on Form N-4, as proposed. For example, although a WKSI can file an automatic shelf registration statement, this would not be applicable under the proposal because Form N-4 does not permit a shelf registration statement and an automatic shelf registration statement must be filed on Forms S-3, F-3, or N-2. *See* rule 405 (definition of "automatic shelf registration statement"). As another example, WKSIs are permitted to use the "pay-as-you-go" method of paying securities registration fees, but the registration fees for RILA offerings would be paid annually in arrears under the proposal. *See* 17 CFR 230.456(b).

22 Section 10(a)(3) of the Securities Act provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information contained therein shall be as of a date not more than sixteen months prior to such use. 15 U.S.C. 77j.

the registration statement by filing a post-effective amendment which must be declared effective, typically by the staff acting pursuant to delegated authority.[23]

If the offering is registered on Form S-3, the insurance company's annual report on Form 10-K containing audited financial statements will operate as a post-effective amendment to the registration statement for purposes of section 10(a)(3).[24] The insurance company is required to provide a complete set of its financial statements, certain schedules, and executive compensation disclosures in a structured data format using Inline XRBL, but is not otherwise required to provide other information in the registration statement as structured data.[25] Insurance companies offering RILAs also are not required to deliver prospectuses to investors because they can rely on the Commission's "access equals delivery" framework in rule 172, although in practice we understand that insurance companies typically deliver prospectuses to accompany or precede other communications.

When an insurance company registers a variable annuity separate account on Form N-4, in contrast, it pays registration fees based on the net issuance of securities, no later than 90 days after each fiscal year end.[26] The insurance company can update its registration statement to include updated financial information required by section 10(a)(3) by filing an immediately effective post-effective amendment under rule 485. These provisions together are designed to allow insurance companies to efficiently conduct continuous offerings of variable annuities. The

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23 *See* Section 8(c) of the Securities Act [15 U.S.C. 77h(c)] and 17 CFR 230.462 ("rule 462").

24 An issuer filing a registration statement on Form S-3 will incorporate by reference information in reports under the Exchange Act filed after the registration statement has become effective, including the issuer's annual report on Form 10-K. Accordingly, certain information required to be included in the prospectus may be included directly in the prospectus or included in an Exchange Act report that is incorporated by reference into the prospectus.

25 *See* rule 405(b) of Regulation S-T.

26 *See* 17 CFR 270.24f-2 ("rule 24f-2").

insurance company also must structure certain key information in Inline XBRL to enhance the utility of that information to investors and must deliver a prospectus to investors because the "access equals delivery" framework in rule 172 is not available for variable annuities.

C. Evidence of Investor Views and Areas of Potential Confusion

Consistent with the RILA Act, the Commission received feedback on individuals' comprehension and views on RILA disclosure through investor testing. Specifically, we received feedback through qualitative investor testing interviews, as well as quantitative testing designed to assess whether the design of certain hypothetical RILA disclosure provided to participants affects their comprehension of the disclosed information. Each of these aspects of investor testing was designed by the Commission's Office of the Investor Advocate ("OIAD"). As described in more detail in section II.B below, this feedback helped us to identify areas of Form N-4 that we propose to amend to help ensure that a RILA purchaser receives key information that the purchaser is able to understand.

OIAD conducted two rounds of qualitative interviews with a mix of investors across demographic characteristics, locations, and levels of financial literacy who either already owned annuities or had expressed interest in investing in an annuity product.[27] These interviews aimed to generate hypotheses about certain content areas in RILA disclosure—specifically, disclosure that could appear in select rows of the "Key Information Table" (or "KIT") in RILA registration statements, as discussed below—that may cause confusion and lead to impediments to investor

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[27] OIAD's qualitative testing consisted of two rounds of in-depth hour-long interviews with twenty participants, using a semi-structured, open-ended format so that participants could express their reactions and beliefs, regardless of whether they are accurate, in order to assess the reasoning of a sampling of investors regarding RILA products, and their reactions to potential RILA disclosures. *See* OIAD Report at Section 5, Qualitative Testing, Methods.

understanding of key information.[28] These interviews concentrated on assessing: (1) potential RILA disclosure, focusing on a hypothetical KIT, for areas of confusion or misunderstanding; and (2) participants' mental models regarding the way RILA products function, including potential benefits, drawbacks, and risks of a RILA investment. The interviews also included hypothetical scenarios.[29]

Feedback from both rounds of qualitative interviews generally showed that the interview participants did not have much, if any, familiarity with RILAs. Furthermore, interviews in both rounds illustrated that many participants struggled to understand the details of the RILA contract presented in sample KIT disclosure.[30]

With regard to the first round specifically, participants indicated significant confusion about the features and fees associated with RILAs, and often cited certain specific terminology, such as "index option," "interim value adjustment," "buffer," and "investment term," as confusing to them.[31] For example, many participants mistakenly conflated "investment term" with the length of the entire insurance contract, leading them incorrectly to conclude that they could avoid any fees or charges if they liquidated their investment at the end of an initial one-year investment period.[32] Participants often did not appear to understand that there are multiple aspects of a typical RILA contract that could negatively affect an investor's contract value or the

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28 OIAD Report at Section 1, Introduction and Executive Summary.

29 *See* OIAD Report at Section 5, Qualitative Testing, Methods.

30 Several participants in Round 2 were "significantly more sophisticated than the average investor," with some having worked in a financial field or had over $1 million in retirement assets, and these participants also "struggled to correctly apply the concepts discussed in the KIT." OIAD Report at Section 5, Qualitative Testing, Results from Round 2.

31 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 1. As noted above, *supra* footnote 2, to alleviate the confusion generated by "investment term," we use the term "crediting period" in this release and in the proposed amendments to Form N-4.

32 *See, e.g.,* OIAD Report at Section 5, Qualitative Testing, Results from Round 1.

amounts an investor could withdraw from the contract (*e.g.*, the fact that a withdrawal could be subject to a surrender charge, interim value adjustment, and tax penalty).[33] Some participants expressed that a chart or graph would be useful to help them understand certain information presented about a RILA contract, such as surrender periods or how the contract's bounded return structure would function.[34] Additionally, some participants indicated they would need more specific information—besides the information in the hypothetical KIT rows shared with them—to evaluate the appropriateness of a RILA.[35]

While first-round interview participants may not have been able to understand RILA features and economic tradeoffs fully after reviewing sample KIT disclosure, some were able to identify certain potential drawbacks and explain certain aspects of RILA contracts following their review of this sample disclosure. This was demonstrated in participants' responses to sample scenarios, where the interview facilitator presented facts about a hypothetical investor's background, and participants were asked to provide their opinions about whether a RILA contract would be an appropriate investment option for those investors and discuss their reasoning. For instance, participants in the first-round interviews could generally identify that a RILA contract could present particular risks for individuals without a long time horizon.[36] On the other hand, as noted above, these participants often identified only a single charge or penalty

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33 *See* OIAD at Section 5, Qualitative Testing, Results from Round 1.

34 OIAD Report at Section 5, Qualitative Testing, Results from Round 1.

35 OIAD Report at Section 5, Qualitative Testing, Results from Round 1.

36 OIAD Report at Section 5, Qualitative Testing, Results from Round 1. However, OIAD's report also notes that in the second round of testing, many participants did not understand that RILAs are intended as a retirement savings vehicle, and that there may be tax penalties for withdrawal prior to age 59 ½. *See id.*, Results from Round 2. Similarly, only 12.6% of participants in the quantitative testing correctly identified that RILAs are investing vehicles that are intended purely as retirement savings vehicles. *Id.*, Section 6, Quantitative Testing, Results, Summary of Quantitative Testing.

that would apply even in scenarios where, for example, a surrender charge, early withdrawal tax penalty, and interim value adjustment might all apply.[37] Some participants were able to identify that a RILA contract could be appropriate for an individual in light of factors such as desire to protect against losses in the stock market, taking into account considerations such as age, investment time horizon, and other sources of liquid funds.[38] Some interview participants also demonstrated that they could use the KIT disclosure to discern quickly that they would *not* be interested in purchasing a RILA contract, for example because of liquidity needs or relatively short investment time horizons.[39]

Commission staff used this feedback to update sample KIT disclosure in between qualitative interview rounds. In particular, in the second round, sample KITs were modified to include: (1) the phrase "investment term" rather than "term," (2) a table to show how investment term interacts with contract length, (3) graphics to provide more information about RILA loss limitation features such as floors and buffers, and (4) expanded links to additional information to indicate that more information could be available.[40] Following these changes, participants demonstrated modestly improved comprehension in certain limited areas. For example, the sample KIT disclosure used in the second-round of qualitative testing emphasized that contract adjustments can substantially reduce the value of an investment if investors withdraw money before the end of an investment term. Participants who viewed this modified disclosure had greater success in identifying the potential financial impact of this feature, with some expressing

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37 OIAD Report at Section 5, Qualitative Testing, Results from Round 1.

38 OIAD Report at Section 5, Qualitative Testing, Results from Round 1.

39 OIAD Report at Section 5, Qualitative Testing, Results from Round 1.

40 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 1, and Appendix C.

concern about the potential magnitude of the contract adjustment.[41] Additionally, some second-round participants who viewed the KIT contract adjustment disclosure also asked for more specific information about how the adjustment is calculated, which suggests that layered disclosure might be useful for these concepts.[42] Even though these participants were unable to define certain terms relevant to contract adjustments (*e.g.*, interim value adjustment), most second-round participants seemed to understand that RILAs are not a short-term investment and should only be used if an investor will not need to make early withdrawals.[43]

The second round of testing also introduced a table in the sample KIT disclosure that attempted to help illustrate how fees were charged over the surrender period of the contract, the difference between the investment term (*i.e.*, the crediting period) and the contract length, and how the surrender charge and potential contract adjustments could vary over different time frames.[44] Nonetheless, participants in the second round of testing still had difficulty distinguishing between surrender charges and contract adjustments or understanding that both can apply cumulatively to reduce an investor's contract value in cases of early withdrawal.[45] Most participants in the second round of testing also continued to struggle with the mechanics of "buffers," despite the inclusion of graphics in the hypothetical KITs designed to illustrate how buffers work.[46] There were a number of areas where participants wanted information that was not part of the KIT rows being tested, such as the specific index-linked options available under

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41 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 2.

42 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 2.

43 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 2.

44 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 1, and Results from Round 2.

45 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 2.

46 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 2.

the contract, and some participants with more investing experience wanted information about past returns on the RILA, as well as additional information on fees and charges—particularly regarding caps on gains and other bounded return features—in order to understand the ways in which insurance companies profit from RILAs.[47]

Following the qualitative interviews, OIAD conducted quantitative testing designed to assess comprehension of key concepts about RILAs and the extent to which the organization of disclosures affected participants' comprehension of the disclosed information.[48] Approximately 2,500 participants completed OIAD's quantitative testing study, which was fielded over an eight-day period and targeted groups who were more likely to have some experience with financial products.[49] Participants received focused portions of a hypothetical KIT to test disclosures. For example, participants were randomly assigned to one of two formats for the sample KIT disclosure, one with a Q&A format and one with a statement-based format.[50] Overall, the results of OIAD's quantitative testing suggest that most investors experience challenges in understanding RILAs.[51] This round of testing reviewed overall comprehension of participants as well as whether participants were able to assess four sub-scores: (1) appropriateness of RILAs for investors based on their characteristics, (2) how a RILA works, (3) how the charges and penalties associated with RILAs affect liquidity, and (4) the insurance protections offered by RILAs.[52] Across all participants, the average percentage of questions scored correct was 58%,

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47 *See* OIAD Report at Section 5, Qualitative Testing, Results from Round 2.

48 OIAD Report at Section 6, Quantitative Testing.

49 OIAD Report at Section 6, Quantitative Testing, Methods.

50 OIAD Report at Section 6, Quantitative Testing, Study Design and Overview.

51 OIAD Report at Section 6, Quantitative Testing, Summary of Quantitative Testing.

52 OIAD Report at Section 6, Quantitative Testing, Comprehension Measures.

which, while higher than the expected score for people randomly guessing (50%), was lower relative to what might be considered a well-informed purchaser of a RILA product.[53] However, the results of the sub-scores varied, specifically 57% for appropriateness, 49% for how a RILA works, 57% for insurance, and 62% for liquidity.[54] Comprehension varied depending on the particular concept tested. For example, 80.7% of participants were able to correctly identify that RILA investors cannot access their money whenever they need it at no cost, suggesting that the tested disclosures were sufficient to put participants on notice to the potential for contract adjustments and surrender charges.[55] Conversely, only 12.6% of participants correctly identified that RILAs are intended purely as retirement savings vehicles, rather than a product appropriate for other, shorter-term investing goals (*e.g.*, education and home purchasing), suggesting continued investor confusion on this topic.[56] Additionally, participants in the quantitative testing were classified into three groups based on their experience with investing. Not surprisingly, increased investment experience correlated with greater overall comprehension, with non-investors (those with no existing investments) averaging slightly less than 50% correct, 11.7 percentage points lower than the average for the group with the most investment experience.[57] The Q&A KIT format demonstrated a statistically significant, albeit quantitatively small, improvement over the non-Q&A KIT format, particularly with regard to the non-investor group,

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53 OIAD Report at Section 6, Quantitative Testing, Results.

54 OIAD Report at Section 6, Quantitative Testing, Results, Table 6.

55 OIAD Report at Section 6, Quantitative Testing, Results.

56 OIAD Report at Section 6, Quantitative Testing, Results.

57 *See* OAID Report at Section 6, Quantitative Testing, Results, Subgroup Analysis, Investor Status.

who saw a 5.7 percentage points increase in comprehension in connection with the Q&A format with regard to overall comprehension.[58]

Overall, investor testing successfully identified a range of barriers to investor understanding of RILAs and associated disclosures. However, with the few exceptions noted above, variations in disclosures did not result in significant improvements in investor comprehension in the investor testing. Accordingly, while OIAD's investor testing has been successful in identifying specific areas of investor confusion regarding RILAs, those results were largely inconclusive in terms of determining specific disclosures that are relatively more successful in addressing the identified confusion.

We have incorporated those results in our design of the proposed Form N-4 amendments, endeavoring to give particular attention to areas of identified investor confusion while leveraging existing disclosure requirements. Because investor testing did not, for the most part, provide persuasive evidence of superior disclosures, we are proposing to largely utilize the existing Form N-4 disclosures which have been developed over time, and with which staff, investors, and RILA issuers are already familiar. Building upon these existing disclosures has additional benefits, because combination contracts offering both variable and index-linked options will be required to comply with Form N-4, making it more efficient to build on the form's requirements for both types of investment options. We seek comment throughout this release on specific areas for improvement that can aid investor comprehension. Further, we are requesting specific input from the retail investor community, through a short Feedback Flyer, relating to their experiences with annuities generally and RILAs specifically.[59]

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58 *See* OIAD Report at Section 6, Quantitative Testing, Results, Subgroup Analysis, Investor Status.

59 *See infra* section II.K; Appendix D.

Further, in addition to investor testing focused specifically on sample RILA disclosure, our proposal—and the current disclosure requirements in Form N-4 that we are building upon—also draw on the Commission's past investor testing efforts, outreach, and other empirical research concerning investors' preferences. This includes, for example, information about summary content and layered disclosure approaches.[60] The Commission has historically received feedback showing that investors generally prefer concise, layered disclosure.[61] Investors participating in certain past quantitative and qualitative investor testing initiatives on the Commission's behalf have also expressed preferences for, wherever possible, the use of a summary containing key information about an investment product or service written in clear, concise, and understandable language and presented in an accessible format.[62] Each of these sources of evidence of investor preferences, understanding, and behaviors in response to disclosures specific to RILAs and other investment products more generally has provided important context and support for our proposal's approach to RILA disclosure.

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60 *See* Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts, Investment Company Act Release No. 33286 (Oct. 30, 2018) [83 FR 61730 (Nov. 30, 2018)] (VASP Proposing Release) at paragraphs accompanying nn.38-43.

61 *See, e.g.*, Request for Comment on Fund Retail Investor Experience and Disclosure, Investment Company Act Release No. 33113 (June 5, 2018) [83 FR 26891] (June 11, 2018] ("Investor Experience RFC"). Feedback in comment letters generally showed that retail investors prefer concise, layered disclosure and feel overwhelmed by the volume of information they currently receive. Multiple comment letters reflected a preference for shorter summary disclosures, with additional information available online or upon request. *See, e.g.*, Comment Letter of C. Scott (July 26, 2018) (expressing preference for shorter summary disclosures, and suggesting disclosures "trim the fat and replace the text-heavy disclosures with something that is clear, succinct, and transparent"); Comment Letter of Helena Krus (July 29, 2018) (noting a preference to receive shorter summary disclosures, with additional information available online or upon request, and suggesting that the option should be available for all documents over 5 pages).

62 *See supra* footnote 61; *see also, e.g.*, SEC Staff, Study Regarding Financial Literacy Among Investors (Aug. 2012). The key information that investors found useful and relevant before purchasing an investment product includes information on fees and expenses, investment performance, principal risks, and investment objectives. With respect to the presentation of disclosure, the study indicates that investors preferred disclosures being "written in clear, concise, understandable language, using bullet points, tables, charts, and/or graphs." Materials relating to this study, including the staff's report, are available at http://www.investor.gov/publications-research-studies/sec-research.

D. Overview of Proposal

We are proposing to modernize and enhance the registration and disclosure framework for RILAs by adapting the existing registration and disclosure framework that is familiar to investors and issuers for variable annuity separate accounts to accommodate RILAs.

- *Use of Form N-4.* We are proposing to amend Form N-4 so that issuers seeking to register the offering of RILAs must use that form. To accommodate this, we are also proposing amendments to that form that specifically address the features and risks of RILAs. For example, we are proposing amendments to the form's "Key Information Table" that highlight key features of RILAs that should be disclosed so that investors may determine whether a RILA is an appropriate investment for them. In particular, the KIT highlights key features of a RILA contract that may be substantially different from the features of investment products investors may be more familiar with, and that investor testing suggests may not be readily apparent to investors. Further, because the insurance company would register the offering of a RILA on Form N-4 under the proposal, it would be subject to the requirements in the form related to financial statements, including the form instruction that currently permits variable annuity issuers to file insurance company SAP financial statements in certain circumstances.
- *Form N-4 Amendments for All Issuers.* In addition to adding RILAs to Form N-4, we are also proposing amendments to the form that would be applicable to offerings of variable annuities. These proposed amendments are informed by the staff's historical experience in administering the form and respond to observations from investor testing relevant to variable annuity offerings. For example, one takeaway from investor testing was that the complicated jargon of RILA contracts was a consistent impediment to investor

comprehension of KIT disclosures.[63] To address this confusion, we are proposing to switch the order of the Key Information Table and Overview of the Contract items to introduce investors earlier to the terminology and concepts underlying annuity contracts, in the hopes that this context will improve investor comprehension of KIT disclosures. Because variable annuities are also complicated investment products, we are proposing to switch the order for these products as well, so that variable annuity investors also have the benefit of this additional context.

- *Summary Prospectus.* Consistent with the inclusion of RILAs on Form N-4, we are proposing to permit RILA issuers to make use of the summary prospectus framework available to variable annuity registrants on Form N-4.
- *Updates to the Filing Rules.* To accommodate RILA registrations on Form N-4, we are proposing to require RILA issuers to pay fees in arrears on Form 24F-2 and we are proposing amendments to address RILAs in the rules that variable annuities use to file post-effective amendments and to update prospectuses.
- *Materially Misleading Statements in Sales Literature.* The proposed amendments would require RILA issuers to comply with rule 156, which provides guidance as to when sales literature is materially misleading under the Federal securities laws.

Our proposal, if adopted, would implement the RILA Act's mandate.

II. DISCUSSION

A. Use of Form N-4

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63 *See* OIAD Report at Section 6, Quantitative Testing, Summary of Quantitative Testing.

We propose to require insurance companies to use Form N-4 to register the offering of RILAs, as well as amendments to the form to require disclosures specific for these securities.[64] As discussed above, the registration forms currently used by RILA issuers do not include line-item disclosure requirements addressing the unique aspects of RILAs, like limits on gains or the application of contract adjustments. They also require information about the issuer, such as MD&A, that may be less important to annuity investors, given that they are not making a direct investment in the insurance company, and that the Commission has not determined to require for variable annuities. Conversely, most variable annuity issuers already use Form N-4 to register their securities and the form is designed to provide investors with product-specific information about annuity contracts.[65] Requiring insurance companies to register RILA offerings on Form N-4 therefore leverages the form's existing insurance-product specific disclosure requirements, including disclosure requirements that help effectuate the relatively new summary prospectus layered disclosure framework the Commission adopted in 2020 for variable contracts. With the RILA-specific disclosures we are proposing to add to Form N-4, we intend that the form will provide investors with the information necessary to make informed decisions about RILAs.

Including RILAs on Form N-4 also could provide further benefits to investors by facilitating not only investor comparison among RILAs, but also the comparison of index-linked options to variable options in the same annuity contract. For example, investors would be able to review summary information of all the available investment options of an annuity contract—

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64 *See* proposed General Instruction B.1 of Form N-4. Form N-4, as we propose to amend it, would provide that Form N-4 is "to be used by insurance companies to register index-linked annuity contracts under the Securities Act of 1933." Insurance companies therefore would not be permitted to register RILA offerings on Forms S-1 or S-3, as they do today.

65 Variable annuities register on Form N-3 if they are issued by separate accounts that are organized as management investment companies. However, most variable annuities are issued by separate accounts that are organized as unit investment trusts and therefore use Form N-4. *See supra* footnote 6.

index-linked options, variable options, and fixed options—and compare these options in one place in the prospectus appendix required by Form N-4.[66] Currently, we understand that approximately 44% of the RILAs offered in the marketplace are offered as index-linked options through combination products.[67] Registering the offerings of RILAs on Form N-4, rather than a new or different form, also would be more efficient for insurance companies and Commission staff. In this regard, insurance companies would benefit from using a single form, with tailored disclosure requirements, to register the offerings of both RILAs and combination contracts with index-linked options. In addition, many of the insurance companies issuing RILAs also issue variable annuity contracts and therefore are familiar with the requirements of Form N-4. Using Form N-4 for RILAs also would be efficient for our staff because the disclosure requirements for variable contracts and RILAs would be consolidated in one place. Further, because Congress has authorized RILA issuers to use Form N-4 if the Commission fails to adopt a registration form for RILAs within 18 months of the RILA Act's enactment, we believe that requiring insurance companies to use the form is consistent with congressional intent.

Requiring insurance companies to register RILA offerings on Form N-4 under the proposal would result in changes to RILA disclosure, in that they would have to comply with the current Form N-4 disclosure requirements in addition to the proposed new RILA-specific disclosure requirements. While Form N-4 contains some of the issuer- and offering-specific disclosures required by Forms S-1 and S-3, it does not contain them all. Specifically, Form N-4 does not include many of the disclosures relating to the mechanics of the offering (*e.g.*, use of proceeds, dilution, etc.); offering participants other than the issuer, such as selling securities

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66 *See infra* section II.B.3(c).

67 Based on an informal Commission staff review of RILA filings on the EDGAR system as of May 2, 2023.

holders; and certain details of the issuer (*e.g.*, descriptions of property, executive compensation, etc.). These disclosures may be more useful to an investor considering an investment in the capital stock or debt securities of the insurance company rather than an investment in a RILA issued by the insurance company. Unlike an investor in the insurance company itself, a RILA investor's direct investment exposure to the insurance company is limited to the insurance company's claims-paying ability, which also is supported by State insurance regulations and supervision designed to ensure that insurance companies are able to satisfy their obligations under their insurance contracts. Requiring insurance companies to register RILA offerings on Form N-4 would leverage that form's annuity-focused requirements to ensure that investors receive those disclosures that would be the most important in the RILA context.

To accommodate the offering of RILAs on Form N-4 and to provide a consistent framework for all offerings registered on the form, we are proposing, as discussed in more detail below, changes to certain rules and requirements such that RILA issuers would be subject to the same process requirements as variable annuities.[68] For example, similar to the current offering processes for issuers of variable annuities, insurance companies registering RILA offerings would be permitted to use a streamlined summary prospectus and required to pay fees to register their securities annually rather than at the time of filing a registration statement.[69] These changes would provide efficiencies for insurance companies and Commission staff in establishing consistent requirements for offerings registered on Form N-4. It would, however, result in some trade-offs for RILA issuers. For example, insurance companies currently registering RILA offerings on Form S-3 would lose the ability to update their registration statement by

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68 *See infra* sections I.C and II.E.

69 *See also infra* section II.E.3 (discussing proposed changes to rule 172).

incorporating by reference their annual report but would be able to update their registration statement annually with an immediately effective amendment. On balance, and as discussed in more detail throughout this release, requiring insurance companies registering RILA offerings to follow the offering processes proposed in this release should result in efficiencies for insurance companies and our staff. We anticipate that requiring RILA offerings to be registered on Form N-4 will also benefit investors by leveraging the form's annuity-specific disclosure requirements and extending the variable annuity summary prospectus to RILAs. Having a common registration form also should make it easier for investors deciding between an investment in a RILA or a variable annuity to compare the offerings.

We request comment on the proposed requirement to register RILA offerings on Form N-4.

1. As proposed, should we require RILA issuers to use Form N-4? Is another existing registration form more appropriate for RILAs? If so, which registration form and why?
2. Given that any existing registration form would require RILA-specific amendments, should the Commission instead develop a new form specifically for RILAs?
3. Is it appropriate to require an annuity that offers different types of investment options (*e.g.*, variable options as well as index-linked options) to address these different types of investment options on the same registration form? Would requiring different registration forms for annuities offering different types of investment options be more or less efficient for insurance companies that offer variable annuities, RILAs, and combination contracts?

4. Is there any information currently required by Forms S-1 or S-3 that we should also require RILA issuers to disclose?
5. Would requiring RILAs to follow the same filing and other process requirements as variable annuities (such as requirements for paying registration fees, and the ability to use a summary prospectus) be efficient for insurance companies because they could use the same processes to pay registration fees and update registration statements for variable annuities, RILAs, and combination contracts?
6. Do commenters believe that there are any disclosures from Forms S-1 and S-3 we are not including in the proposed Form N-4, particularly the MD&A and executive compensation disclosures, that could be of material relevance to RILA investors? If so, please explain their relevance to RILA investors.
7. Do commenters agree with our estimate that approximately 44% of RILA securities offered in the marketplace are offered as index-linked options through combination products? If not, what percentage do commenters think more accurately reflects RILA securities offered as index-linked options through combination products, and what is the basis for this estimate?
8. Should Form N-4, as amended, be the only form that insurance companies could use to register RILA offerings? Should we permit the continued use of Forms S-1 and S-3 in addition to the amended Form N-4? Would this be appropriate, given that RILA issuers can already use those forms? How would we ensure that investors receive the information necessary to make informed decisions through use of those forms, including the benefit of the proposed RILA-specific disclosure requirements informed by investor testing?

9. Do commenters expect that any RILA issuers will meet the conditions to operate as a WKSI, and if so, what is the basis for this expectation?

10. Do commenters agree that leveraging Form N-4's annuity specific disclosure requirements and summary prospectus regime would benefit investors? Would registering RILA offerings on Form N-4 make it easier for RILA investors to compare RILA offering with variable annuity offerings? Are there any other potential benefits or disadvantages to investors in registering RILA offerings on Form N-4 as compared to other forms?

B. Contents of Form N-4

As proposed, many items of current Form N-4 would apply to RILAs. We are also proposing updates to Form N-4 to include disclosures specific to RILAs. In certain circumstances, we propose changing the disclosures provided on the form that would apply to both RILAs and variable annuities. The chart in Table 1 below outlines these items and any substantive changes we are proposing.[70] We discuss these changes in more detail in the sections that follow.

Table 1: Overview of Proposed Form N-4

Item	Description	Substantive Changes	Discussion
Prospectus (Part A)			
1	Front and Back Cover Pages	Adding new legends and other standardized disclosures applicable to all issuers	Section II.B.1
2	Overview of the Contract	New RILA-specific disclosures; moving order of appearance up	Section II.B.3(a)

[70] Some proposed changes entail a non-substantive change such as a change to a defined term or specifying that the provision would continue to be applicable only to a registered separate account or variable option. These are not flagged in the following table but are instead discussed in section II.B.7 *supra*.

Item	Description	Substantive Changes	Discussion
3	Key Information	New RILA-specific disclosures; changing to a question-and-answer format; moving order of appearance down; change discussion of restrictions on optional benefits to cover all benefits	Section II.B.2
4	Fee Table	New contract adjustment disclosure.	Section II.B.5
5	Principal Risks of Investing in the Contract	Providing more detailed disclosures applicable to all issuers	Section II.B.4
6	Description of the Insurance Company, Registered Separate Account, and Investment Options	New RILA-specific disclosures and one new item regarding variable options	Section II.B.3(a)
7	Charges	New disclosures related to contract adjustments	Section II.B.5
8	General Description of Contracts	No substantive change	Section II.B.8(b)
9	Annuity Period	No substantive change	Section II.B.8(b)
10	Benefits Available Under the Contract	No substantive change	Section II.B.8(b)
11	Purchases and Contract Value	No substantive change	Section II.B.8(b)
12	Surrenders and Withdrawals	No substantive change	Section II.B.8(b)
13	Loans	No substantive change	Section II.B.8(b)
14	Taxes	No substantive change	Section II.B.8(b)
15	Legal Proceedings	No substantive change	Section II.B.8(c)
16	Financial Statements	No substantive change (but see Item 26)	Section II.D
17	Investment Options Available Under the Contract	New RILA-specific disclosures	Section II.B.3(b)
Statement of Additional Information (Part B)			
18	Cover Page and Table of Contents	No substantive change	Section II.B.8(b)
19	General Information and History	No substantive change	Section II.B.8(c)
20	Non-Principal Risks of Investing in the Contract	No substantive change	Section II.B.8(b)
21	Services	No substantive change	Section II.B.8(b)
22	Purchase of Securities Being Offered	New disclosure of specific contract adjustment information	Section II.B.5
23	Underwriters	No substantive change	Section II.B.8(c)

Item	Description	Substantive Changes	Discussion
24	Calculation of Performance Data	Clarifying only applies to variable options.	Section II.B.7
25	Annuity Payments	No substantive change	Section II.B.8(b)
26	Financial Statements	Providing that RILA issuers can use the relevant instructions and adding requirements relating to changes in and disagreements with accountants for RILAs	Section II.D
Other Information (Part C)			
27	Exhibits	Adding power of attorney for all issuers and accountant letters for RILA issuers as exhibits	Section II.B.7(d)
28	Directors and Officers of the Insurance Company	No substantive change	Section II.B.8(c)
29	Persons Controlled or Under Common Control with the Insurance Company or the Registrant	No substantive change	Section II.B.8(c)
30	Indemnification	No substantive change	Section II.B.8(c)
31	Principal Underwriters	No substantive change	Section II.B.8(c)
31A	Information about contracts with Index-Linked Options	New disclosure of RILA specific information	Section II.B.6
32	Location of Accounts and Records	No substantive change	Section II.B.7
33	Management Services	No substantive change	Section II.B.8(b)
34	Fee Representation and Undertakings	Adding new RILA undertakings	Section II.B.7(d)

1. Front and Back Cover Pages (Item 1)

We propose to require RILA issuers to include the information Form N-4 currently requires on the front and back cover pages of the prospectus. Currently, issuers are required to include on the front and back cover pages basic identifying information about the issuer and the contract, information on how to review the document (*e.g.*, what the SAI is and where to find it), as well as certain legends, for example, one relating to the ability for an investor to cancel the

contract within 10 days.[71] The table below outlines these existing disclosures that RILAs would be required to include if applicable.

Table 2: Existing Information Required by Item 1 of Form N-4 (with proposed adjustments)

Item Number	Disclosure	Cover
Identifying Information		
Item 1(a)(2)	Insurance company's name	Front
Item 1(a)(3)	Types of contracts offered (*e.g.*, group, individual, etc.)	Front
Item 1(a)(4)	Name and class of contract	Front
Item 1(a)(9)	Date of prospectus	Front
Item 1(b)(4)	EDGAR identifier number	Back
Legends		
Item 1(a)(10)	Statement that the Commission has not approved or disapproved of the securities or passed upon the accuracy or adequacy of the disclosure in the prospectus and that any contrary representation is a criminal offense (as required in 17 CFR 230.481(b)(1)).	Front
Item 1(a)(11)	Statement that additional information about the contract is available on Investor.gov.	Front
Item 1(a)(12)	A legend that states that if you are a new investor, you may cancel your contract within 10 days of receiving it with some details about the operation of this process.	Front
Other Information		
Item 1(b)(1)	Statement that the SAI contains additional information, that it is available to investors, and how investors may obtain the SAI or make inquiries about their contracts.	Back
Item 1(b)(2)	Statement about whether and from where information is incorporated by reference.	Back

In addition, we are proposing to add several new disclosures to the cover page to accommodate RILAs. The first proposed amendment would require the insurance company to

[71] One change specific to this legend would be to indicate whether the insurance company will apply a contract adjustment on any money returned during this period. Contract adjustments are a defining element of a RILA, but can apply in other circumstances. Nonetheless, given the context of this legend, we believe that it is important for investors to know whether they will be subject to this charge if they elect to have their money returned. *See supra* sections II.B.5 (discussing contract adjustments generally) and II.F (discussing that it could be materially misleading to advertise that investors can receive their money back during a period of time without indicating that a contract adjustment could apply).

identify the types of investment options offered under the contract and cross-reference the prospectus appendix that provides additional information about each option.[72] Given the addition of investment options beyond variable options to the form, this would help investors better understand what investment options are available under the contract.

The other proposed amendments to the cover page would require additional new disclosures that highlight RILAs' complexities and certain associated risks. These include RILA's limitation on gains and potential for loss, that they are not short-term investments, and that payments under the contract are subject to the insurance company's financial strength and claims-paying ability. The proposed legends would require issuers to include statements on the front cover disclosing the following:

(1) The contract is a complex investment and involves risks, including the potential loss of principal;

(2) For contracts that include index-linked options, a prominent statement that the insurance company limits the amount the investor can earn, the potential for investment loss could be significantly greater than the potential for investment gain, an investor could lose a significant amount of money if the index declines in value, and a prominent statement disclosing as a percentage the maximum amount of loss from negative index performance that an investor could experience after taking into account the minimum guaranteed limit on index loss provided under the contract;

(3) The contract is not a short-term investment and is not appropriate for an investor who needs ready access to cash, and withdrawals could result in surrender charges,

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72 *See* proposed Item 1(a)(5) of Form N-4.

negative contract adjustments, taxes, and tax penalties as applicable with a prominent statement of the maximum potential loss resulting from a contract adjustment, if applicable; and

(4) The insurance company's obligations under the contract are subject to its financial strength and claims paying ability.[73]

This cover page disclosure is designed to put an investor on notice of these key considerations to help the investor make informed decisions.

While these proposed additional disclosures are important for investors in RILAs, they are also relevant in many cases to investors in variable annuities. For example, while RILAs are complex investments, variable annuities are complex as well. Variable annuities, like RILAs, also are not short-term investments. As a result, we are proposing to apply the proposed new disclosures to all Form N-4 issuers to ensure that investors in both RILAs and variable annuities receive appropriate disclosures.

We request comment on the requirement of RILAs to include the information in Item 1 of Form N-4 on their registration statement and the inclusion of new legends for all Form N-4 filers, as applicable, on the front cover of the registration statement.

11. Would the new legends be effective in helping investors make informed decisions with regards to RILAs? Do commenters agree that it is appropriate to require the legends for variable annuities? Are the disclosures in the Overview of the Contract, Key Information Table, and elsewhere in the prospectus—as discussed later in this release—sufficient such that these legends are not necessary? Conversely, are

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73 *See* proposed Item 1(a) of Form N-4.

legends effective in alerting investors to key concepts for a RILA or variable annuity on the cover page of the prospectus? Are there additional legends that are appropriate in light of the complexity of RILAs and variable annuities? For example, should a legend be required that specifically discloses a contract's upside limitation, such as due to a participation rate or cap rate?

12. Are there any examples or illustrations of how RILAs operate that we should require on the front or back cover pages? Are examples or illustrations more effective communication tools than legends on the cover page of the prospectus? Should examples or illustrations be provided in addition to legends?
13. Is there any other information we should require on the front or back cover pages?

2. Key Information Table (Item 3)

RILA issuers, like variable annuities issuers currently, would be required to provide a Key Information Table in their registration statements under the proposal. We also are proposing amendments to the KIT's disclosure requirements to address key RILA features, as well as other amendments that would apply to all Form N-4 issuers.

The KIT provides summary prospectus disclosure, including a brief description of key facts about a variable annuity in a specific sequence and in a standardized presentation.[74] Specifically, the KIT currently includes a summary of five topic areas: (1) fees and expenses; (2) risks; (3) restrictions; (4) taxes; and (5) conflicts of interest. The KIT functions as an integral part of the layered disclosure approach in Form N-4 by identifying key considerations upfront, with more detail to follow later in the prospectus. The proposed amendments to the KIT, which are

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[74] *See* VASP Adopting Release at section II.A.1.c.ii; *see also infra* section II.C.

informed by investor testing, are intended to build on this framework and highlight important considerations related to RILAs, including certain aspects of RILAs that our investor testing observed are difficult for investors to understand and thus require clear disclosure in order to help investors make informed investment decisions.[75]

Form N-4 currently prescribes format requirements for the KIT to enhance the readability and comparability of the disclosure that also would apply to RILA offerings under the proposal.[76] Specifically, RILA issuers would be required to disclose the required information in the tabular presentation reflected in the instructions, in the order specified, without any modification or substitution with alternate terminology of the title, headings, and sub-headings for the tabular presentation, unless otherwise provided. Consistent with the form's current requirements, RILA issuers, however, would be permitted to exclude any disclosures (other than the title, headings, and sub-headings for this tabular presentation) in the KIT that are not applicable, or modify any of the statements required to be included, so long as the modified statement contains comparable information. RILA issuers also would be required to provide cross-references to the location in the statutory prospectus where the subject matter is described in greater detail, either accessed by direct electronic link or through equivalent methods or technologies, as required for variable annuity KIT disclosure. Consistent with current requirements, RILA issuers would include these cross-references adjacent to the relevant disclosure, either within the table row, or presented in an additional table column. As currently is

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75 *See, e.g.,* OIAD Report at Section 5, Qualitative Testing (following two rounds of in-depth interviews to assess potential RILA KIT disclosure for areas of confusion or misunderstanding, qualitative interviews suggested confusion with RILA terms and concepts relating to, for example, contract adjustments such as interim value adjustments and loss limiting features such as buffers); OIAD Report at Section 6, Quantitative Testing, Results, Subgroup Analysis (noting 5.7 percentage point effect of the Q&A KIT structure on overall comprehension for "non-investors" during quantitative testing).

76 *See* proposed instruction 1 to Item 3 of Form N-4.

required, all disclosures for the KIT should be short and succinct, consistent with the limitations of a tabular presentation.

We are proposing three modifications that would apply to registration statements both for RILAs and for variable annuities. These changes are designed to provide investors with a better understanding of these products, and are informed in part by the results of investor testing. First, we are proposing to require issuers to present the information in the KIT in a question-and-answer ("Q&A") format.[77] As a result of this change, the various line items of the KIT would be rephrased as questions (*e.g.*, "Are there charges for early withdrawals?" instead of "Charges for Early Withdrawals"). The instructions would further require that, unless the context otherwise requires, issuers should begin the response with a "Yes" or "No" in bold text when answering a question presented in a given row of the KIT. Consistent with the directional results of the quantitative investor testing, we anticipate that the Q&A format may improve investor comprehension of RILA-specific topics. Because the effect of the Q&A KIT structure on overall comprehension was larger for non-investors than independent investors, this format may particularly improve comprehension for less-experienced investors.[78] We also expect that rephrasing the current line items in a Q&A format would more clearly convey the importance of

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77 Proposed instruction 1(d) to Item 3 of Form N-4.

78 For purposes of investor testing, participants were classified into three groups: those with no investments in stocks, bonds, mutual funds, or other securities (non-investors); those with investments exclusively in retirement savings accounts (retirement only); and those with investments outside of retirement accounts (independent investors). *See* OIAD Report at Section 6, Quantitative Testing, Subgroup Analysis, Investor Status. The report noted a 5.7 percentage point effect of the Q&A KIT structure on overall comprehension for "non-investors". *Id.*

the KIT information to help RILA and variable annuity investors make informed investment decisions.[79]

Second, we propose to change the order in which the KIT (current Item 2) appears relative to the Overview of the Contract (current Item 3) disclosures.[80] The Overview of the Contract disclosures provide general information about the contract and important context about the information summarized in the KIT. Based on our observations of investor testing, we believe RILA investors may generally benefit from more context to understand the KIT disclosures. For example, interview participants generally found certain RILA-specific terminology confusing, such as "index," "investment term," "interim value adjustment," and

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79 The Commission's proposed Q&A format is consistent with previous rulemaking experience. *See* Form CRS Relationship Summary; Amendments to Form ADV, Investor Act Release No.5247 (June 5, 2019) [84 FR 33492 (June 12, 2019)] (adopting question-and-answer format in response to feedback from surveys and studies and commenters who noted that "the question-and-answer format is a more effective design for consumer disclosures because it focuses on questions to which a consumer wants answers and allows a consumer to skim quickly and understand where to get more information."). The proposed format is also supported by prior surveys and studies to help design effective disclosures to retail investors. *See, e.g.*, Angela A. Hung, *et al.*, RAND Corporation, *Investor Testing of Form CRS Relationship Study* (2018), *available at* https://www.sec.gov/about/offices/investorad/investor-testing-form-crs-relationship-summary.pdf, at p. 23 (reporting that about 60% of respondents favored a question-and-answer format over the sample relationship summary format presented in the survey); Kleimann Communication Group, Inc., *Report on Development and Testing of Model Client Relationship Summary, Presented to AARP and Certified Financial Planner Board of Standards, Inc.* (Dec. 5, 2018), *available at* https://www.sec.gov/comments/s7-07-18/s70718-4729850-176771.pdf , at p. 4 ("Readers ask questions when they read, especially of functional documents. . . . For good design, we want to build upon this tendency by identifying key questions investors should or are likely to ask and featuring them prominently in the text, thus easing the cognitive task for readers. As a result, we used questions in the headings to introduce each section's major topic."); Susan Kleimann, *Making Disclosures Work for Consumers*, Presentation to the SEC's Investor Advisory Committee (June 14, 2018), *available at* https://www.sec.gov/spotlight/investor-advisory-committee-2012/iac061418-slides-by-susan-kleimann.pdf (encouraging the use of question-and-answer format, the use of headings to make structure clear, and a strong design grid to organize elements, among other disclosure design principles, to promote readability), *cited in* VASP Adopting Release at n.112 and accompanying text. *See also* Office of Investor Education and Assistance, U.S. Securities and Exchange Commission, *A Plain English Handbook* (Aug. 1998) ("You can make complex information more understandable by giving your readers an example using one investor. This technique explains why 'question and answer' formats often succeed when a narrative abstraction fails.").

80 The current instructions to Form N-4 require that, notwithstanding 17 CFR 230.421(a), the KIT, Overview, and Fee Table must be disclosed in numerical order. General instruction C.3(a) of Form N-4. The proposal would change this instruction to reflect the change in order.

"buffer."[81] Further, investor testing indicated that investors had difficulty in understanding the basic features and concepts of RILA contracts.[82] The proposed Overview of the Contract disclosures would require descriptions and examples to help investors understand these RILA features and provide a basis for better understanding the issues flagged by the KIT disclosures.[83] Thus, based on investor testing, we propose to change the location of the KIT so that it appears after (rather than before) the Overview of the Contract section. Placing the Overview of the Contract section first may similarly provide context of the issues flagged in variable annuity KITs.

Third, we propose to delete Form N-4's general instruction stating that where the discussion of information required by the Overview of the Contract (currently Item 3) or KIT (currently Item 2) also responds to the disclosure requirements in other items of the prospectus, registrants need not include additional disclosure in the prospectus that repeats the information disclosed in the Overview of the Contract or the KIT.[84] In administering Form N-4, we have observed that this instruction has led to confusion on the part of registrants. For example, while both the KIT and Item 5 require disclosures about principal risks, the KIT expressly contemplates that more detailed information will be repeated later in the prospectus, specifically requiring registrants to provide cross-references to the more detailed prospectus discussion.[85] Item 5 requires registrants to summarize the principal risks of the contract in one place, and was

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81 *See, e.g.*, OIAD Report at Section 5, Qualitative Testing, Results from Round 1, Summary of Qualitative Testing, Section 6, Quantitative Testing, Summary of Quantitative Testing.

82 *See, e.g.*, OIAD Report at Section 5, Qualitative Testing, Summary of Qualitative Testing, Section 6 and 7 Quantitative Testing, Summary of Quantitative Testing, Section 7, Conclusions, Summary of Findings.

83 *See, e.g.,* proposed Item 2(b)(2) of Form N-4.

84 General Instruction C.3.(a) of Form N-4.

85 *See* instruction 1(b) to Item 2 of Form N-4.

not intended to permit an insurance company to omit principal risks from that section if those risks were also disclosed in the KIT.[86] Moreover, the layered disclosure framework requires a degree of repetition to ensure both that the KIT contains key disclosures and that the detailed sections that follow contain all of the key information about the given topic. We believe this is particularly important for RILAs in light of the challenges our investor testing suggests investors have in understanding these products. This way, investors will see the key risks regardless of whether they review targeted sections of the prospectus.

The proposed overall format of the KIT is depicted below:

Table 3: Proposed Key Information Table

FEES AND EXPENSES	
Are There Charges for Early Withdrawals?	
Are There Transaction Charges?	
Are There Ongoing Fees and Expenses?	
RISKS	
Is There a Risk of Loss From Poor Performance?	
Is this a Short-Term Investment?	
What are the Risks Associated with the Investment Options?	
Is There Any Chance the Insurance Company Won't Pay Amounts Due to Me Under the Contract?	

86 *See* Item 5 of Form N-4; VASP Adopting Release at text following n.689 ("The principal risks section is designed to provide a consolidated presentation of principal risks which can be cross-referenced by registrants to reduce repetition that might otherwise occur if the same principal risks are repeated in different sections of the prospectus.").

RESTRICTIONS	
Are There Restrictions on the Investment Options?	
Are there any Restrictions on Contract Benefits?	
TAXES	
What are the Contract's Tax Implications?	
CONFLICTS OF INTEREST	
How are Investment Professionals Compensated?	
Should I Exchange My Contract?	

a) Fees and Expenses

RILA contracts typically have implicit fees, expenses, and charges for early or mid-term withdrawals that can be confusing or surprising to investors, as observed in our investor testing.[87] We anticipate that investors would benefit from tailored disclosure about certain unique features of a RILA contract's fee and expense structure as described below to help them make informed decisions.

Early Withdrawal Charges. As RILAs may have surrender charges, we propose to require RILA issuers to provide the existing KIT surrender charge disclosure in this first line item under the "Fees and Expenses" heading so that RILA investors understand how surrender charges are assessed (*e.g.*, that if they make a withdrawal within a specified period after their last

87 *See, e.g.,* OIAD Report at Section 5, Qualitative Testing, Results from Round 1, Results from Round 2.

premium payment, they may pay a significant surrender charge that will reduce the value of their investment).[88] This disclosure must include the maximum surrender charge, the maximum number of years that a surrender charge may be assessed, and an example of the maximum surrender charge an investor could pay in dollars based on a $100,000 investment. In a change to the current form requirements, we also are proposing to require that offerings of both variable annuities and RILAs disclose that this loss will be greater if there is a negative contract adjustment, taxes, or tax penalties, to make clear that an investor may lose more than just the surrender charge upon an early withdrawal.

We also are proposing to require specific disclosure on contract adjustments, which can result in investor losses if the investor withdraws money from an index-linked option, or withdraws money from the RILA entirely before the end of a specified period.[89] Specifically, if the contract includes contract adjustments, the insurance company would be required to include a statement that if all or a portion of account value is removed from an index-linked option or from the contract before the expiration of a specified period, the insurance company will apply a contract adjustment, which may be negative. Similar to the disclosures relating to surrender charges, this statement would include the maximum potential loss (as a percentage of the investment) resulting from a negative adjustment (*e.g.*, "[y]ou could lose up to XX% of your investment due to the contract adjustment"). The insurance company also would be required to provide an example of the maximum negative adjustment that could be applied (in dollars)

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88 Proposed instruction 2(a) to Item 3 of Form N-4.

89 As noted above, contract adjustments include adjustments made when amounts are removed prematurely from an index-linked option, often referred to as interim value adjustments, as well as adjustments made when amounts are removed prematurely from the contract, often referred to as market value adjustments. Thus, a specified period would include index-linked option crediting periods (which again, are typically referred to by insurance companies as "investment terms" or "terms"), as well as any specified period relating to a market value adjustment.

assuming a $100,000 investment (*e.g.*, "[i]f you allocate $100,000 to an investment option with a 3-year crediting period and later withdraw the entire amount before the 3 years have ended, you could lose up to $90,000 of your investment. This loss will be greater if you also have to pay a surrender charge, taxes, and tax penalties."). We also propose to require the insurance company to provide a brief narrative description of the contract transactions subject to a contract adjustment (*e.g.*, withdrawals, surrender, annuitization, etc.) as part of the response to this item to make clear to investors the range of transactions that could result in a contract adjustment.

Transaction Charges. The second line item in the "Fees and Expenses" section of the proposed amended KIT, "Are there transaction charges?," would require registrants to disclose that the investor may also be charged for other transactions in addition to surrender charges (and now contract adjustments), along with a brief narrative description of the types of such charges (*e.g.*, front loads, charges for transferring cash value between investment options, etc.).[90] This line item is designed to provide a simple narrative description to alert investors that surrender charges and contract adjustments are not the only transaction charges they could pay. We are proposing to require RILA issuers to provide this disclosure.

Ongoing Fees and Expenses. The third line item in the "Fees and Expenses" section, "Are there ongoing fees and expenses?," is designed to alert investors that they also will bear recurring fees on an annual basis. This item currently requires the insurance company to disclose (1) a minimum and maximum annual fee table and (2) a lowest and highest annual cost table, both along with applicable legends.[91] The minimum and maximum annual fee table is designed

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90 Proposed instruction 2(b) to Item 3 of Form N-4.

91 *See* instruction 2(c) to Item 2 of Form N-4. The minimum and maximum annual fee table requires a tabular description of the fees and expenses that an investor may pay each year, depending on the investment options chosen. This includes minimum and maximum percentages for: base contract fees; portfolio

to consolidate the more detailed information in the Fee Table that appears later in the prospectus, in order to minimize the need for investors to perform complex calculations to understand the fees they will pay.[92] The lowest and highest annual cost table is designed to provide investors with a high-level cost illustration that will give investors a tool to understand the basic cost framework of the contract.[93] We are proposing to require RILA issuers to provide this disclosure.[94]

We also are proposing to require that where a contract imposes limits on gains on the amount an investor can earn on an index-linked option, insurance companies disclose that they impose these limits on gains and that they serve as an implicit ongoing fee.[95] In other words, as a result of limits on gains imposed under a contract, an investor is sacrificing the potential for investment gains that exceed the cap or other limit on upside performance. Specifically, insurance companies would prominently state that they impose an implicit ongoing fee on index-linked options by limiting, through the use of a cap, participation rate, or some other rate or measure, the amount an investor can earn on an index-linked option. Further, insurance companies would state that imposing this limit helps the insurance company make a profit on the index-linked option, and that, in return for accepting this limit on index gains, an investor will receive some protection from index losses. This disclosure would be required to precede the

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company fees and expenses; and optional benefits available for an additional charge. The lowest and highest annual cost table requires a tabular description of the lowest and highest cost an investor could pay each year, based on current charges and a set of standardized assumptions (*e.g.*, $100,000 investment and 5% annual appreciation).

92 *See* VASP Adopting Release at section II.A.1.c.ii.(i), n.144 and accompanying text; s*ee also* Item 4 of Form N-4.

93 *See* VASP Adopting Release at section II.A.1.c.ii.(i), n.147 and accompanying text.

94 *See* proposed instruction 2(c) to Item 3 of Form N-4.

95 *See* proposed instruction 2(c)(i)(G) to Item 3 of Form N-4.

minimum and maximum annual fee table. If the contract offers an index-linked option subject to limits on gains but does not impose any explicit ongoing fees or expenses under the contract, and thus there would be no need to include the minimum and maximum annual fee and lowest and highest cost tables, the insurance company would include this disclosure in lieu of such tables.[96] Where there are no explicit ongoing fees, minimum and maximum annual fee and cost tables showing zero fees could mislead investors because an index-linked option imposing limits on gains has implicit fees inherent in limiting upside index participation.

Lastly in this line item, we propose to revise the last sentence in the required legend in the lowest and highest annual cost table to include the underlined language: "This estimate assumes that you do not take withdrawals from the Contract, **which could add surrender charges and negative Contract Adjustments that substantially increase costs**."[97] This would further alert investors to the cost impact of a contract adjustment if they withdraw money early.

b) Risks

Risk of Loss. Under the first line item in the amended KIT under the heading "Risks," "Is there a risk of loss from poor performance?," we would, as required by an existing instruction in the form, require RILA issuers to state that an investor can lose money by investing in the contract. RILAs, like variable annuities, are subject to the risk of investment loss. We also are proposing to amend this instruction to provide that, if an annuity contract offers an index-linked option, the insurance company must disclose, as a percentage, the maximum amount of loss an investor could experience from negative index performance, after taking into account the

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96 Proposed instruction 2(c)(iii) to Item 3 of Form N-4.

97 *See* proposed Instruction 2(c)(ii)(A) to Item 3 of Form N-4. Currently, this legend only refers to surrender charges, not negative contract adjustments.

minimum guaranteed limit on index loss provided under the contract.[98] For example, with a guaranteed buffer of -10%, a registrant would disclose that investors could lose up to 90% of their investment in an index-linked option due to poor index performance even with the loss limitation feature. This amendment is designed to make clear to investors investing in an index-linked option that they can still lose money even though index-linked options typically include features designed to limit investment loss.

Short-Term Investment. The second line item under the Risks heading, "Is this a short-term investment?," currently requires a statement that the contract is not a short-term investment and is not appropriate for an investor who needs ready access to cash along with a brief explanation. This statement and an accompanying brief explanation is equally applicable to RILAs and we therefore would require RILA issuers to make the same disclosure.[99] We also are proposing to amend this item to require issuers of RILAs and variable annuities to state that (1) amounts withdrawn from the contract may result in surrender charges, taxes, and tax penalties; and (2) if applicable, that amounts removed from an index-linked option or the contract before a specified period may also result in a negative contract adjustment and loss of positive index performance. These disclosures are designed to make clear to investors some of the key reasons *why* these investments are not short-term investments. These disclosures are particularly important for an investor considering a RILA in light of the potential negative consequences if the investor withdraws money early from a particular index-linked option or the contract. We are not limiting these disclosures to contracts with index-linked options, however, because these disclosures may be equally material for a variable annuity. To further illustrate that index-linked

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98 *See* proposed Instruction 3(a) to Item 3 of Form N-4.

99 *See* proposed instruction 3(b) to Item 3 of Form N-4.

options are not short-term investments even though they may have a short crediting period, we also propose new risk disclosure for index-linked options that would require issuers offering such investment options to state that contract value will be reallocated at the end of the crediting period according to the investor's instructions, and to disclose the default reallocation in the absence of such instructions.

Risks Associated with Investment Options. The third line item under the Risk heading, "What are the risks associated with the investment options?," is intended to focus on the general risk of poor investment performance.[100] Currently, the KIT therefore requires the insurance company to state that: (1) an investment in the contract is subject to the risk of poor investment performance and can vary depending on the performance of the investment options available under the contract; (2) each investment option will have unique risks; and (3) the investor should review these investment options before making an investment decision. We are proposing conforming changes to the required statement to refer to index-linked options now that RILAs are included on Form N-4.[101]

We also are proposing to require the insurance company to provide additional information about any index-linked options offered under the contract to highlight how the insurance company limits the investor's participation in gains and losses of the index. For the risk of limited upside, the insurance company would be required to (1) state that the cap, participation rate, or some other rate or measure, as applicable, will limit positive index returns (*e.g.*, limited upside), (2) provide an example for each type of limit imposed under the contract (*e.g.*, if the index return is 12% and the cap rate is 4%, the insurance company will credit the

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100 VASP Adopting Release at the text accompanying n.170.

101 *See* proposed instruction 3(c) to Item 3 of Form N-4.

investor 4% in interest at the end of the term), and (3) prominently state that this may result in the investor earning less than the index's return.[102]

For the risk of limited protection in the case of market decline, the insurance company would be required to (1) state that the floor, buffer, or some other rate or measure, as applicable, will limit negative index returns (*e.g.*, limited protection in the case of market decline), (2) provide an example for each type of limit imposed under the contract (*e.g.*, "if the Index return is -25% and the buffer rate is -10%, we will credit -15% (the amount that exceeds the buffer rate) at the end of the crediting period"), and (3) prominently state that even after limiting a negative index return, investors could still lose up to XX% of their investment.[103] The disclosure in this row of the KIT is designed to highlight that each investment option, including an index-linked option, will have unique risks. The proposed disclosure on index-linked options would highlight one of the central economic tradeoffs index-linked options present: that an investor will sacrifice the potential for returns if the index goes up in exchange for some protection from loss if the index goes down.

Insurance Company Risks. The fourth line item under the Risk heading, "Is there any chance the insurance company won't pay amounts due to me under the contract?," is meant to alert investors that any obligations, guarantees, or benefits under the contract that may be subject to the claims-paying ability of the insurance company will depend on the financial solvency of the insurance company.[104] Form N-4 therefore currently requires the insurance company to

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102 *See* proposed instruction 3(c)(A) to Item 3 of Form N-4.

103 *See* proposed instruction 3(c)(B) to Item 3 of Form N-4.

104 *See* VASP Adopting Release at section II.A.1.c.ii.(ii); *see also* proposed Instruction 3(d) to Item 2 of Form N-4 ("State that an investment in the Contract is subject to the risks related to the Insurance Company, including that any obligations (including under any Fixed Options and Index-Linked Options), guarantees, or benefits are subject to the claims-paying ability of the Insurance Company.").

include a statement to this effect in this row of the KIT and either to provide the insurance company's financial strength ratings or state, if applicable, that they are available upon request. We propose to require a RILA issuer to provide the same statement, with a conforming change to include index-linked options as an obligation of the insurance company.[105]

c) Restrictions

Investments. We propose to require RILA issuers to include the disclosure required by the first line item under the heading "Restrictions," "Are there limits on the Investment Options?" This current item would be modified to require the insurance company to state whether there are any restrictions that may limit the investment options that an investor may choose, as well as any limitations on the transfer of contract value among investment options.[106] As these limitations can exist for RILAs, we propose to require RILA issuers to make this disclosure so that investors can assess that disclosure in determining whether the RILA is an appropriate investment for them.

Currently, the form also generally requires the insurance company to state that it reserves the right to remove or substitute portfolio companies as investment options, if applicable. Insurance companies typically reserve the right to change the index-linked options that are available under a contract as well as key features of available index-linked options. To alert investors that the available index-linked options and key terms of those index-linked options may

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105 *See* proposed instruction 3(d); *see also infra* section II.B.7(b) (discussing changes of Form N-4's defined terms, including replacing "depositor" with "insurance company," to facilitate inclusion of RILAs on the form).

106 *See* proposed instruction 4(a) to Item 3 of Form N-4. The current item requires the insurance company to state whether there are any restrictions that may limit the investments that an investor may choose, as well as any limitations on the transfer of contract value among portfolio companies. Consistent with the corresponding changes made to defined terms, we would also clarify that this item applies to any investment option, not just the portfolio companies available as investment options under a variable option. *See infra* section II.B.7.

change in the future we are proposing to require the insurance company to state any reservation of its rights under the contract, including, if applicable, the right to (1) add or remove index-linked options, (2) change the features of an index-linked option from one crediting period to the next, including the changes to the index and the current limits on gains and limits on index losses (subject to contractual minimum guarantees), and (3) substitute the index of an index-linked option during its crediting period. We are also proposing to require that insurance companies disclose any right to stop accepting additional purchase payments, which may be significant to investors given the impact this reservation can have on investors' ability to accumulate contract value for retirement, grow the death benefit, and increase optional benefit values.

Contract Benefits. The second line item under "Restrictions," "Are there any restrictions on contract benefits?" requires a statement about whether there are any restrictions or limitations relating to benefits offered under the contract, and/or whether a benefit may be modified or terminated by the insurance company. It also requires a statement that withdrawals that exceed limits specified by the terms of a contract benefit may affect the availability of the benefit by reducing the benefit by an amount greater than the value withdrawn and/or could terminate the benefit. We are proposing that this item be broadened to include disclosure on restrictions or limitations relating to any benefit under the contract, not just optional benefits (as currently required). While a benefit under the contract might be characterized as standard, it could have restrictions that should be disclosed in the KIT because of the benefit's importance to the investor's rights under the contract, such as a proportionate withdrawal calculation under a

standard death benefit.[107] We propose to require RILA issuers to include this disclosure, as such disclosure is equally applicable to RILAs as it is to variable annuities.

d) Taxes

We also propose to require RILA issuers to include the line item under the heading "Taxes," "What are the Contract's tax implications?"[108] This line item is designed to alert investors to the tax implications of variable contracts and, as we propose to amend this item, of RILAs. It currently requires a statement that an investor should consult with a tax professional to determine the tax implications of an investment in, and purchase payments received under, the contract. The insurance company must also state that there is no additional tax benefit to the investor if the contract is purchased through a tax-qualified plan or individual retirement account ("IRA"), and that withdrawals will be subject to ordinary income tax and may be subject to tax penalties. We propose to subject RILAs to this requirement because the same tax considerations apply.

e) Conflicts of Interest

Investment Professional Compensation. We propose to require RILA issuers to include the first line item under the heading "Conflicts of Interest," "How are investment professionals compensated?"[109] This current line item for variable contracts is designed to alert investors to the existence of compensation arrangements for investment professionals and the potential conflicts of interest arising from these arrangements.[110] It requires issuers to disclose that an investment

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107 *See* proposed instruction 4(b) to Item 3 of Form N-4. Similarly, we are proposing a change to the discussion in the overview of the contract item about contract features that would broaden that discussion to cover both optional and standard contract benefits. *See* proposed Item 2(c) of Form N-4.

108 *See* proposed instruction 5 to Item 3 of Form N-4.

109 *See* proposed instruction 6(a) to Item 3 of Form N-4.

110 *See* VASP Adopting Release at section II.A.1.c.ii.(v).

professional may be paid for selling the contract to investors. An issuer must describe the basis upon which such compensation is typically paid (*e.g.*, commissions, revenue sharing, compensation from affiliates and third parties). An issuer providing the required disclosure also must state that investment professionals may have a financial incentive to offer or recommend the contract over another investment. The same compensation arrangements and potential conflicts are relevant for RILAs, and we therefore are proposing to require an insurance company registering a RILA to provide the same disclosure.

Exchanges. We propose to require RILA issuers to include the second line item under the heading "Conflicts of Interest," "Should I exchange my Contract?," with conforming changes.[111] This current line item for variable contracts is designed to alert investors to potential conflicts of interest that may arise from contract sales that stem from exchanges.[112] It requires issuers to state that some investment professionals may have a financial incentive to offer a new contract in place of the one owned by the investor. An issuer must further state that investors should only exchange their contract if they determine, after comparing the features, fees, and risks of both contracts, that it is preferable to purchase the new contract rather than continue to own the existing contract. These same considerations apply to an investor considering an exchange involving a RILA. In a change that would apply to variable annuities and RILAs, and to put investors on notice that there may also be costs or charges associated with terminating an existing contract, we are also proposing that issuers disclose in this legend that investors should consider any fees or penalties to terminate the existing contract in considering whether to exchange a contract.

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111 *See* proposed instruction 6(b) to Item 3 of Form N-4; *see also infra* section II.B.7.

112 *See* VASP Adopting Release at section II.A.1.c.ii.(v).

f) Requests for Comment on Key Information Table

We request comment generally on the proposed amendments to the KIT, and specifically on the following issues.

14. Should we require all issuers to provide the "Overview of the Contract" disclosure before the KIT, as proposed? Would this provide relevant context for an investor to help understand the KIT disclosure or, conversely, would it detract from the KIT's efficacy in conveying key information about the contract up front in a consistent format? Are there other reasons to precede the KIT disclosure with the current "Overview of the Contract" disclosure? Alternatively, should we allow issuers to maintain the current order of disclosure and include new rows in the KIT to provide contract overview disclosure to investors? Would this be a more effective way to provide context for investor to understand the KIT, or would it lead to disclosure that is too lengthy for the KIT format and potentially duplicate disclosure in the Overview of the Contract section of the prospectus? Alternatively, should we require the Overview of the Contract to precede the KIT only in prospectuses offering annuity contracts with index-linked options, rather than for all issuers?
15. Should we add disclosure to the KIT regarding whether index-linked options offered under the contract are based on a price return index (*i.e.*, an index that only reflects price movements of the security) or a total return index (*i.e.*, one that includes additionally factors like dividends), so that, where appropriate, investors understand whether or not they can expect their account value to increase as a result of dividends?

16. Should we add any additional headings and sub-headings to the KIT, for example, a new heading "Contract Overview," with related line items or sub-headings "What is the purpose of the contract?," "What is the time period for measuring growth (or loss) on my contract value?," and/or "Who may the contract be appropriate for?"? Would this information be helpful to an investor in providing context for the KIT disclosure or, conversely, would these requirements lead to lengthy disclosure that makes the KIT less investor friendly?
17. Would rephrasing the topics of the KIT line items in a question format and requiring the descriptions in the right-hand column of the KIT to be presented in an answer format, as proposed, be helpful for investors making an initial purchase of an annuity contract? Should we make the Q&A format mandatory for all issuers that use Form N-4? Or should we instead require that issuers state the line items in the left-hand column as brief descriptions of the topics to be detailed in the right-hand column of the KIT, as is currently required? Should any of the required line items or sub-headings be worded in a different way, or using different terminology, than the proposal would require?
18. Should we allow issuers to change the wording of the line item questions in circumstances where the changes would not impede investor comprehension and clear, consistent disclosure? Could this undermine standardized disclosures and investors' ability to make comparisons of certain disclosure topics among RILA and variable annuity prospectuses, or would issuers' ability to customize the disclosure lead to more informed investor decisions about that particular RILA?

19. Should we require issuers to add a new column in the KIT labeled "Location in the Prospectus" or similar caption, and place it next to the relevant disclosure presented in the table to provide hyperlinked cross-references directly to the location in the statutory prospectus where the investor can find more detailed information about the subject matter or should we, as proposed, continue to permit issuers to provide cross-references either within the table row or presented as an additional column? Are there any particular sub-headings or captions that would help investors identify where to find information?

20. Should we mandate particular examples or illustrations in the KIT? For example, should we require a chart of historical index performance with the guaranteed minimum cap overlaid? Should we require a table showing examples of the dollar amounts of losses and gains, without fees, an investor would face in a variable annuity as compared to RILAs with various floors, buffers, and caps over a four-year period assuming various index movements?[113] Are there other useful examples or illustrations currently provided by RILAs that help to illustrate their structure effectively to investors that we should include in the KIT? For example, should we require a graphic in the KIT to illustrate surrender charges and contract adjustments during different time periods of the contract? If so, what should the requirements for these graphics or illustrations be? Should we require illustrations in the KIT showing how caps, floors, and/or buffers could affect an investor's returns across different market scenarios? If so, what should these scenarios be? As

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[113] *See* N.Y. Comp. Codes R. & Regs. tit. 11, App. 28.8 (2023).

another example, we request comment below on requiring insurance companies to disclose the difference between a hypothetical $100,000 investment in an index-linked option and the value, or the cost to assemble, the economic components underlying the index-linked option.[114] Should that disclosure be required in the KIT?

21. We have proposed that insurance companies include disclosures in the KIT regarding any limits on gains the RILA imposes, including an illustrative example demonstrating the operation of those limits. Would this disclosure be improved by requiring that the example conform to any specific parameters? Would other examples be helpful? For example, should we require that the example use the most common limit on gains offered under the RILA for the previous year? Should we require that the example disclose the amount of gains an investor would have given up due to the limit over the prior ten years, based on the index's performance during that time and assuming the limit on gains discussed in the example applied during each of those ten years? Should we require that the example use only round numbers?

22. Should we allow or require issuers to provide cross-references to charts or other graphics designed to facilitate investor understanding of RILAs, including, *e.g.*, educational resources designed by the Commission staff? Should we require issuers to provide these hyperlinked cross-references in the current right-hand column of the KIT directly after the relevant sentence of disclosure? Would the

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114 *See* Section II.B.3.b.

KIT be more succinct and easier to read if the hyperlinked cross-references were placed on the cover page of the prospectus instead of the KIT? Would requiring the registrant to state "More information can be found at:" before or after these cross-references help investors easily find the information they may need to make an informed investment decision? Should we require cross-references to other prospectus sections to include a specific page number in the prospectus where an investor could find the information?

23. Besides hyperlinks, are there other technological tools that would help an investor find information that is cross-referenced in the KIT or on the cover page of the prospectus, such as QR codes or other technological tools?
24. Is the level of detail of the disclosure that we propose in each line item of the KIT appropriate? Does it strike the right balance between providing enough information to alert an investor to the most salient facts (including ongoing implicit fees, expenses, risks, and conflicts) of the RILA contract, but not too much, or too detailed information? If not, how should we modify the table and/or the instructions? Are there other key features of RILA contracts that RILA issuers should disclose in the KIT to help investors make an informed investment decision?
25. RILAs are frequently marketed as a way to protect against investment losses through loss-limiting features such as buffers and floors. Should we require RILA issuers to provide more detailed disclosures about how these loss-limiting features have affected RILA investors historically? For example, would investors be better positioned to make informed decisions if we were to require RILA issuers to

disclose: (a) the total number of investor crediting periods (across all investors and index-linked options) that utilized a loss-limiting feature for a certain historical period (*e.g.*, the past five years); (b) the percentage of those investor crediting periods where an investor's contract value benefited from a loss-limiting feature (because the feature eliminated or reduced a negative credit resulting from the performance of the index-linked option); and (c) the percentage of those investor crediting periods where an investor's contract value was not impacted by a loss-limiting feature. Should a RILA issuer have experience with a certain minimum number of crediting periods in order to be subject to this disclosure? What should a RILA issuer disclose if their experience with loss-limiting features does not meet the minimum threshold? Where in the prospectus would be the appropriate location for this information? For example, if we require this disclosure, do commenters feel it would be best positioned as part of the KIT, in Item 6 (in the Limits on Index Losses section), or in the Contract Overview? Are there other disclosures that commenters would recommend in the alternative as a way to increase investor knowledge about the utility of loss-limiting features and their ability to positively affect investors' contract values? Whether or not we require more detailed disclosures about the historical effects of loss-limiting features, should we require similar disclosure about the historical effects of limits on gains (*i.e.*, upper limits on an investor's ability to participate in an index-linked option's upside performance)? Should we require disclosure comparing the economic effects of the limits on gains to the limits on losses? For example, should we require disclosure of the number of periods in which each limit would have

actually limited an investor's losses or capped an investor's gains? Should we require disclosure of the dollar value of losses an investor would be protected against compared to gains an investor would give up over a prescribed period of time, such as the past 10 years?

26. Are there any particular legends that should be included in the KIT, *e.g.*, "We will not return your money at the end of the crediting period unless you tell us to," "The contract adjustment applies in addition to any surrender charge," "You may earn less than the index's return," and/or "You may lose up to [X]% of your investment if you withdraw your money before the end of a crediting period. This loss can be greater if there is a surrender charge, taxes, and/or tax penalties"? If so, what legends and why?
27. Is the process of what happens at the end of the crediting period adequately highlighted in the proposed KIT? Should insurance companies be required to provide more specific details, either in the KIT or elsewhere in the prospectus, about how investors can choose an investment option at the end of the crediting period and the limitations on those choices?
28. Would the disclosure that a RILA issuer would provide in response to the proposed "Fees and Expenses" line items convey the appropriate amount of information to investors and concisely alert investors to the most important fees, charges, penalties, and expenses associated with the RILA contract?
29. Should the proposed "Fees and Expenses" line item, "Are there charges for early withdrawals?," include disclosure both about the surrender charges and contract adjustments, as proposed? Would this disclosure sufficiently alert investors to the

typical contract adjustment of a contract and its impact in reducing contract value (in addition to any surrender charge) if the investor withdraws money before the expiration of a specified period? Alternatively, should we sub-divide this line item into two line items, with the one focused on surrender charges and the other titled (for example) "Are there penalties for mid-term withdrawals?," focused on contract adjustments? Would this help an investor to understand both concepts better? Or would sub-dividing the line item cause confusion, for example by making it seem as if a surrender charge and a contract adjustment could not apply simultaneously? If so, should we require an explicit disclosure that they could apply simultaneously?

30. Would the Minimum and Maximum Annual Fee and Lowest and Highest Cost tables assist investors in understanding the costs of their investment and help them compare the costs of different investment options and optional benefits in the RILA context? Should we modify the proposed disclosure or require other additional information to accompany the tables?
31. Would the proposed disclosure that an issuer would provide about contracts that do not impose ongoing fees and expenses adequately convey the implicit ongoing fees of contracts with index-linked options that have features that limit positive index return? If not, should we modify the proposed disclosure or require additional information from issuers?
32. Would the disclosure that a RILA issuer would provide in response to the proposed "Risks" line items adequately convey an overview of the risks of investing in a contract with an index-linked option? Are there other risks of investing in these

contracts that we should require a registrant to disclose in the proposed KIT? For example, should we require RILA issuers to state that an investor can lose money by investing in these contracts including a loss of principal? Alternatively, should we require all issuers to state this, not just RILA issuers?

33. Would the disclosure that a RILA issuer would provide in response to the proposed "Restrictions" line items convey the appropriate amount of information about certain restrictions that various contract options may entail, in light of the goals of the proposed KIT and the unique nature of a RILA? Should an issuer be required to disclose information about restrictions in the KIT other than those associated with the contract's investment options and benefits? If so, what? Instead, should we provide flexibility by permitting issuers to disclose other restrictions at their discretion? Do commenters agree that our proposal to require disclosure about restrictions on contract benefits generally (as opposed to the current requirement which is limited to optional benefits) is appropriate?
34. Is the disclosure that a RILA issuer (along with other issuers that use Form N-4) would be required to provide in response to the proposed "Taxes" line item appropriate, in light of the goals of the proposed KIT? Given that some investors in these products may not have the means or ability to consult a tax professional, should we require additional disclosures in addition to the required statement that investors should consult a tax professional? For example, should a RILA issuer be required to consider which tax consequences are most likely be faced by retail investors and to provide general information regarding those consequences? For example, should an issuer be required to emphasize more prominently that

withdrawals will be subject to ordinary income tax, and not the capital gains rates? Should the line item require disclosure of the specific tax penalties and requirements that investors in annuity contracts may incur (*e.g.*, penalties for withdrawal before age 59½, or that purchases through a tax-qualified plan may be subject to required minimum distribution each year beginning at age 70½)?

35. Are the disclosures that a RILA issuer (along with other issuers that use Form N-4) would be required to provide in response to the proposed "Conflicts of Interest" line items appropriate, in light of the goals of the proposed KIT? Would these disclosures adequately apprise investors of the potential conflicts that arise when their investment professional is compensated for recommending an investment into a new, or an exchange from, an existing RILA contract or variable annuity contract? Should we revise these proposed disclosure requirements, and if so, how?
36. Do the instructions associated with each of the proposed line items clearly explain what an issuer would be required to disclose? In keeping with the structured format of a tabular presentation, we sought to promote concise disclosure by largely directing issuers to state, rather than to explain, certain information in response to the required line items. Should the instructions prescribe specific language or should issuers have flexibility in drafting their responses? Are there any particular instructions that we should include or modify in any way, for clarity or for any other reason?
37. Should we require particular terms in the KIT (*e.g.*, those that are defined in a related glossary or list of definitions that the insurance company chooses to

include) to be formatted in a way that will emphasize them, or indicate that they are defined elsewhere in the prospectus, for example by using bold and/or italic font?

38. Should we apply the structural changes we are proposing to the KIT in other variable insurance contract registration forms, that is, Forms N-3 and N-6? The principles we outlined above regarding the potential efficacy of these changes could be just as applicable in the context of those forms as in the context of Form N-4. For example, should we apply the proposed requirements for Forms N-3 and N-6 issuers to present all disclosures in the KIT in a Q&A format and to begin each response with a "yes" or "no" in bold text when answering a question presented in a given row of the KIT, unless the context otherwise requires? Similarly, should we require in those forms that issuers include in their required legends on contract exchanges that investors consider any fees or penalties to terminate the existing contract before exchanging their contracts?

3. Principal Disclosure Regarding RILAs (Items 2, 6, and 17)

We are proposing amendments to Form N-4 to provide investors with the principal disclosures regarding RILAs and the index-linked options available under the contract in three items of the form. First, investors would receive a concise description of the basic information about any index-linked option available under the contract as well as any contract adjustments in Item 2 (Overview of the Contract), which, as discussed above, would appear before the KIT.[115] Second, investors would be provided with detailed information about the index-linked options

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[115] Because we propose to require the KIT to appear before the Overview of the Contract, current Item 3 (Overview of the Contract) would be renumbered as Item 2.

available under the contract in Item 6 (Description of the Insurance Company, Registered Separate Account, and Investment Options). Lastly, investors would be provided with a summary information table, with legends highlighting risks, that outlines the available index-linked options in Item 17 (Investment Options Available Under the Contract). These amendments build on the existing disclosure requirements in each item to help ensure that investors have key information about the annuity contract and available investment options, regardless of whether the contract is a variable annuity, a RILA, or combination contract offering both variable and index-linked options.

a) Overview of the Contract (Item 2)

We are proposing to amend Item 2 (Overview of the Contract) to include information about RILAs generally and require the insurance company to provide an overview of certain key elements of any index-linked options offered under the contract and to highlight any contract adjustments. This item is designed to describe certain basic and introductory information about the contract and its benefits.[116] It currently requires a concise description of the contract. This description must include information about (1) the contract's purpose (*e.g.*, to help the investor accumulate assets through an investment portfolio), (2) the phases of the contract (the accumulation (savings) and annuity (income) phases) including a discussion of the investment options available under the contract, and (3) the primary features of the contract (such as death benefits).

We would require insurance companies to provide this existing disclosure when registering RILA offerings, adjusted to account for the specifics of RILAs, because it is equally

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116 *See* VASP Adopting Release at text accompanying n.207.

relevant for these types of annuity contracts. In particular, in addition to the general information about the contract already required by Form N-4, the following information would be required with respect to any index-linked option offered under the contract:

- A statement that the insurance company will credit positive or negative interest at the end of a crediting period to amounts allocated to an index-linked option based, in part, on the performance of the index;
- A statement that an investor could lose a significant amount of money if the index declines in value and prominent disclosure of the maximum amount of loss (as a percentage) an investor could experience from negative index performance, after taking into account the minimum guaranteed limit on index loss provided under the contract; and
- An explanation that the insurance company limits the negative or positive index returns used in calculating interest credited to an index-linked option at the end of its crediting period, accompanied by a brief description of the manner in which such returns may be limited, along with an example and disclosure of the minimum limit on index losses guaranteed for the life of the contract for any index-linked option.[117]

We also are proposing to require the insurance company to state, if applicable, that an investor could lose a significant amount of money due to the contract adjustment if amounts are removed from an index-linked option or from the contract prior to the end of a specified period.[118] The issuer would also provide a brief description of the transactions subject to a

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117 *See* proposed Item 2(b)(2)(i) through(iv) of Form N-4.

118 *See* proposed Item 2(d) of Form N-4.

contract adjustment. We would require a prominent statement, as a percentage, of the maximum amount of loss an investor could experience from a negative contract adjustment and that this loss could be greater due to surrender charges and tax consequences.

These disclosures, together, are designed to highlight upfront some of the key elements of a RILA. The required disclosure about any index-linked option offered under the contract would highlight for investors the key features of these investment options in general: that returns are based in part on an index, that investors could still lose a significant amount of money under the contract, and that there are limits on both positive and negative index performance. The required disclosure on contract adjustments would highlight a separate but important consideration for an investor considering investing in a RILA: that in addition to any losses from poor index performance, the investor also can lose a significant amount of money if the investor takes money out of an index-linked option or the contract early. These disclosures collectively also would provide context for the KIT, which immediately follows this item under the proposal, as well as context for more detailed disclosures that would appear elsewhere in the prospectus.

In addition to these items that are specific to RILAs, we also are proposing to expand the current requirements for disclosures regarding optional benefits in Form N-4. Currently, when summarizing a contract's primary features, the form requires a discussion of any optional benefits.[119] A benefit under the contract, such as a non-optional guaranteed living benefit, might be characterized as a standard (*i.e.*, not optional) benefit but nonetheless be a key feature of the contract that should be highlighted for investors in the overview section of the prospectus. We are therefore proposing to require that the discussion of benefits cover all of the primary contract

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[119] *See* current Item 3(c) of Form N-4.

benefits, not just optional benefits.[120] This requirement would apply to all contracts registered on the form.

We request comment on the proposed summary disclosures contained in Item 2.

39. Is the proposed information on index-linked options and contract adjustments appropriate? Is there other or different information we should require? For example, we are proposing to require RILA issuers to include examples of how limits on gains and downside protection operate but do not mandate a form of presentation. Should we require these examples be provided in a graphical presentation, or require only a narrative example? Should we require the examples be converted into a dollar amount? Would investors understand the examples more readily if we did this? As another example, should we require RILA issuers to briefly summarize the index crediting methodologies available under the contract?
40. Should we require the proposed disclosures for index-linked options and contract adjustments in Item 2, including the existing disclosure to be provided in the context of a RILA? Is this information necessary for investors to understand the other disclosures in the prospectus?
41. Should we, as proposed, broaden the current discussion of the primary contract features to include a discussion of contract benefits generally, not just optional benefits (the current focus of the disclosure requirement)?

b) Description of Insurance Company, Registered Separate Account, and Investment Options (Item 6)

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120 *See* proposed Item 2(c) of Form N-4; s*ee also supra* footnote 107 and accompanying text.

We propose to amend Item 6 of Form N-4 to modify certain existing disclosure requirements and to expand the item to include new disclosures for RILAs. Proposed Item 6(d), discussed further below, would set forth most of the substantive new disclosure requirements for contracts that include index-linked options. We would also include new disclosures for any fixed options provided as part of the contract. The information that would be required by the proposed amendments is designed to convey key aspects of each index-linked option offered under the contract to investors.

As an initial matter, the proposed amendments to Item 6 would largely retain the existing requirement to provide a concise discussion about the insurance company, registered separate account, and variable options, subject to certain modifications in nomenclature to implement definitional changes and minor restructuring to accommodate the addition of RILAs to the form.[121] Specifically, these changes would incorporate the proposed changes to certain defined terms and revise existing disclosures to clarify the entities that should be associated with certain disclosures (*e.g.*, because the insurance company would be obligated to pay all amounts promised to investors under the contracts subject to its financial strength and claims-paying ability, we would require disclosure about this topic to be framed in terms of the insurance company, not the registered separate account, as the requirement is currently worded).[122]

We are proposing to require one new disclosure item for contracts that offer variable options, which would be similar to a proposed disclosure for index-linked options, discussed

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121 *See* proposed Item 6(a) through (c) of Form N-4.

122 We also propose to add an instruction requiring the insurance company to indicate whether it is relying upon the exemption provided by 17 CFR 240.12h-7 ("rule 12h-7"), consistent with the requirements of that rule. *See* proposed Instruction to Item 6(a) of Form N-4; *see also* rule 12h-7(f) (requiring issuers of securities subject to insurance regulation that rely on the exemption from the duty to file section 13(a) reports with respect to securities registered under the Securities Act to provide a statement indicating that fact in the relevant prospectus).

below. Specifically, the prospectus for such contracts would be required to include a statement indicating that "contract value allocated to a Variable Option will vary based on the investment experience of the corresponding Portfolio Company in which the Variable Option invests," and "there is a risk of loss of the entire amount invested."[123] The risk of loss inherent in a variable annuity is currently disclosed in the form's "Key Information Table," and we are proposing to mandate this disclosure in Item 6 as well to warn that an investor can lose the entire amount invested in a variable option. In addition to informing investors about investment risks in a variable option generally, where an annuity contract offers both variable and index-linked options, this disclosure also would help to explain the different nature of the investment risks posed by each kind of investment option. In that case the prospectus would disclose the maximum loss associated with the index-linked options while also disclosing that, for the variable options, the investor could lose the entire amount invested.

Description of Index-Linked Options

We are proposing to require the insurance company to disclose information about the key features of the index-linked options currently offered under the contract.[124] These proposed disclosures are designed to complement other proposed disclosures in the prospectus about index-linked options generally by providing investors specific information about each index-linked option's features and risks, akin to the information that is currently available to investors about variable options in the prospectuses for the mutual funds underlying those options. Specifically, the insurance company would be required to describe the index-linked options currently offered under the contract as well as information about how interest is calculated and

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123 *See* proposed Item 6(c)(1) of Form N-4.

124 *See* proposed Item 6(d) of Form N-4.

credited for each index-linked option, specifically: (1) limits on index losses; (2) limits on index gains; (3) crediting period; (4) crediting methodology and examples; (5) relevant indexes; (6) maturity; and (7) other material features of the index-linked option. These disclosures are intended in part to address points that investors found to be confusing in investor testing.[125] Further, some investors in the qualitative interviews indicated that they would prefer more information about these points relative to the KIT disclosures.[126]

Description of the Index-Linked Options Currently Offered

Under the proposed amendments, RILA issuers would be required to describe the index-linked options currently offered under the contract, including statements indicating that the insurance company will credit positive or negative interest at the end of a crediting period to amounts allocated to an index-linked option based, in part, on the performance of the index.[127] To dispel potential investor confusion relating to the reference to an index, we are proposing to require RILA issuers to state that an investment in an index-linked option is not an investment in the index or in any index fund.

Other cautionary statements regarding the index-linked options offered would include that the potential for investment loss could be significantly greater than the potential for investment gain, and that an investor could lose a significant amount of money if the index declines in value. To illustrate the potential scope of such a loss, RILA issuers would have to prominently state (as a percentage) the maximum amount of loss an investor could experience from negative index performance over a crediting period, after taking into account the minimum

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125 *See* OIAD Study at Section 7, Conclusions, Summary of Findings and Discussion.

126 *See* OIAD Study at Section 5, Qualitative Testing, Summary of Qualitative Testing.

127 *See* proposed Item 6(d)(1) of Form N-4.

guaranteed limit on index loss provided under the contract. Because index-linked options are often marketed as a way to limit investment losses, this disclosure is designed to convey to investors that they could still lose a significant amount on an index-linked option, despite having a floor or buffer.

To emphasize the substantial risks associated with an early withdrawal from an index-linked option, RILA issuers would be required to state that an investor could lose a significant amount of money due to the contract adjustment if amounts are removed from an index-linked option prior to the end of its crediting period. To further underscore the risk, RILA issuers would also prominently state (as a percentage) the maximum amount of loss an investor could experience from a negative contract adjustment, and that this loss could be greater due to surrender charges and tax consequences.

To inform investors of the possibility that their investment options could be unilaterally changed without action on their part, the insurance company would be required to state, if applicable, that it can add or remove index-linked options and change the features of an index-linked options from one crediting period to the next, including the index and current limits on gains and limits on index losses, subject to contractual minimum guarantees.

Similar to the current requirement for prospectuses for contracts that offer variable options, the insurance company would be required to state that certain information regarding the features of each currently offered index-linked option is available in an appendix to the prospectus,[128] and to provide a cross-reference to that appendix. An instruction would permit this statement to be modified if needed to conform to the corresponding table in the appendix.[129] As

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128 *See* proposed Item 17 of Form N-4.

129 *See infra* footnote 164 and accompanying text.

described further below, the appendix would also be amended to include a table listing the index-linked options currently available under the contract.[130]

How Interest is Calculated and Credited

To aid investors in making informed investment decisions, we propose to require RILA issuers to describe how interest is calculated and credited for each index-linked option.[131] As part of this description, the insurance company would be required to disclose any limits on index losses and/or index gains, the crediting periods available under the contract (*e.g.*, 1, 3, and 6 years), a description of an index-linked option's index crediting methodology, information about each index, what happens when an index-linked option matures, and any other material features associated with index-linked options. We discuss each of these requirements in turn.

How Interest is Calculated and Credited – Limits on Index Losses and Gains

We are proposing to require the insurance company to describe, as a primary element of a RILA contract, the limits on index losses and gains for each index-linked option.[132] In each case, and as applicable, the insurance company would be required to state that such limits apply and describe how index losses and gains would be limited (for example, through the use of a floor or buffer to limit losses, or a cap or participation rate to limit gains). We also are proposing to require the insurance company to provide examples to help investors understand how these limits work in practice. To illustrate the limits on index losses, the prospectus would include an example showing how the limit on index losses could operate to limit a negative return (*e.g.*, if the index return is -25% and the buffer is -10%, the insurance company will credit -15% (the

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130 *See infra* at section II.B.3(b) (describing proposed amendments to Item 17 (Portfolio Companies Available Under the Contract) to include parallel provisions for RILAs).

131 *See* proposed Item 6(d)(2) of Form N-4.

132 *See* proposed Item 6(d)(2)(i) and (ii) of Form N-4.

amount that exceeds the buffer) at the end of the term, meaning the investor's contract value will decrease by 15%). The prospectus similarly would include an example of how the limit on gains could operate to limit a positive return (*e.g.*, if the index return is 12% and the cap rate is 4%, the insurance company will credit 4% in interest at the end of the term, meaning the investor's contract value will increase by 4%).

We also propose to require the insurance company to disclose, for each index-linked option, current limits on index losses and gains, as well as the minimum limits on losses and gains that are guaranteed for the life of the contract.[133] The guaranteed minimum limits tend to be lower than those currently provided for in the contract but will not change for the life of the contract, whereas the actual limits for an index-linked option will vary from crediting period to crediting period. However, at no point will these limits be lower than the guaranteed minimums. Both pieces of information are important to understanding the potential returns of an index-linked option because one of the central economic tradeoffs a RILA presents is an investor's consideration of whether to sacrifice potential gains in exchange for protection against potential losses. An investor therefore will not only need to consider the guaranteed limits, but also understand that the actual limits can vary over the life of the contract.[134] We also propose to require the insurance company to state that current limits on gains and limits on index losses will not change during the index-linked option's crediting period. This would help investors

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133 Proposed Items 6(d)(2)(i)(B) and 6(d)(2)(ii)(B) of Form N-4.

134 This information about minimum guaranteed index gain limits is also set forth in the appendix, which is part of the summary prospectus. *See* proposed Instruction 7 to Item 17(b); proposed rule 498A(b)(5)(ix). We are also proposing to require RILAs to publish online limits on gains. *See infra* section II.B.3.c. Although changes to an index-linked option, including current limits on gains, are material, we recognize that these limits in particular can change from time to time. Therefore, insurance companies may update current limits on gains using a prospectus supplement filed pursuant to rule 497 under the Securities Act. *See infra* section II.E.2.

understand that although the current limits on gains and limits on losses—unlike the minimum guaranteed limits—can change from crediting period to crediting period, they will not change during any given crediting period.

Because an insurer can generally set rates at its discretion and may take into account a number of factors in setting those rates, we are proposing that the insurance company explain how it selects rates for limiting index losses and gains to help investors understand how the features of a particular index-linked option will impact that option's risk/return profile. In particular, we are proposing to require the insurance company to describe the factors it considers in determining the current limits on losses and gains for an index-linked option (*e.g.*, long-term interest rates, market volatility, the cost of option contracts supporting the index-linked option guarantees, etc.),[135] and how that choice may impact other features of the option set by the insurance company.

Giving investors information about the factors the insurer considers in determining current limits—which are key features of an index-linked option—may help manage their expectations regarding how the product operates. If an investor sees that last year's cap on an index-linked option was 22% and this year the cap is 17%, the proposed disclosure may help them understand why the insurer's rates have changed.[136] If an insurer discloses that it takes various specified factors into consideration, but ultimately sets rates at its own discretion, the investor should know that as well.

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135 Similar disclosure has been required in other contexts. *See, e.g.*, Item 9(a) of Form N-4 (requiring disclosure of material factors that determine the level of annuity benefits); *see also* Instruction 2 to Item 7(a) of Form N-6 (requiring the identification of factors that determine the applicable cost of insurance rate).

136 For example, an insurer might disclose that caps and participation rates may vary depending on factors such as market volatility, hedging strategies and investment performance, the investor's index effective date, or interest rates, among others.

The proposed disclosure about how the current limits on index gains or losses may impact other aspects of the index-linked option is designed to explain the inverse relationship between various features of the index-linked option. For example, the insurance company could include an explanation regarding how the limit on index losses for an index-linked option could impact the current limit on index gains. This could help an investor understand, for example, that if the insurance company determines to increase the extent to which the index-linked option will protect against loss, the insurance company may then reduce the amount of upside index participation the investor could receive. The prospectus would also require an explanation of the factors an investor should consider regarding limits on index losses or gains before selecting an index-linked option for investment. This disclosure should assist an investor in choosing among the index-linked options available under the contract, such as by explaining the difference between a floor and a buffer, or by highlighting index-linked options with features that assume more risk in return for higher potential return, or vice versa.

How Interest is Calculated and Credited – Crediting Period

We are proposing to require the insurance company to generally describe the crediting periods of the index-linked options available under the contract (*e.g.*, 1, 3, and 6 years), along with the factors an investor should consider regarding different crediting period lengths before selecting an index-linked option.[137] An example of one such factor an insurance company could include as part of this disclosure would be that crediting periods introduce timing risk that forces investors to take losses at the end of a crediting period, and shorter crediting periods might

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137 *See* proposed Item 6(d)(2)(iii) of Form N-4.

increase this risk.[138] The insurance company also would be required to prominently state that amounts must remain in an index-linked option until the end of its crediting period to be credited with all or partial interest, as applicable, and to avoid a possible contract adjustment in addition to potential surrender charges and tax consequences. This discussion would also include a description of the transactions subject to a contract adjustment (*e.g.*, living benefits), with appropriate cross-references to related disclosures in the prospectus. These disclosures collectively are designed to help an investor make an informed investment decision when selecting an index-linked option, taking into account that withdrawing money before the end of the applicable crediting period can have adverse consequences.

How Interest is Calculated and Credited – Methodology and Examples

Each index-linked option has an "index crediting methodology" that explains how interest is calculated and credited to the contract. For example, one index crediting methodology is "point-to-point," that is, the amount credited to the contract is based upon a comparison of the index's performance at two points in time (such as at the beginning and end of the crediting period). We- propose to require insurance companies to explain the index crediting methodologies used in the index-linked options available under the RILA contract, along with numerical examples about how these methodologies work. We further propose to require insurance companies to provide a bar chart that illustrates the annual total return of each index

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138 *See* OIAD Report at Section 2, RILAs: Structure of Contracts and Investment Options, Investment Terms ("The role of [crediting periods] also creates a situation that may be unique for RILA purchasers relative to other investments they hold. In particular, RILA investors periodically realize gains or losses at the end of each [crediting period]. In contrast, a mutual fund investor (for example) could wait to sell the fund during down markets, avoiding realizing those losses. Thus, the [crediting period] feature adds a 'timing risk' for RILA investors relative to certain other investments.").

along with hypothetical examples of index return after applying standardized limitations on index gains and losses.

Specifically, insurance companies would be required to describe, for each index crediting methodology,[139] how interest is calculated and credited at the end of a crediting period based on the interest crediting formula or performance measure.[140] Form N-4, as we propose to amend it, would provide examples of common crediting methods that the insurance company would describe if applicable, such as point-to-point, step-up calculations, and enhanced performance.[141] To help investors understand how these crediting methods work, we also are proposing to require the insurance company to include a numeric example to illustrate the mechanics of each index crediting methodology.[142] The examples would be required to show, in a clear, concise, and understandable manner, how each crediting method functions when the index has positive returns as well as negative returns to help investors understand how the crediting method functions in both circumstances.

Specifically, we would require numeric examples that reflect a positive return above the limit on index gains, and a negative return below the limit on index losses for each methodology. The examples also would be required to assume hypothetical returns and limits that are

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139 We understand that many index-linked options use the same crediting methodology. If all index-linked options offered by a RILA contract use the same crediting methodology, the prospectus would only include one example of that crediting methodology. If, however, the index-linked options in a RILA contract offer more than one crediting method, or if different index-linked options in a RILA contract offer different crediting methods, this would affect the number of examples to be provided. The number of examples to be provided depends on the number of crediting methodologies, not the number of index-linked options.

140 *See* proposed Item 6(d)(2)(iv)(A) of Form N-4.

141 As noted above, a point-to-point crediting methodology compares the index's performance at two points in time (such as at the beginning and end of the crediting period). Step-up calculations guarantee a given rate if the index's returns are positive, regardless of the index's actual performance, subject to certain conditions. "Enhanced performance" increases a positive index return, such as by offering a participation rate of more than 100%.

142 *See* proposed Item 6(d)(2)(iv)(C) of Form N-4.

reasonable based on current and anticipated market conditions and sales of the contract, and to reflect any charges subtracted from interest credited to or deducted from contract value in the index-linked option to allow investors to understand the impact of these charges on their return. Additional examples, charts, graphs, or other presentations would be permitted if they are clear, concise, understandable. Any additional presentations that assume hypothetical returns and limits also should assume hypothetical returns and limits that are reasonable based on current and anticipated market conditions and sales of the contract. We would also require insurance companies to include a legend, in the format specified in the form, that (1) these examples illustrate how the insurance company calculates and credits interest under each index crediting methodology assuming hypothetical index returns and hypothetical limits on index gains and losses and (2) the examples assume no withdrawals.

We also are proposing to require a bar chart for each index available under the currently-offered index-linked options showing the index's annual return for the last 10 calendar years (or for the life of the index, if less than 10 years), with the corresponding numerical performance adjacent to each bar.[143] Further, insurance companies would be required to provide a hypothetical example alongside each index return that reflects the return after applying a 5% cap and a -10% buffer. If there are no caps or buffers offered under the contract (if, for example, the contract includes a floor rather than a buffer), insurance companies would be permitted to reflect a rate or measure used to limit index gains or losses under the contract that is comparable. Insurance companies would not be permitted to include additional performance presentations, or historical index performance that precedes the inception of the index. Further, insurance

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143 *See* proposed Item 6(d)(2)(iv)(B) of Form N-4.

companies would be required to provide two footnotes to this table, if applicable, that disclose (1) that the index return does not reflect dividends paid on the assets in the index, and (2) that the index provider deducts fees and costs when calculating index return.

These bar charts would also be accompanied by the following legend in the format specified in the form:

> The bar chart shown below provides the Index's annual returns for the last 10 calendar years (or for the life of the Index if less than 10 years), as well as the Index returns after applying a hypothetical 5% cap and a hypothetical -10% buffer. The chart illustrates the variability of the returns from year to year and shows how hypothetical limits on Index gains and losses may affect these returns. Past performance is not necessarily an indication of future performance.
>
> **The performance below is NOT the performance of *any* Index-Linked Option. Your performance under the Contract will differ, perhaps significantly. The performance below may reflect a different return calculation, time period, and limit on Index gains and losses than the Index-Linked Options, and does not reflect Contract fees and charges, including surrender charges and the Contract Adjustment, which reduce performance.**

This information is intended to provide context for the index-linked options that the RILA contract offers and would better inform an investor when deciding whether to invest in a RILA. For example, if an index-linked option provides that the investor will experience at least 5% of the upside performance of an index, investors may view the tradeoffs of this investment differently if the index historically has returned, for example, 10% per year (thus capping gains at 5% during those past periods) or 1% per year. Similarly, if an index-linked option offers a -10% buffer, the investor could compare that against the index performance in the bar chart and assess the extent to which the buffer would have provided downside protection against market losses in negative return years.

We appreciate, however, that historical index presentation alone, without the addition of hypothetical caps and buffers, may mislead investors into thinking that these historical rates of index performance are what investors would have received under the contract if they invested in a particular index-linked option. As we discuss in more detail below, we are concerned that presenting historical RILA performance without additional context can be potentially misleading given that investors cannot access the same RILA terms as were available historically. Relatedly, we are concerned that statements in RILA advertisements are being made without sufficient context so that investors can understand the qualifications to those statements.[144] As an example of how historical index performance could confuse investors, consider an investor who has selected an index-linked option with performance based on the performance of XYZ Index and a one-year crediting period, and this investor has allocated contract value to that index-linked option over 10 consecutive crediting periods. This investor's RILA contract value after 10 years likely will differ from the XYZ Index's 10-year performance. Reasons for this likely difference include, for example, that the index-linked option only provides a portion of the performance of the index because of a cap rate, buffer, or floor.

Accordingly, we are proposing to require insurance companies to provide historical index information to investors, but with important qualifications so that investors will not confuse this index information for the historical performance of the RILA itself. In particular, the overlay of hypothetical caps and buffers is designed to help investors understand better how those limits can cause RILA performance to differ from that of the index. Further, the legends we are proposing

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144 *See also infra* section II.F.

also are designed to put investors on notice that the presented performance is not the RILA's performance.

The proposed bar chart, including the proposed 10-calendar-year period, is modeled on the risk/return bar chart in Item 4(b)(2) of Form N-1A. Form N-4 also currently requires variable annuity issuers to show 10-years of performance in the portfolio company appendix. We preliminarily believe that 10 calendar years is an appropriate time to illustrate the performance of the index over the long term to help guide investors. We are proposing to require a 5% cap rate and -10% buffer rate to help investors understand how caps and buffers affect the index return, but without using values that are so high or so low that they will bear no resemblance to the level of gains and losses that is being offered. The illustrative rates are designed to achieve this effect because they are higher than typical guaranteed levels of caps and floors, but lower than typical currently offered levels.

How Interest is Calculated and Credited – Indexes

The index underlying an index-linked option is a central feature of the investment, as the investor's return will be based on the index's performance, subject to applicable limits on gains and losses. We therefore are proposing to require the insurance company to provide for each index a brief description of the types of investments that compose the index and where the investor can find more information about the index.[145] Where there is more than one version of an index (for example a total return version and a price return version), the disclosure would clearly state which version of the index relates to the index-linked option. If the index is an exchange-traded fund ("ETF"), the disclosure would have to clarify whether the index's

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145 *See* proposed Item 6(d)(2)(v)(A) of Form N-4.

performance for purposes of determining the amounts credited in the index-linked option is based on the ETF's net asset or closing value and, if the performance is based on the ETF's share price, the impact of using the share price as opposed to total return. These disclosures collectively are designed to help ensure that investors understand the applicable indexes. The disclosure would also state, if applicable, that the index does not reflect dividends paid on its underlying securities, or that the index deducts fees and costs when calculating index performance, which will reduce index performance. This is important disclosure because an index that does not reflect dividends paid on underlying securities, or that deducts fees and costs, will have a lower return, all else equal, than an index that includes dividends and does not deduct fees and costs.

We also propose to require the insurance company to state that it reserves the right to substitute an index prior to the end of the crediting period.[146] This would put investors on notice that the index associated with a particular index-linked option—which is a key driver of the investor's return—could change in the middle of a crediting period. The insurance company also would be required to disclose all circumstances that could necessitate a substitution, how the insurance company would choose a replacement index, when and how investors would be notified of this change, how index return will be calculated at the end of the crediting period, and what would happen if a suitable replacement index were not found, including whether the index-linked option will be discontinued prior to the end of the crediting period. This information would allow an investor to better understand the likelihood of the insurance company making a substitution and its potential effects.

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146 *See* proposed Item 6(d)(2)(v)(B) of Form N-4. Insurers generally reserve the right to change the index in the middle of the crediting period if the index is discontinued or there is a substantial change in the calculation of the index. Based on staff experience, such changes are exceedingly rare.

How Interest is Calculated and Credited – Maturity and Other Material Features

To help investors anticipate what may happen at the end of an index-linked option's crediting period, the insurance company also would be required to state whether an investor would receive advanced notice of a maturing index-linked option, how an investor might provide instructions regarding the reallocation of the contract value rate at the end of the crediting period, and any automatic default allocation in the absence of such instructions.[147] In describing these matters, the prospectus must also explain how investors will be informed of the index-linked option available for allocation at the end of a crediting period, including any changes to the currently-offered index-linked options and the discontinuance or addition of index-linked options.

Finally, we propose to require the insurance company to describe any other material aspects of the index-linked option to ensure that any other item not discussed above that could affect an investment decision is disclosed.[148] This would include disclosure related to limitations on transfers to or from index-linked options, rate holds, "bail-out" provisions, start dates, and holding accounts.[149] We would also require a brief description of how charges may impact the index-linked option's value if applicable as part of this discussion.

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147 *See* proposed Item 6(d)(2)(vi) of Form N-4.

148 *See* proposed Item 6(d)(2)(vii) of Form N-4.

149 A "rate hold" locks in interest at the current cap (or other rate limiting index gains) for the period between which the insurance company receives the investor's annuity application and the time the investor's premium payment is allocated to the index-linked option. A bail-out provision is a contract provision that provides if a current cap (or other rate limiting index gains) is set below a specified value, the investor may withdraw value from that index-linked option or RILA without a contract adjustment (and in some cases without a surrender charge) during a specified period after the start of the crediting period. A holding account is typically a conservative investment option (typically a money market fund or a fixed option) where amounts allocated to the index-linked option are held until the next index-linked option start date. This is used for index-linked options that start on a particular day each month (*e.g.*, the 15th of the month).

Fixed Options

In addition to variable options and index-linked options, annuity contracts commonly include fixed investment options, such as traditional, unregistered fixed options and unregistered index options.[150] In the variable annuity context, a fixed option provides an alternative for investors who wish to avoid the market risk of investing in a variable option. A fixed option can also serve as the holding account for amounts that are pending allocation to a particular investment option. In addition, a fixed option may be the default allocation vehicle at the end of an index-linked option's crediting period.

Form N-4 generally requires registrants to describe the fundamental features and risks of an annuity contract, including those, like fixed options, that are distinct from the variable options offered through the registered separate account.[151] The form also currently requires specific disclosure about fixed options in the KIT and the Contract Overview.[152] Because we are proposing to include disclosures relating to index-linked options in Item 6, we are also proposing to require disclosures on this other type of investment option available to annuity contract investors so that they have a complete understanding of what they may invest in through that contract, either actively, or by default. This approach is designed to increase investor

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150 *See* proposed Item 6(e) of Form N-4. Interests in fixed account options are exempt securities under Section 3(a)(8) of the Securities Act.

151 General Instruction C.1.(a) of Form N-4 (stating that "[a] Registrant's prospectus should clearly disclose the fundamental features and risks of the [Contracts], using concise, straightforward, and easy to understand language.").

152 Items 2 and 3 of Form N-4.

comprehension by ensuring that substantive information about all of the available investment options is presented in the same location in the prospectus.

The proposed disclosures for fixed options would be similar to those provided for index-linked options, tailored for the specifics of a fixed option. Specifically, registrants would be required to describe the fixed options currently offered under the contract and state that information regarding the features of each currently-offered fixed option, including its name, term, and minimum guaranteed interest rate is available in an appendix with cross-references.[153] Further, registrants would be required to describe how interest is calculated and when it is credited for each fixed option as well as the length of the term and minimum guaranteed interest rate (stated as a numeric rate, rather than referring to any minimums permitted under State law). As with index-linked options, the registrant also would be required to state whether an investor would receive advance notice of a maturing fixed option, including what steps an investor might take to provide instructions regarding the reallocation of contract value at the end of the term, and any automatic default allocation in the absence of such instructions. In describing these matters, the registrant must also explain how investors will be informed of the fixed options available for allocation at the end of a term, including any changes to the currently offered fixed options and the discontinuance or addition of fixed options. Also as with index-linked options, we would require disclosure of any other material aspect of the fixed options, including limitations on transfers to or from the fixed options, rate holds, start dates and holding accounts.

Request for Comment

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[153] As discussed below, we are also proposing to require disclosure relating to any fixed options currently offered under the contract in the Item 17 appendix.

We request comment generally on the proposed amendments to Item 6 of Form N-4, and specifically on the following issues:

42. Should we require each of the specific disclosures (*e.g.,* disclosures relating to limits on index losses and gains, crediting period, etc.) relating to the RILAs and index-linked options as proposed? Would all of these proposed amendments provide information that would be important to investors? Should we modify or expand any of these proposed disclosure requirements?
43. Should we make any other changes to the required prospectus disclosures addressing index-linked options? For example, we are proposing to require numeric examples, charts, graphs, or other presentations, as appropriate, to illustrate the mechanics of each type of index crediting methodology.[154] Would the proposed requirement be likely to provide useful information for investors? If not, why not? Would the inclusion of such examples, charts, and graphs be likely to confuse investors about how index-linked options work? Is there a concern that insurance companies would utilize these examples to over-emphasize the benefits of RILAs relative to their risks? If so, how could this be remedied? Should such examples be included in the prospectus in response to Item 6, or would they be better located elsewhere in the prospectus, for example, in Items 3 or 17? Given the potential length of such examples, should they be included in an appendix to the prospectus?

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[154] Proposed Item 6(d)(2)(iv) of Form N-4.

44. Should the current limits on gains and losses be required in the statutory prospectus, as proposed? If not, where should such disclosure be located? Should insurance companies update current limits on gains as they change from time to time by filing a rule 497 prospectus supplement, or should a rule 485 post-effective amendment be required?
45. Should we require the proposed disclosures relating to the risks of investing in variable options?
46. Should we require that the historical performance of indexes be disclosed as proposed? Is the proposed bar chart an effective or appropriate presentation approach, or should we instead require another presentation approach, such as a line graph or the 1-, 5-, and 10 year table required in the Form N-1A? If so, why? Are there any concerns that investors would confuse the inclusion of historical index information with the performance of the index-linked option itself? If so, are our proposed requirements to provide a hypothetical example of a 5% cap and -10% buffer and a legend sufficient to make clear that the performance illustrated by the bar chart does not show or suggest how an investment in the contract will perform for the investor? Are the 5% cap and -10% buffer appropriate limits to use in the hypothetical examples? Instead of prescribing a specific cap and buffer, should we require or permit issuers to include the current and/or guaranteed limits as an overlay to the bar chart, or would this provide too much visual clutter for investors, or be misleading in any way? Is 10 calendar years of index performance the right amount of time to present?

47. Should we require discussion of fixed investment options currently offered under the contract? Are the proposed disclosure items appropriate for these types of investment options?

48. Is there other information we should require insurance companies to disclose to help investors better understand the economic tradeoffs associated with an index-linked option? For example, issuers of structured notes that offer bounded returns similar to RILAs disclose the issuer's valuation of the note, based on the value of (1) the embedded derivatives; and (2) a fixed-income bond. This disclosure allows investors to understand the difference between the issuer's valuation and the original issue price that they are paying for the structured note. Would a similar disclosure for RILAs, provided with respect to each permutation of an index-linked option, be helpful to investors? Would the difference between a hypothetical $100,000 investment in an index-linked option and the value, or the cost to assemble, the economic components underlying the index-linked option be informative to investors? Would it appropriately reflect the implied cost the investor is paying when investing in that index-linked option? If we were to require this disclosure, should it be expressed in dollars, as a percentage of a hypothetical $100,000 investment, or both? Should we require the insurance company to annualize the costs over a stated period of time to express the cost as more akin to an annual expense? Recognizing that RILAs are intended to be long-term investments, what would be an appropriate period of time (*e.g.*, 10, 20, or 30 years)?

49. If we were to require insurance companies to provide the disclosure described in request for comment 48, should we require the insurance company to compare a hypothetical $100,000 investment in the index-linked option to the value, or cost, of the following components: derivatives that would provide the index-linked option's investment exposure; a fixed-income component; and the standard insurance features offered with the index-linked option?
50. If we were to require insurance companies to provide the disclosure described in request for comment 48, should we require that the insurance company value or price the derivatives using exchange-listed derivatives, such as exchange-traded options, and based on prices on the exchange, except in cases where exchange-listed derivatives could not efficiently provide the index-linked option's investment exposure? Would that approach provide for consistent and reliable pricing? In practice are insurance companies typically constructing and hedging index-linked options' investment exposure using exchange-listed options or other derivatives where feasible?
51. If we were to require insurance companies to provide the disclosure described in request for comment 48, in determining the value of the derivatives underlying an index-linked option, should we require insurance companies to use a collection of hypothetical index options with an expiration equal to the crediting period, consistent with our analysis in section III.B.3?[155]
52. If we were to require insurance companies to provide the disclosure described in request for comment 48, what calculation would be appropriate for the fixed-

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155 *See infra* footnote 429 and accompanying text.

income component of an index-linked option? Should we, for example, provide that the insurance company should use the $100,000 hypothetical investment discounted by the rate of interest the insurance company is crediting, or would credit, on fixed annuities with a term equal to the duration of the crediting periods of the index-linked option? Conversely, should we require the insurance company to use the value of a risk-free zero-coupon bond with a time to maturity equal to the crediting period of the index-linked option, consistent with our analysis in section III.B.3?

53. If we were to require insurance companies to provide the disclosure described in request for comment 48, how should the insurance company value, or determine the cost of purchasing separately, the standard insurance features? Do insurance companies maintain internal pricing information that could be used for this purpose where those features are not offered separately rather than in connection with annuities or other financial products sold by the insurance company? Should the cost or value of insurance be based on amounts insurance companies are required to reserve in connection with those insurance obligations? Should we require additional disclosure related to early withdrawal charges, fees, or penalties? For example, should we require more prominent placement of these features on marketing or other materials, or should we require a comparison of these features to potential benefits of the RILA to clarify for investors possible trade-offs?

54. If we were to require insurance companies to provide the disclosure described in request for comment 48, should we, in addition to requiring the disclosure of this

cost figure, also require the insurance company separately to disclose the costs or values associated with each component underlying the index-linked option?

55. If we were to require insurance companies to provide the disclosure described in request for comment 48, where should insurance companies place it in the registration statement? Would this information be most helpful to investors if it were included in the disclosure required by Item 6, which provides more detailed information on each index-linked option, or in the summary prospectus appendix identifying the RILA's investment options? Alternatively, should it be disclosed the KIT as a range based on the available index-linked options? If this information were in the summary prospectus, would it change frequently and result in a high number of prospectus supplements delivered to investors? If we were to further require the disclosure of the underlying components and pricing assumptions used to determine the cost to investors disclosure, would the SAI be an appropriate place for that disclosure? Should these disclosures be structured using inline XBRL as proposed for other additional disclosures?

c) Appendix: Investment Options Available Under the Contract (Item 17)

We propose to amend Item 17 to include a discussion of the index-linked options and fixed options available under the contract. This item currently requires a variable annuity issuer to include in an appendix to the prospectus a table that consolidates certain summary information about each portfolio company offered under the contract. The current appendix is designed to provide investors with an overview of variable options available under the contract in a uniform, tabular presentation that promotes comparison, because the investment experience of an investor

in a variable annuity will largely depend on the underlying investments available under the contract.[156] Similarly, we anticipate that an overview of the index-linked options available to investors in a RILA, as well as any fixed option currently available under the contract, would help investors understand and compare the various investment options offered under the contract. Consolidating this summary information about the contract's investment options—equivalent to what is currently provided for variable options—into a concise, easy to read tabular presentation should enhance the ability of investors to understand, evaluate, and compare all the investment options available under the contract.

To reflect the expanded scope of the appendix, we would amend the current heading to "Investment Options Available Under the Contract."[157] We would provide a new instruction that explains that issuers may modify this new heading as appropriate under the contract. For example, if there are only variable options offered under the contract, an issuer could change the heading to "Portfolio Companies Available Under the Contract," consistent with the current requirements of the form. Because variable options, fixed options, and index-linked options can vary by benefit offered under the contract, we also propose to move the restrictions table currently required for variable annuities by instruction 1(f) of Item 17 to be a separate requirement for all investment options, with no other changes.[158]

Index-Linked Options

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156 VASP Adopting Release at n.267 and accompanying text.

157 "Investment options" are defined as any variable option, index-linked option, or fixed option available under the contract. *See infra* section II.B.7(b).

158 Proposed Item 17(d) of Form N-4.

To accommodate the inclusion of index-linked options in the appendix, we propose to add a new table titled "Index-Linked Options."[159] As part of our approach to layered disclosure, the information to be supplied in the table for index-linked options would summarize certain prospectus disclosures required elsewhere in the prospectus.[160]

Legends

Similar to the requirements for variable annuities, the table for index-linked options would be prefaced with a legend. Specifically, the legend would state that the table lists index-linked options currently available under the contract. Further, because insurance companies typically change the index-linked options available over time, we would require the legend to specify that the insurance company may change the features of the index-linked options in the table (including the index and the current limits on gains and limits on losses), offer new index-linked options, or terminate existing index-linked options, and that the insurance company will provide the investor with written notice before making any of these changes.

As discussed above, current limits on index gains for index-linked options would be disclosed in the prospectus in response to Item 6, and changes to current limits on index gains would be disclosed in prospectus supplements.[161] However, to avoid frequent updates to the summary prospectus, insurance companies would not be required to include current limits on index gains for index-linked options in the appendix as those limits can change frequently.[162] Instead, and in addition to the disclosure in Item 6, to ensure that investors have convenient

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159 *See* proposed Item 17(b) of Form N-4.

160 *See, e.g.*, proposed Item 6(d) of Form N-4.

161 *See* proposed Item 6(d)(2)(i)(B) of Form N-4 and *supra* footnote 134.

162 As discussed below, the proposed appendix would appear in the summary prospectus, but Item 6 would not. *See infra* section II.C; *see also infra* section II.E.1 (discussing proposal to amend rules 485 and 497 for RILAs).

access to changes in current limits on index gains, which can significantly affect an investor's returns on an index-linked option, the proposed legend would require insurance companies to state that current limits on gains are available at a website address.[163] This website address must be specific enough to lead investors directly to current rates, rather than to the home page or other section of the website on which the rates are posted. Requiring RILA issuers separately to include information about current limits on gains on their websites would benefit investors by making this information easier to find and understand. Furthermore, because websites may be updated quickly, website disclosure would be efficient for compiling index-linked options' current limits on gains, given our understanding that these rates can change often and that insurance companies currently disclose current rates on their websites.

Lastly, set off from the rest of the legend and with emphasis, we would require a notation that if amounts are withdrawn from an index-linked option before the end of its crediting period, the insurance company may apply a contract adjustment and that this may result in a significant reduction in the investor's contract value that could exceed any protection from the index's loss that would be in place if an investor held the option until the end of the term. We are proposing this notation given the potential impact on an investor's returns if amounts are withdrawn prior to the end of a crediting period.

We propose to require the legend to include appropriate cross-references to the section(s) of the prospectus that describe the features of the index-linked options as well as the contract

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[163] Consistent with the current instructions to the form, any website address, including this one, that is included in an electronic version of the statutory prospectus would be required to include an active hyperlink or other means of facilitating access that leads directly to the relevant website address. However, this requirement would not apply to an electronic summary prospectus that is filed on EDGAR. *See* proposed General Instruction C.3.i of Form N-4.

adjustment. This approach is designed to help investors that are interested in more detail about key aspects of the index-linked options to locate that information quickly.

Table

The legend would be followed by a table that lists and highlights key elements of each index-linked option available under the contract. Specifically, the table would require, in sequential columns, the identification of (1) each index by name; (2) type of index; (3) crediting period, indicating the duration of the index-linked option in years; (4) index crediting methodology; (5) limits on index loss if held to the end of the crediting period; and (6) guaranteed minimum limit on index gain.

The description of the type of index would be a brief statement of which type of index it is (*e.g.*, market index, exchange-traded fund, etc.), or a brief statement describing the assets that the index seeks to track (*e.g.*, U.S. large-cap equities). The column indicating the type of index crediting methodology used for each index-linked option would only be required if the RILA utilizes multiple index crediting methodologies under the contract (*e.g.*, point-to-point, step-up, enhanced upside, etc.).[164] The disclosures regarding limits on index loss would require an issuer to state the current percentage used in the insurance company's interest credit methodology to limit the amount of negative index return credited to the index-linked option and to identify in the table whether this limit is a buffer, floor, or some other rate or measure.[165] In the last column, issuers would be required to state the guaranteed minimum percentage that may be used to limit

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164 If all index-linked options offered by a RILA contract used the same crediting methodology, the table would not include the column. *See, e.g., supra* footnote 139.

165 In contrast to current limits on index gain, we understand that the current limits on index loss typically do not change frequently.

the amount of positive index return credited to the index-linked option and to identify in the table whether this limit is a cap, participation rate, or some other rate or measure.[166]

To ensure investors only receive disclosure relevant to them, RILAs would only be permitted to include in the table those index-linked options that are available under the contract. Further, to promote disclosure in a consistent format to facilitate comparisons, issuers would be allowed to add, modify, or exclude table headings only as necessary to describe the material features of an index-linked option. Insurance companies would also be required to indicate if any of the index-linked options are restricted (*e.g.*, because of a "hard" or "soft" close), consistent with the current disclosure requirements for variable options. The proposed instructions also would state that if an index provider calculates the index's return in a manner that does not reflect the full investment performance of the assets tracked by the index (*e.g.*, the return does not reflect dividends paid on the assets composing the index, the return reflects a fee or cost, etc.), a footnote to the table must, if applicable, be included stating that the index's return does not reflect the full investment performance of the assets it tracks, which will reduce the index's performance. An investor evaluating index-linked options may be more familiar with a version of a given index that reflects the full performance of the index constituents, and this disclosure would alert investors that the index associated with a particular index-linked option will have relatively lower returns.

Fixed Options

Consistent with our proposed approach to the Item 6 disclosure requirements, we are proposing to require in the appendix summary information about fixed options currently

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166 As discussed above, instead of also requiring a column for current limits on index gains (in addition to the column for guaranteed minimum limit on index gains), the legend would state that information about current limits on index gains is available at a specified website address.

available under the contract. These disclosure requirements would be similar to the legend and table for index-linked options discussed above, adjusted to reflect fixed option details. The fixed option legend, in addition to identifying that what follows is a list of fixed options currently available under the contract, would indicate that the insurance company (1) may change the features of the fixed options identified, offer new ones, and terminate existing ones and (2) will provide the investor written notice before doing so. The fixed option table would include columns identifying (1) the name of the fixed option, (2) the term, and (3) the minimum guaranteed interest rate.[167] Insurance companies would be instructed to include appropriate cross-references in the legend to the sections of the prospectus that describe the features of fixed options. As with index-linked options, insurance companies could add, modify, or exclude table heading only as necessary to describe material features of a fixed option.

Request for Comment

We request comment generally on the proposed inclusion of index-linked option summary information in the appendix, and specifically on the following issues:

56. Should we require these new disclosures to be included in the appendix? Are the proposed appendix disclosures for index-linked options appropriate? Would they help investors to compare information among index-linked options and generally understand the index-linked options available? Is this information likely to be relevant and useful to investors? Is there more or different information that we should require? Should any of the information not be included? For example, should we require current limits on gains to be disclosed in the appendix, rather

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[167] Consistent with the approach in Item 6, the minimum guaranteed interest rate would be required to be stated as a numeric rate rather than referring to any minimums permitted under State law.

than requiring the appendix to include a website address where information about current limits is available (as well as requiring this information in the statutory prospectus)? Would investors find it useful to have online access to information about current limits on gains? Will investors find current limits on index loss in the summary prospectus useful even if the current limits on index gains are not included?

57. We are proposing to require in the statutory prospectus numeric examples, charts, graphs or other presentations to illustrate the mechanics of each type of index crediting methodology.[168] Should we permit or require some or all of these examples for index-linked options to be included in the appendix? Would the inclusion of these examples add undue length or complexity to the appendix, or overwhelm the disclosure for other investment options? Could these concerns be ameliorated by only permitting or requiring a limited number of examples (*e.g.*, no more than 4), or by placing certain other limitations on the inclusion of such examples? If so, how? If we were to require examples for index-linked options to be included in the appendix, should we also require the examples to be included in the Item 6 disclosures, or should such disclosures only be required in a single location (and if so, which one)?

58. Should we include the proposed disclosure in the appendix relating to fixed options currently available under the contract? Are there any changes we should make to the specific proposed disclosure requirements?

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[168] Proposed Item 6(d)(2)(iv) (Methodology and Examples) of Form N-4. We are proposing to permit this information to be included in an appendix. *See supra* section II.B.3(a).

4. Principal Risks of Investing in the Contract (Item 5)

An investment in a contract offering index-linked options exposes investors to unique risks that may be different from those that are common to other investment products, including contracts that solely offer variable options. We propose to amend Item 5 to address certain principal risks that are particularly relevant to investors in RILAs. In addition to restructuring the current item to incorporate the proposed risk disclosure requirements addressing index-linked options, we propose certain structural changes that are designed to clarify existing requirements but are not anticipated to result in substantively different disclosure requirements for contracts offering variable options. These proposed changes also would consolidate certain risk disclosures insurance companies currently provide for variable annuities in other sections of the prospectus. We are proposing to require these disclosures in a single location to more consistently and effectively communicate risks to investors. As the Commission has previously explained, the principal risk disclosure in the prospectus is designed to provide a consolidated presentation of principal risks, which registrants can cross-reference to reduce repetition that might otherwise occur if the same principal risks were repeated in different sections of the prospectus.[169]

The principal risk disclosure item of Form N-4 currently consists of a single paragraph requiring a registrant to summarize in the prospectus the principal risks of purchasing a contract, including the following risks: (1) poor investment performance, (2) that contracts are unsuitable as short-term savings vehicles, (3) limitations on access to cash value through withdrawals, and (4) the possibility of adverse tax consequences. We propose to retain these substantive risk disclosure requirements but would restructure the current single paragraph into separate sub-

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[169] *See* VASP Adopting Release at n. 690 and accompanying text.

items while also making certain minor changes designed to clarify existing obligations.[170] The proposed sub-items are designed to be non-exclusive examples of the principal risks of investing in the contract being registered. In addition to existing disclosure requirements, these sub-items would also include new risk disclosures specific to index-linked options, as applicable.[171] We are making parallel changes to the risk disclosures most applicable to variable annuities to avoid any implication that risk disclosure should be provided at a different level of detail than the disclosures for RILAs. Most contracts offering variable options that are currently registered on Form N-4 likely would not need to revise their risk disclosure in response to the proposed amendments to the risk disclosure requirements. In our experience, it is common practice for these registrants currently to include the disclosures that the proposal would require in their prospectuses as principal risk disclosure (or elsewhere in their prospectuses).

The proposed approach would retain the current requirement for registrants to explain the principal risks of purchasing a contract, but would also require an explanation of the principal risks of investing in an investment option, including the risks of poor investment performance.[172] Additionally, for index-linked options, a registrant would disclose the maximum potential loss from negative index performance over the crediting period, as a percentage. Although disclosures that address certain risks of index-linked options would be required in other locations in the prospectus, we are proposing that RILA issuers include certain risk factors, such as this one, in the consolidated summary of principal risks associated with the contract.[173] The

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170 *See* proposed Item 5(a)-(b), (d)-f) of Form N-4.

171 *See* proposed Item 5(c) of Form N-4.

172 *See* proposed Item 5(a) of Form N-4.

173 *See* proposed Item 1(a)(6) (Outside Front Cover Page) ("Prominently disclose as a percentage the maximum amount of loss from negative Index performance that an investor could experience after taking

maximum potential loss resulting from negative index performance is a salient way to quantify potential returns for particular investment options. For example, absent this disclosure, it may not be apparent to investors that an index-linked option that offers a -10% buffer still has the potential for 90% loss.[174] This statement would help investors assess the particular risks associated with RILAs in the context of the other required principal risk disclosures. The potential risk of loss is particularly important for investors to understand because RILAs are often presented to investors as having the benefit of offering a balance between the opportunity for growth and the reduced risk of loss relative to savings alone or more conservative investments.[175]

The next proposed sub-item, which concerns the risks of early withdrawal, would retain the current requirement for registrants to disclose that contracts are unsuitable as short-term savings vehicles and to summarize the limitations on access to cash value through withdrawals, including the possibility of adverse tax consequences.[176] We propose to expand this disclosure requirement to specify that a summary of the limitations on access to cash value through

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into account the minimum guaranteed limit on Index loss provided under the Contract."); proposed Item 2(b)(ii) (Overview of the Contract) ("[P]rominently state as a percentage the maximum amount of loss an investor could experience from negative Index performance, after taking into account the minimum guaranteed limit on Index loss provided under the Contract."); proposed Item 6(d)(1)(ii) (Investment Options) ("Prominently state as a percentage the maximum amount of loss an investor could experience from negative Index performance, after taking into account the minimum guaranteed limit on Index loss provided under the Contract.").

174 We recognize that this example may suggest to some investors that an option with a buffer is riskier than one with a floor. In fact, the protection offered by a buffer is more likely to be triggered than the protection offered by a floor. In general, a buffer protects the investor from experiencing smaller, more common losses on an index (as well a portion of any larger loses), while a floor protects the investor from larger, less-common losses (but does not protect against smaller losses). Insurers that offer both buffers and floors should generally make this distinction clear to investors in their Item 5 risk disclosures, as well as in response to proposed Items 2(b)(2) and 6(d) of Form N-4.

175 *See* OIAD Report at Section 4, Review of RILA Marketing.

176 *See* proposed Item 5(b) of Form N-4.

withdrawals may also include, if applicable, surrender charges, as well as negative contract adjustments and loss of interest. These are features of RILAs that implicate why they are not short-term saving vehicles. In addition, insurance companies that offer index-linked options would be required to state the maximum potential loss resulting from a negative contract adjustment, as a percentage. Although this last statement would be required to be provided in other locations in the prospectus, we are proposing to include this risk disclosure in the consolidated summary of principal risks because contract adjustments can significantly affect contract value.[177] Also, contract adjustments are a distinctive feature of contracts with index-linked options that we recognize (based on results of qualitative investors interviews) investors can find difficult to understand. Quantifying maximum potential loss resulting from a negative contract adjustment is intended to illustrate the possible effects of these adjustments. Further, unlike other types of losses, contract adjustments are typically avoidable by investors. As a result, we anticipate that showing the maximum loss possible would help investors evaluate whether to take an action that would result in a contract adjustment. It also would help investors understand the potentially significant risks that they could face in a RILA, regardless of a RILA's bounded return structure. Therefore, this statement would assist investors in assessing unique risks associated with index-linked options in the context of the other required principal risk disclosures.

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177 *See* proposed Item 1(a)(7) (Outside Front Cover Page) ("Prominently state as a percentage the maximum potential loss resulting from a negative Contract Adjustment, if applicable."); proposed Instruction 2(a) to Item 3 (Key Information Table) ("Include in this statement the maximum potential loss (as a percentage of the investment) resulting from a negative adjustment. . . ."); proposed Item 4 (Fee Table - Transaction Expenses) ("Contract Adjustment Maximum Potential Loss (as a percentage of Contract value at the start of the Crediting Period or amount withdrawn, as applicable)"); and proposed Instruction 1 to Item 7(e) (Contract Adjustment) ("State the maximum potential loss, as a percentage, that could result from a negative Contract Adjustment.").

The next proposed sub-item, which concerns the principal risks associated with index-linked options, would include new risk disclosure requirements tailored to address unique risks associated with these investment options.[178] Under these proposed requirements, a registrant would have to describe the principal risks of investing in any index-linked options offered under the contract (in addition to the risks of potential loss from negative index performance, as discussed above). The proposed sub-item would require the prospectus to include a statement that an investor in an index-linked options is not invested in the index or in the securities tracked by the index. This reflects our concern, based on the results of qualitative investor interviews, that investors may be confused about whether an investment in an index-linked option is a direct investment in the index.

To help ensure that RILA prospectuses address certain key risks, the proposed instructions to this disclosure requirement would specify that discussion of the principal risks related to index-linked options would be required to include the principal risks relating to, as applicable: (1) limiting positive index returns; (2) the possibility of losses despite limits on negative index returns; (3) interest crediting methodologies; (4) the impact of contract fees on the amount of interest credited; and (5) the reallocation of contract value at the end of an index-linked option's crediting period. We are also proposing instructions specifying that this discussion would be required to include, as applicable, principal index risks relating to: (1) the type of index (*e.g.*, market risk, small-cap risk, foreign securities risk, emerging market risk, etc.); (2) the exclusion of dividends from index return; and (3) market volatility. These instructions would require RILA issuers to specify which risks relate to each index offered under

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178 *See* proposed Item 5(c) of Form N-4.

the contract, and to describe the principal risks related to the possible substitution of the index before the end of an index-linked option's term.

An additional proposed new sub-item would require a description of the principal risks associated with any contract benefits (*e.g.,* death benefits, living benefits), including the impact of excess withdrawals, if applicable. These risks include, for example, investment restrictions associated with a living benefit, which may limit investment performance.[179] As an additional example, there are risks that withdrawals may substantially reduce the benefit, that some guaranteed benefits are based on a contingency that may never occur (*e.g.*, the contract value falling to zero), that the rates for contract benefits may change over time, and that certain benefits may be discontinued prior to election. Because these risks could impact the expected performance of the annuity, or in some cases could even terminate the annuity, we are proposing to require issuers to disclose them to in the prospectus.

Another proposed new sub-item would require an explanation of the principal risks associated with the insurance company's ability to meet its guarantees under the contract, including risks relating to its financial strength and claims-paying ability, which as described below may be of particular concern for investors who allocate contract value to index-linked options.[180] We recognize that a summary of certain insurance company risks is currently required to be disclosed in the KIT.[181] Moreover, although there is no corresponding disclosure requirement that mandates the inclusion of insurance-company-related risks in the principal risk disclosure in contract prospectuses, most Form N-4 registrants already provide this disclosure.

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179 *See* proposed Item 5(d) of Form N-4.

180 *See* proposed Item 5(e) of Form N-4.

181 *See* current Instruction 3(d) to Item 2 of Form N-4.

We therefore do not expect that current Form N-4 registrants likely would have to modify their disclosures to comply with the proposed requirement. Nevertheless, we propose to require this disclosure to be included in the consolidated principal risks section of the prospectus for completeness, and to help ensure that a prospectus for a contract that offers fixed options and index-linked options discloses the insurance company's claims-paying ability with regard to its contractual guarantees. In contrast to variable options, where amounts invested are held in a separate account insulated from the insurance company's general account and protected from general account creditors, assets invested in an index-linked option are subject to the insurance company's claims-paying ability for most RILAs.

Lastly, we propose a final new sub-item, which would require a description of the principal risks relating to any material reservation of rights under the contract, including if applicable, (1) the right to remove or substitute portfolio companies; (2) add or remove index-linked options and change the features of an index-linked option from one crediting period to the next; (3) stop accepting additional purchase payments; and (4) impose investment restrictions or limitations on transfers.[182] We propose to require this disclosure because the ability to discontinue contract features, alter an investor's ability to participate in an index's upside performance, and otherwise change features is important information for investors when making an investment decision.

We request comment generally on the proposed amendments to Item 5 of Form N-4, and specifically on the following issues:

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[182] *See* proposed Item 5(f) of Form N-4.

59. Do the proposed amendments to Item 5 appropriately describe the types of principal risks that are typically associated with investing in a contract that offers variable options and/or index-linked options? Should different or additional principal risks be required to be summarized in the prospectus?
60. Do commenters agree with the proposed approach of amending Item 5 to restructure the current item into separate sub-items? For contracts offering variable options, do commenters agree that the proposed changes would clarify existing requirements, but would not generally result in substantively different principal risk disclosure requirements? Would the proposed changes to Item 5 require contracts offering variable options that are currently registered on Form N-4 to revise their current risk disclosure, or could they continue to use their existing disclosures? Why or why not? To the extent that Form N-4 registrants are currently disclosing risks on topics that the proposed changes address in other parts of the prospectus, would this current risk disclosure be considered to be "principal" risk disclosure?
61. Although we are proposing to require disclosure of specified index-linked option - related principal risks to be provided in response to the Item 5 disclosure requirements, we also propose to require aspects of these risks to be disclosed in response to certain other prospectus disclosure requirements, facilitating a layered disclosure approach. Is this appropriate? What "layers" of risk disclosure are appropriate for the summary prospectus, statutory prospectus, and SAI?
62. Are the proposed additions to the current principal risk disclosures appropriate? If not, why not? Should we, for example, require a registrant specifically to disclose

principal risks associated with index-linked options, contract benefits, the insurance company, and any material reservation of rights under the contract, as proposed? If not, why not? Is an insurer's ability to discontinue contract features, reduce index limits on gains and otherwise change features likely to be inconsistent with an investor's reasonable expectations, as we state above? Should we modify any of the aspects of these proposed principal risk disclosure requirements?

5. Addition of Contract Adjustments and Other Amendments to Fee and Expense Disclosures (Items 4, 7, and 22)

We are proposing amendments to Form N-4 to require specific disclosures regarding contract adjustments and other implicit RILA-specific costs that can result in a significant erosion of investment principal. The proposed disclosures are designed to provide investors with a better understanding of the mechanics of these costs and the associated potential for loss. Under the proposed approach, these disclosure requirements would be set forth in Items 4, 7, and 22(d) of Form N-4. We are also proposing revisions to the existing provisions of these Items, applicable to all Form N-4 issuers, to clarify certain terminology.

a) Amendments to Fee Table Disclosure Requirements (Item 4)

We propose amending Item 4 to require specific disclosures regarding contract adjustments and other costs specific to RILAs. Item 4 currently requires variable annuity registrants to provide comprehensive information on the fees and expenses investors will pay when buying, owning, and surrendering or making withdrawals from a contract, as well as expenses paid each year during the time the investor owns the contract. While RILAs typically do not charge the explicit ongoing fees and expenses common to variable annuities, investors do experience an implicit ongoing fee to the extent the insurer limits, through the use of a cap,

participation rate, or some other rate or measure, index gains. Moreover, RILA issuers typically utilize contract adjustments, which can result in a significant charge to investors who make withdrawals from an index-linked option or from the contract before the end of a specified period. Further, investor testing suggested that most participants struggled to fully comprehend the costs to investors of these products.[183] These costs include contract adjustments because they can negatively affect an investor's contract value or the amounts an investor could withdraw from the contract.[184] Accordingly, we are proposing to include a detailed description of contract adjustments in the prospectus, and that this disclosure be proximate and similar to other disclosures regarding fees and expenses. Thus, we are proposing several amendments to incorporate the concept of contract adjustments as well as implicit ongoing fees and expenses into the current Item 4 disclosure requirements. We propose generally expanding the tabular disclosures that Item 4 requires to address contract adjustment costs that investors will pay when buying, owning, and surrendering or making withdrawals from an investment option, and as noted below, requiring disclosures about the maximum potential loss that an investor could experience in connection with a contract adjustment. We are also proposing to expand the tabular disclosures with respect to annual contract expenses, to alert investors to the implicit ongoing costs associated with limiting positive index returns. In addition, we are proposing certain non-substantive changes to the fee table disclosures and instructions that would be applicable to all issuers.[185] Particularized changes we propose to the fee table disclosures are discussed below.

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183 *See* OIAD Report at Section 6, Quantitative Testing, Testing Impacts, Table 9 (noting that 16.2 percent of participants understood that a participation rate reduces potential gains from the market and 52.1 percent of participants understood that a cap reduces potential gains from the market).

184 *See, e.g.,* OIAD Report at Section 5, Qualitative Testing, Results From Round 2.

185 In order to eliminate unnecessary information in the prospectus, we propose amending the general instructions to clarify that registrants may omit a narrative explanation that is not applicable under the

Transaction Expenses Table

Form N-4 issuers currently must include a transaction expenses table in their prospectuses, describing fees and expenses investors must pay when buying, owning, and surrendering or making withdrawals in connection with a contract. This requires a description of the sales load imposed on purchases (as a percentage of purchase payments), the deferred sales load (as a percentage of purchase payments or amount surrendered, as applicable), and transfer fees. To provide proximate and similar disclosure for RILA-specific costs, we propose to require that insurance companies additionally include the maximum negative contract adjustment that may be imposed, to be expressed as a percentage of contract value at the start of the crediting period or the amount withdrawn, as applicable. To provide investors notice of the circumstances where they might be subject to this cost, we also propose that insurance companies include a footnote describing all transactions potentially subject to a contract adjustment.[186]

Currently this table also requires registrants to describe the maximum exchange fee that investors could incur for any exchange or transfer of contract value from the registrant to another investment company, or between sub-accounts or to the insurance company's general account. In a change relevant to all Form N-4 issuers, we are proposing a terminology change, replacing the term "exchange fee" with "transfer fee," as this term better reflects our experience, namely that

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contract. *See* proposed instruction 1 to Item 4 of Form N-4. We also are proposing an amendment to general instruction 5 regarding the preparation of the Transaction Expenses and Annual Contract Expenses tables, clarifying that the instruction to disclose the maximum guaranteed charge as a single number where a fee is calculated based on a benchmark does not apply to a contract adjustment. *See* proposed instruction 5 to Item 4 of Form N-4.

186 *See* proposed instruction 11 to Item 4 of Form N-4.

the vast majority of such fees are those imposed on transfers of account value among investment options under the contract.[187]

Annual Contract Expenses

Form N-4 issuers currently must include an annual contract expenses table in their prospectuses, detailing the fees and expenses that investors pay each year in administrative expenses, base contract expenses, and optional benefit expenses. Currently, base contract expenses must be expressed as a percentage of average account value. In a change relevant to all Form N-4 issuers, we propose an amendment that would also allow base contract expenses to be expressed as a percentage of average account value or contract value. We do not expect that this change will substantively affect variable annuities' existing disclosure. We are proposing this expansion to describe expenses deducted where index-linked options or fixed options are implicated, as those options do not generally use the concept of average account value.[188] Additionally, to place investors on notice of the unique and ongoing trade-off costs associated

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187 *See* proposed Instruction 10 to Item 4 of Form N-4. Under the proposed definition, "transfer fee" would encompass both the maximum fee charged for any exchange or transfer of contract value between investment options as well as the maximum fee charged for any exchange or transfer of contract value from the registered separate account to another investment company or from the registered separate account to the insurance company's general account. Thus, the proposed amendments regarding the definition and terminology surrounding transfer fees would not result in any substantive change for existing Form N-4 issuers.

188 We are also proposing two related, non-substantive amendments to the instructions relating to annual contract expenses relevant to all issuers. These changes are to broaden terminology given the expanded scope of issuers that under the proposal could file on Form N-4. Currently the instruction for describing administrative expenses references "any Contract, account, or similar fee *on all Investor Accounts*;" however, as noted below, we propose deleting the term "Investor Account," and accordingly also propose amending this instruction to conform to that change. Relatedly we are proposing to amend the instruction regarding base contract expenses to remove a reference to fees and expenses deducted "from separate account assets or charged to all Investor Accounts," replacing it with an instruction to consider fees and expenses "charged to any Investment Option."

with RILAs that may not be captured by this table, we are proposing to require registrants to include the following statement in the table:

> In addition to the fees described above, we limit the amount you can earn on an Index-Linked Option. Imposing this limit helps us make a profit on the Index-Linked Option. In return for accepting this limit on Index gains, you will receive some protection from Index losses.

Annual Portfolio Company Expenses

Form N-4 currently requires issuers to include in the prospectus an annual portfolio company expenses table, disclosing the minimum and maximum total operating expenses charged by the portfolio companies offered by variable annuity contracts that may be periodically charged to investors during the time they own the contract. This includes costs incurred by portfolio companies directly and, if the portfolio company invests in other mutual funds, the fees and expenses the portfolio company indirectly incurs from these investments. In a change that also would apply to variable annuities prospectuses, we are proposing that registrants disclose that expenses shown in this table may change over time and may be higher or lower in future. We propose this change for two reasons. First, this modification would help to ensure that investors understand that these charges may increase over time, notwithstanding that these charges are described as maximum expenses. Second, given that we are proposing similar disclosures with regard to features of RILA offerings that are subject to change, we propose to require a similar level of disclosure with regard to variable annuity offerings where appropriate.

Example

Form N-4 issuers currently must provide an example in their prospectuses that is designed to allow variable annuity investors to compare the cost of investing in the contract with the cost of investing in other variable annuity contracts. We propose amending the example requirements to clarify, for variable annuity and RILA issuers, that the example is designed to

permit investors to compare costs of investing solely in *variable* options under the contract with costs associated with variable options offered under other annuity contracts. Under the proposal, the example would be preceded with a legend specifically stating that: the example assumes that all contract value is allocated to variable options; the example does not reflect contract adjustments; and costs would likely differ if an investor selects index-linked options or fixed options.

b) Charges (Item 7)

Currently, Item 7 requires registrants to provide a brief description in their prospectuses of all current charges deducted from purchase payments, investor accounts, or assets of the registrant. Consistent with the proposed changes to Item 4, we also are proposing a change in terminology that would affect all Form N-4 issuers, replacing references in Item 7 to "investor accounts" and the assets of "registrants" with the terms "contract value" and "investment option" assets, respectively. Therefore, in responding to Item 7, variable annuity and RILA issuers would describe charges deducted from purchase payments, contract value, or investment option assets.[189]

For the reasons described above and given the potentially significant economic consequences contract adjustments can have on RILA investors, we are also proposing additional specific requirements to incorporate contract adjustments into the prospectus's disclosure of

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[189] Additionally, we are proposing two non-substantive terminology changes in Instruction 3 to Item 7(a) regarding how registrants must describe the sources that will be used to cover shortfalls where proceeds from sales load will not cover expected costs. First, we propose replacing the term "depositor" with the term "insurance company." Second, where shortfalls are to be made from an insurance company's general account, this instruction requires a disclosure that amounts paid by the insurance company may consist of proceeds derived from base contract expenses *deducted from the registered separate account*. We propose striking this italicized language referring to assets of the registered separate account because it is superfluous given the definition of "base contract expenses" in proposed Instruction 14 to Item 5, discussed above.

charges, which would entail detailed descriptions of any contract adjustments under the contract. These disclosures are designed to be comparable in scope and proximate to existing disclosures about contract charges applicable to variable annuities.[190]

Specifically, we are proposing that insurance companies would have to: (1) disclose (as a percentage) the maximum potential loss that could result from a negative contract adjustment; (2) define the period during which any contract adjustment would apply; and (3) describe all transactions subject to a contract adjustment.[191] Insurance companies also would have to include a description of how the contract adjustment will affect the contract value, surrender value, death benefit, and any living benefits, and disclose that a negative adjustment could reduce the value under the contract in an amount greater than the value withdrawn.[192] They would also need to describe, in simple terms, how the contract adjustment is determined under the contract, and the relationship between the contract adjustment and any other charges or fees applied under the contract, including, for example, the sequence in which charges and adjustments are applied.[193] The required disclosure would also require the issuer to briefly describe the purpose of the

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190 *See* instructions (a) through (d) to Item 7 of Form N-4.

191 *See* proposed instructions (e)(1) through (e)(3) to Item 7 of Form N-4. In describing the transactions subject to a contract adjustment, the insurance company would need to describe, for example, whether adjustments apply if amounts are transferred or withdrawn from an index-linked option or from the contract due to a partial withdrawal, surrender, election of an annuity option, or payment of death benefit proceeds, or where a particular optional benefit (*e.g.*, a withdrawal under a guaranteed living benefit) is utilized, and to describe any circumstances under which the adjustment will be waived.

192 *See* proposed instruction (e)(5) to Item 7 of Form N-4. If applicable, the insurance company would also be required to state the impact of the contract adjustment on interest to be credited to an index-linked option at the end of its crediting period.

193 *See* proposed instructions (e)(4) and (e)(6) to Item 7 of Form N-4. The description of how the contract adjustment is determined would have to provide a meaningful explanation of all the material features of the contract adjustment's application, including: (1) information about any formula applied (*e.g.*, a change in value of hypothetical derivative instruments); (2) the factors that may cause an adjustment (*e.g.*, timing of withdrawal, index volatility, increase in external interest rates); (3) a description of any proportionate withdrawal calculations; and (4) how adjustments are applied (*e.g.*, allocated among the investment options, applied to a withdrawal amount).

contract adjustment, including, for example, that the contract adjustment transfers risk from the insurance company to the investor to protect the insurance company from losses on its own investments supporting contract guarantees if amounts are withdrawn prematurely.[194] Finally, issuers would be required to disclose how an investor can obtain information about the current value of the contract adjustment, while stating that this value can fluctuate daily, and that the quoted value may differ from the actual value at the time of adjustment.[195]

These proposed disclosures are intended to provide investors with the necessary scope and level of detail of the contract adjustments that could negatively affect an investor's contract value or the amounts an investor could withdraw from the contract. These disclosures are further justified given the RILA Act's requirement that the Commission use the results of investor testing in designing a registration form for RILAs. That mandated investor testing showed that participants were confused about contract adjustments, their purpose, the situations in which they could arise, their potential magnitude, and their relationship to other fees and charges (*e.g.*, surrender fees).[196] These disclosures are designed to address these areas of identified confusion.

To simplify this disclosure, we propose specifying that detailed disclosure on the method of calculating the contract adjustment appear in the SAI, as opposed to the prospectus.[197] We also propose requiring that Item 7(e) include a cross-reference to Item 22 of Form N-4, which would require more-detailed disclosure on the contract adjustment's calculation (including illustrative examples as to adjustment's operation) to appear in the SAI. The more detailed SAI

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194 *See* proposed instruction (e)(7) to Item 7 of Form N-4.

195 *See* proposed instruction (e)(8) to Item 7 of Form N-4.

196 *See, e.g.*, OIAD Report at Section 5, Qualitative Testing, Results From Round 2 and Section 7, Conclusions.

197 *See* proposed instruction (e)(4) to Item 7 of Form N-4.

discussion is not, however, a substitute for the Item 7 requirements. Thus, for example, an insurance company could not include the formula underlying the contract adjustment calculation in the SAI in lieu of the required discussion of the formula in the prospectus. Rather, in addition to stating the formula in the SAI, the insurance company would need to include in the prospectus a brief description, in simple terms, of the manner in which contract adjustment is determined.

Further, while the proposed disclosures are tailored to the mechanics of contract adjustments, they are also designed to be, where possible, consistent with existing requirements regarding disclosure of current charges deducted from purchase payments, investor accounts, or assets of the registrant. For example, Form N-4 currently requires disclosure of current fees and charges, which are typically expressed as a percentage. Because the value of a given contract adjustment can change daily, we are proposing that insurance companies disclose the maximum potential loss, as a percentage, that could result from a negative contract adjustment (rather than mandate a disclosure of a current contract adjustment value that could quickly become outdated).[198]

c) Purchase of Securities Being Offered (Item 22)

We are proposing to amend Item 22, which addresses the purchase of securities being offered, to require specific, detailed contract adjustment disclosures to appear in RILA issuers' SAIs. As discussed above, issuers would be required to provide a simple explanation of the underlying mechanics of contract adjustments in their prospectuses, while noting that further detail is available in the SAI and providing a cross reference to that information. Under the proposal, in addition to the discussion required in the prospectus by Item 7, Item 22 would

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[198] *See* proposed instruction (e)(1) to Item 7 of Form N-4.

require issuers to explain fully the operation of any contract adjustment that can be applied under the contract. This more detailed explanation would not take the place of the prospectus discussion and would need to address all the material features of the adjustment and include an explanation of any formulas used to calculate the adjustment, and at least one numeric example to illustrate the application of the contract adjustment. This numeric example would have to include a negative adjustment, reflect surrender charges (if applicable), and disclose the percentage change in contract value as a result of the adjustment.

The mechanics of contract adjustments under a RILA contract are typically complex, often implicating the application of factors or formulas that can be difficult for many investors to understand. Because the application of a negative contract adjustment can substantially affect an investor's contract value, however, we propose to require the inclusion of information on negative contract adjustment in the SAI, so that investors who wish to learn more about the calculation may do so. In addition to promoting transparency generally, this proposed disclosure would ensure that liability attaches under section 11 of the Securities Act for any material misrepresentations regarding the application of a contract adjustment.

We are also proposing to make applicable to RILA issuers certain existing SAI disclosure requirements about the purchase of securities being offered. Specifically, we are proposing revisions to the instructions to the existing requirement to describe the manner in which the securities are offered to the public, which would instruct RILA issuers to respond by addressing any exchange privileges between investment options.[199] Additionally, we propose to make the existing requirement to describe the method used to determine the sales load applicable to RILA

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[199] *See* proposed Item 22(a) of Form N-4.

issuers.[200] We do not propose applying the existing disclosure requirement dealing with frequent transfer arrangements to RILA issuers, as its provisions are relevant only to variable annuity contracts.[201]

d) Request for Comment

We request comment on these proposed amendments.

63. Do commenters agree that it is appropriate to include a discussion of contract adjustments in Items 4, 7, and 22 as proposed? If not, how would commenters suggest issuers disclose contract adjustments to ensure that investors have sufficient information to make an informed investment decision regarding RILAs?
64. Is it appropriate to require the disclosure of the contract adjustment maximum potential loss in the transaction expense table? Do commenters agree that is appropriate to require that issuers express the contract adjustment maximum potential loss as a percentage? If not, what alternative measure would commenters suggest?
65. Do commenters agree that the proposal strikes the proper balance in the location of the proposed contract adjustment disclosures? Are there any contract adjustment disclosures we propose including in the SAI that commenters believe would be more appropriately located in the prospectus? Are there any contract adjustment disclosures we propose including in the prospectus that commenters believe would be better situated in the SAI?

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200 *See* proposed Item 22(b) of Form N-4.

201 *See* proposed Item 22(c) of Form N-4.

66. Do commenters agree with our proposal that issuers be required to include, in the annual contract expenses table, a statement disclosing that, in addition to the expenses described in the table, investors will be subject to limits on the amounts they can earn in connection with index-linked options? Do commenters agree that it is appropriate to include a statement addressing current limits on gains in conjunction with the annual contract expenses table? Do commenters agree the proposed statement captures the most salient concerns to investors of these kinds of limits on gains? Do commenters have any suggestions for alternate wording or placement of the statement?
67. Do commenters have any suggestions about additional or alternative disclosures that would address the areas of confusion regarding contract adjustments that this release describes as being identified in investor testing?
68. Are there any concerns with our proposal to use the term "contract adjustment" when referring to MVAs (market value adjustments) and IVAs (interim value adjustments)? Is there an alternative term that we should use to describe these kinds of adjustments?
69. Does our proposal to replace the term "exchange fee" with "transfer fee" in Item 4 raise any concerns?
70. With regard to the numeric examples we propose requiring in the SAI, should there be any additional requirements for what those examples would need to include? For example, should we require that the example utilize the average negative contract adjustment in operation for the preceding year, or the negative contract adjustment expected over the next year? Should we also (or instead)

require an example of a contract adjustment in the prospectus? If so, why, and what particular assumptions should we require in the example?

71. Do commenters agree with our recommendation to place the more detailed disclosures associated with the mechanics of contract adjustments (such as applicable formulas) in the SAI as opposed to the prospectus? Why or why not?

72. In addition to the contract adjustment disclosures we have proposed, should we also require issuers to provide a graphic illustrating the operation of a contract adjustment? If so, where should we require that graphic illustration be presented, and what particular circumstances should it illustrate? For example, would it be helpful to require issuers to include a graphic illustration demonstrating how a contract adjustment works when investors withdraw amounts from their contract prior to the end of a crediting period? Should we require illustrations that demonstrate the operation of a contract adjustment for investors in circumstances where they change to a different index-linked option before the end of a crediting period, and demonstrating how they can change investment options to minimize the financial impact to their contract value?

6. Information about Contracts with Index-Linked Options (Item 31A)

We are proposing new Item 31A of Form N-4 to require census-type information regarding RILAs offered in connection with the applicable registration statement. Specifically, under proposed Item 31A, an insurance company would be required to provide the following information regarding any RILA offered through the registration statement, as of the most recent calendar year-end: (1) the name of each contract; (2) the number of contracts outstanding; (3) the total value of investor allocations attributable to index-linked options; (4) the number of contracts sold during the prior calendar year; (5) the gross premiums received during the prior

calendar year; (6) the amount of contract value redeemed during the prior calendar year; and (7) whether the contract is a "combination contract," that is, a contract that offers variable options in addition to index-linked options. This information would be required as of the most recent calendar year-end and, accordingly, would generally be updated through a post-effective amendment to a registration statement on Form N-4.[202]

This information is census-type data that would provide contract-level disclosures designed to assist the Commission and staff in identifying trends in insurance companies' offerings of RILAs. This information would also provide improved transparency to investors by supplementing the information available about the marketplace for the contracts offered in connection with a registration statement. These items are relatively limited in scope and primarily consist of information that should generally be readily available to issuers. The particular data required is similar to that provided by registered separate accounts that likewise assist the Commission and staff in identifying trends in variable annuities.[203]

We are proposing to require information to be presented as of the most recent calendar year-end to provide the Commission and its staff with information that will be updated with an annual frequency for offerings of RILAs. We anticipate that this information would typically be updated as part of an issuer's annual update to its registration statements for such contracts.[204] This approach would result in information provided as of a uniform date for all offerings of

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202 *See* proposed Item 31A of Form N-4. An issuer transitioning from an existing registration statement on Form S-1 or S-3 to Form N-4 through a post-effective amendment would be required to report this information as of the most recently completed calendar year in its first post-effective amendment transitioning onto Form N-4.

203 *See* Item F.14 of Form N-CEN; *see also* Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] at the sentences following n.1142.

204 *See* 15 U.S.C. 77j(a)(3).

RILAs, regardless of the issuer's filing date, and, in turn, would provide for increased comparability across issuers and contracts.[205] Requiring this information to be updated annually is intended to achieve an appropriate balance between providing the Commission and its staff with current information while avoiding overburdening issuers. An annual snapshot should be sufficient for the census-type nature of the information and would provide Commission staff with appropriate intervals of data points over time in which to identify trends in insurance companies' offerings of RILAs. Requiring these issuers to report such census information semi-annually or more frequently would place an increased burden on issuers that may not be justified by a commensurate increase in the value of the information received by the Commission.

This reporting would provide the Commission with additional transparency into the RILA market segment, which would in turn improve the effectiveness of the Commission's oversight of offerings on Form N-4. Requiring this high-level reporting would permit the Commission to identify trends occurring in this market segment over time and assist with allocating the Commission's resources in administering the form. This reported information on index-linked options would complement parallel census-type information that is currently required to be reported annually on Form N-CEN by registered unit investment trusts offering variable annuities.[206] The new census-type information therefore would help provide the Commission with a more complete picture of the marketplace for insurance products offered

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205 We understand that insurance companies offering RILAs have a December 31 fiscal year end which, in practice, means a distinction between calendar year and fiscal year would result in limited effect on the reporting.

206 Issuers registering combination contracts on Form N-4 would be required to exclude amounts allocated to a variable option when providing information in response to Item 31A as these allocations would be separately reported by registered separate accounts on Form N-CEN.

through registration statements on Form N-4. In addition, this information may benefit the public in supplementing the information available about RILAs.

We request comment on these proposed amendments.

73. Are the required reporting elements in Item 31A of proposed Form N-4 appropriate and clear? If not, what elements require additional instruction?

74. Do commenters agree that it is appropriate to require reporting under Item 31A to be provided as of calendar year-end? Do commenters agree that there is limited practical difference between requiring a fiscal year-end and calendar year-end requirement in light of investment company practices?

75. Should we require additional or different reporting of census-type reporting regarding RILAs? If so, should we also amend the requirements of Form N-CEN to ensure parallel reporting by registered unit investment trusts offering variable annuities registered on Form N-4?

76. Would RILA issuers face any significant challenges in providing the required reporting elements? If so, why?

77. Do commenters agree that it would be appropriate for issuers with existing contracts to report information required by proposed Item 31A for the calendar year prior to the calendar year the issuer first transitions its registration statement onto Form N-4?

7. Other Amendments and Provisions

Our proposed amendments also include certain other amendments to Form N-4 and related rules designed to accommodate the inclusion of RILA issuers on that form. These include amendments to Form N-4's facing sheet, definitions, exhibit list, and required representations, as

well as amendments to certain Securities Act rules that help to implement the proposal. These proposed amendments are discussed below.

a) Facing Sheet

We are proposing amendments to include a new checkbox section on the facing sheet. Specifically, an issuer would be required to identify in this new section: (1) if it is a new registrant, defined as, as applicable, a registered separate account or insurance company that has not filed a Securities Act registration statement or amendment thereto within 3 years preceding this filing;[207] (2) if it is an emerging growth company ("EGC"), as defined by Rule 12b-2 under the Exchange Act; (3) if it is an EGC, whether it has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act; and (4) if it is relying on an exemption from Exchange Act reporting requirements in reliance on rule 12h-7.[208] These changes would help the Commission better understand the types of registration statements being filed on Form N-4 and, in the case of the EGC information, mirrors similar facing sheet requirements found in Form S-1. In addition, we are proposing amendments to the description of the types of entities that use Form N-4 to include insurance companies that offer index-linked options, either as stand-alone or combination products.[209]

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207 For example, a variable annuity separate account that has not previously filed a Securities Act registration statement would identify itself as a new registrant, regardless of whether the sponsoring insurance company has filed a recent Securities Act registration statement or amendment thereto as the proposed requirements request information on the registrant. In the same manner, an insurance company filing on Form N-4 would determine whether it is a new registrant solely with respect to its own Securities Act registration statement filings.

208 In addition to this checkbox, we are proposing an instruction that implements the requirements of rule 12h-7 to indicate that the insurance company is relying upon the exemption provided by that rule in the relevant prospectus. *See supra* section II.B.3.b.

209 *See supra* section II.A.

b) Definitions (General Instruction A)

We are proposing amendments to General Instruction A to update the existing definitions in Form N-4, add new definitions to accommodate the inclusion of RILAs on Form N-4, and implement these proposed definitions throughout the form. However, unless otherwise stated, the proposed amendments to the definitions in General Instruction A would not alter the existing obligations under Form N-4 for current issuers on Form N-4. These changes should provide a standard set of definitions to convey form provisions in a consistent and efficient manner without the need for lengthy descriptions in each instance and clarify which form provisions apply to which categories of issuers and investment products.[210]

Specifically, we propose to add a new definition for "index-linked option." The proposed definition covers RILAs and index-linked options offered in combination contracts, as an investment option offered under any contract, pursuant to which the value of the contract, either during an accumulation period or after annuitization, or both, will earn positive or negative interest based, in part, on the performance of a specified index.[211] This is a functional definition focused on the key features of a RILA and would cover RILAs as defined in the RILA Act. We also propose to define "fixed option" as an investment option under the contract pursuant to which the value of the contract, either during an accumulation period or after annuitization, or both, will earn interest at a rate specified by the insurance company, subject to a minimum guaranteed rate under the contract. Further, we would change the existing definition of "variable annuity contract" to "variable option" and move the parts of that definition that refer to annuity

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210 We are also proposing to amend Form N-4 throughout to use the gender-neutral reference of "investor" where appropriate. *See, e.g.*, proposed Instruction 6 to Item 2 of Form N-4.

211 Because RILA returns may not be one for one with the index, we propose to indicate that positive or negative interest is only based "in part" on the index's performance.

contracts generally to a new definition for "contract." In connection with the addition of other types of investment options on Form N-4, we are proposing to amend "portfolio company" to clarify that this term relates to the investment companies offered as investment options in contracts containing variable options. We also propose to add a new defined term "investment option" to refer collectively to any index-linked, variable, or fixed option. We propose to add these items to help clarify which provisions of amended Form N-4 apply to which types of annuities or investment options.

Because an insurance company issuing a RILA is not acting as a depositor, we propose to change the definition of "depositor" to "insurance company." The proposed definition refers to the insurance company that issues the contract, which company is subject to state supervision, and that the insurance company may also be the depositor or sponsor for a variable annuity separate account. We would also add a new definition of "registered separate account" defined as the separate account in which the contract participates with regard to any variable option offered under the contract, and refine the definition of "registrant" to mean either the registered separate account or insurance company, as applicable. These changes further help to clarify which provisions of the form apply to variable annuities and RILAs.

We also propose to add definitions of "index,"[212] "contract adjustment,"[213] and "crediting period"[214] to refer to these RILA-centric concepts in the form and, in the case of "contract adjustment" and "crediting period," help clarify when the relevant disclosures would be required. Lastly, we propose to eliminate the currently defined term "investor account." Insurance companies typically do not use this term in their disclosure, and the more generalized concept of contract value, which also is designed to address the value of an investor's investment, is intended to convey the characteristics of the broader scope of annuities that insurance companies could register on Form N-4 under the proposal.

We also are proposing related amendments throughout Form N-4 to help implement the proposed new definitions. For example, we are proposing to clarify the applicability of certain variable annuity or Investment Company Act-specific disclosure to limit those requirements to "registered separate accounts" or "variable options" when appropriate.[215] As another example, the form requires disclosure of the procedures to purchase an annuity contract including certain particularized information.[216] We would apply this provision generally to all annuities including

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212 As proposed, "index" means any index, rate, or benchmark (such as a registered exchange-traded fund that tracks an index) used in the calculation of positive or negative interest credited to an index-linked option. *See* proposed General Instruction A to Form N-4.

213 As proposed, "contract adjustment" means a positive or negative adjustment made to the value of the contract by the insurance company if amounts are withdrawn from an index-linked option or from the contract before the end of a specified period. This adjustment may be based on calculations using a predetermined formula, or a change in interest rates, or some other factor or benchmark. *See id*.

214 As proposed, "crediting period" means the period of time over which an index's performance is measured, subject to applicable limits on index gains and losses, to determine the amount of positive or negative interest that will be credited to an index-linked option at the end of the period.

215 *See, e.g.*, proposed Items 3, 7, 8, 24, 32, and 34(a) of Form N-4; *see also* proposed definitions for "class" (clarifying applies to all contracts) and "platform charge" (clarifying only applies if there is a variable option).

216 *See* Item 11 of Form N-4.

RILAs, but are only requiring certain disclosures relating to the operation of accumulation units and sub-accounts to contracts with variable options as those elements are not utilized by RILAs.

c) Rules 405, 480, 481, 483, and 484

We are proposing amendments to rule 405 under the Securities Act to add the new defined terms "Form available solely to investment companies registered under the Investment Company Act of 1940" and "registered index-linked annuity" for purposes of Securities Act rules.

Certain Securities Act rules apply only to registration statements that are prepared on a form available solely to a registered investment company or a business development company. These rules are 17 CFR 230.480 ("rule 480"), 17 CFR 230.481 ("rule 481"), 17 CFR 230.483 ("rule 483"), and 17 CFR 230.484 ("rule 484") under the Securities Act, and include forms such as Forms N-1A, N-2, N-3, N-4, N-5, and N-6. These rules prescribe requirements relating to: information given with the title of securities; information contained in registration statements; exhibits filed as part of the registration statement; and undertakings required with respect to requests for acceleration.

By virtue of moving RILAs, which are not issued by a registered investment company, onto Form N-4, Form N-4 would be outside the scope of this description absent the proposed amendments. As such, the proposed new defined term "form available solely to investment companies registered under the Investment Company Act of 1940" would specify that these rules would continue to apply to registration statements filed on Form N-4. Specifically, we are proposing to amend rule 405 to state that "a form available solely to investment companies registered under the Investment Company Act of 1940" includes the form used to register the offering of securities of a registered index-linked annuity for purposes of the Securities Act of 1933. By operation of this new term, RILA registration statements on Form N-4 would be

subject to rules 480, 481, 483, and 484.[217] We propose to subject RILA registration statements to these rules to help facilitate a consistent application of Form N-4 requirements.

We are also proposing to add a definition of "registered index-linked annuity" to rule 405, which provides consistent definitions for select terms used throughout the Securities Act rules, to simplify references to RILAs in the proposed Securities Act rule amendments. Specifically, we would define "registered index-linked annuity" as an annuity or an option available under an annuity (1) that is deemed a security; (2) that is offered or sold in a registered offering; (3) that is issued by an insurance company that is the subject to the supervision of either the insurance commissioner or bank commissioner of any state or any agency or officer performing like functions as such commissioner; (4) that is not issued by an investment company; and (5) whose value, either during the accumulation period or after annuitization or both, will earn positive or negative interest based, in part, on the performance of any index, rate, or benchmark.

Under the RILA Act, the term "registered index-linked annuity" means an annuity (A) that is deemed to be a security, (B) that is registered with the Commission in accordance with section 5 of the Securities Act, (C) that is issued by an insurance company that is subject to the supervision of the insurance commissioner or bank commissioner of any State or any agency or officer performing like functions as such commission, (D) that is not issued by an investment company, and (E) the returns of which are based on the performance of a specified benchmark

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217 These rules currently apply to registration statements on Form N-4. Rule 480 prescribes requirements relating to information given with the title of securities. Rule 481 prescribes certain information to be required in the registration statement (*e.g.*, certain legends to appear on the front and back cover pages of prospectuses). Rule 483 prescribes certain requirements relating to exhibits filed as part of the registration statement. Rule 484 prescribes certain required undertakings with respect to requests for acceleration under 17 CFR 230.461 when certain arrangements exist with respect to indemnification of specified persons against liability under the Securities Act.

index or rate (or a registered exchange traded fund that seeks to track the performance of a specified benchmark index or rate) and may be subject to a market value adjustment if amounts are withdrawn before the end of the period during which that market value adjustment applies.[218] The proposed definition in rule 405 differs in certain respects from this definition, but covers all offerings that would be included in the RILA Act's definition. These differences are intended to simplify the definition and use terminology that is consistent with other rules under the Securities Act. For example, the proposed definition clarifies that the insurance company is registering the offering of a RILA, rather than the RILA itself, with the Commission.[219] As another example, the proposed definition in rule 405 does not include a reference to a "market value adjustment," as the RILA Act's definition does, because the RILA Act did not require that feature as a predicate for being a "RILA."[220] Since the presence of a market value adjustment does not factor into the assessment of whether a security is a RILA under the RILA Act's definition, it is unnecessary to refer to this feature in the proposed definition in rule 405. The proposed definition, however, continues to encompass the full scope of the RILA Act's definition.

d) Exhibits and Undertakings (Items 27 and 34)

As a function of moving RILAs onto Form N-4 and subjecting them to the requirements of rule 483, RILA issuers would be required to file various exhibits as part of a registration statement, similar to the requirements these issuers are subject to when registering RILA

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218 *See* Pub. L. 117-328; 136 Stat. 4459 (Dec. 29, 2022).

219 This is functionally the same as the requirement of the RILA Act that the RILA "be registered with the Commission in accordance with section 5 of the Securities Act of 1933." *See* section 101(a)(5) of Division AA, Title I of the Consolidated Appropriations Act, 2023.

220 *See* Pub. L. 117-328; 136 Stat. 4459 (Dec. 29, 2022) (defining RILA as an annuity, among other things, the returns of which *may be* subject to a market value adjustment if amounts are withdrawn before the end of a period in which that market value adjustment is applied) (emphasis added).

offerings on Forms S-1 and S-3 currently.[221] Further, in addition to the requirements of rule 484, we are proposing to amend Item 34 of Form N-4 to include certain undertakings currently required of RILAs as part of their Form S-1 and S-3 registration statements.[222]

Item 27 - Exhibits

RILA issuers are currently subject to the integrated disclosure requirements of Regulation S-K when registering their offerings, which provide requirements for exhibits that must be filed as part of the registration statement.[223] Conversely, issuers on Form N-4 are required to file the exhibits required by rule 483 and Item 27 of Form N-4. To provide consistent requirements for Form N-4 issuers, we are proposing amendments to require RILA issuers to adhere to the same requirements as current issuers on Form N-4. RILA issuers and current Form N-4 issuers are subject to somewhat different provisions for filing exhibits to a registration statement. However, there are significant similarities between the types of the exhibits that each type of issuer is required to file, and thus we generally are not proposing to change those requirements. RILA registration statements will therefore continue to include the types of exhibits currently included in their registration statements on Forms S-1 and S-3. For example, RILA issuers filing on Form N-4 would continue to be required to file such exhibits as the insurance company's certificate of incorporation and by-laws, forms of contracts offered in connection with the registration

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221 *See* Item 16 of Form S-1; Item 16 of Form S-3; Item 601 of Regulation S-K.

222 The disclosure currently required in Item 34, the fee representation mandated of registered separate accounts under the Investment Company Act, would be retained as paragraph (a) of this item, limited in application to variable options, and the new undertakings added as new paragraph (b) and limited to index-linked options. *See also* 15 USC 80a-26(f)(2)(A). We would also rename this item "Fee Representation and Undertakings."

223 *See* 17 CFR 229.601.

statement, underwriting agreements, legal opinions, and other material contracts, as applicable.[224]

We are not, however, proposing to amend Item 27 of Form N-4 to include required exhibits under Regulation S-K that are generally not applicable to RILAs or would no longer be relevant in light of the proposed amendments.[225] For example, RILA registration statements are currently required to include a filing fee exhibit. Under the proposed amendments, RILA issuers would no longer include registration fee payments as part a registration statement or post-effective amendment filing. Therefore, the proposed amendments to Item 27 of Form N-4 omit this existing exhibit requirement for RILAs.[226]

We are, however, proposing to amend Form N-4's required exhibits list to add new Item 27(p) for all issuers, which would require the filing of any power of attorney included pursuant to rule 483(b).[227] While this exhibit is already required to be filed with a Form N-4 registration statement under rule 483(b), practices differ in regards to the placement of a required power of attorney exhibit within the exhibit list. This amendment is designed to assist the public in comparing these exhibits by standardizing their location in the registration statement. In addition, we are proposing conforming changes in Item 27 to reflect the proposed amendments to the definitions in Form N-4.

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224 *See* 17 CFR 229.601; proposed Item 27 of Form N-4.

225 *See* 17 CFR 229.601; proposed Item 27 of Form N-4. For example, some items, like Item 601(b)(96) of Regulation S-K which requires a technical report summary to be filed as an exhibit to a registration statement on Form S-1 when a registrant discloses information concerning its mineral resources, are wholly inapplicable to RILAs.

226 *See* 17 CFR 229.601(b)(107).

227 RILA registration statements on Forms S-1 and S-3 similarly include a power of attorney, when applicable, to be filed as part of the registrations statement. *See* 17 CFR 229.601(b)(24). *See also supra* section II.D (discussing the addition of a new exhibit relating to changes in accountants).

Item 34 – Fee Representation and Undertakings

We are also proposing amendments to Item 34 of Form N-4 to require RILA issuers to include specific undertakings in their registration statements on Form N-4. Under the proposed amendments, a RILA issuer would be required to furnish two undertakings as part of the registration statement on Form N-4. These undertakings are (1) to file, during any period in which offers or sales are being made, through a post-effective amendment to its registration statement, any prospectus required by section 10(a)(3) of the Securities Act and (2) that, for the purposes of determining liability under the Securities Act, each post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. These proposed undertakings are the same as two undertakings RILA issuers currently provide in registration statements,[228] and mirror the effect of similar provisions of section 24(e) of the Investment Company Act, which applies to amendments to Form N-4 registration statements by registered separate accounts.[229] We are proposing that RILA issuers continue to furnish these representations concerning post-effective amendments to a registration statement as, under the

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228 *See* rule 415(a)(3) and 17 CFR 229.512(a). Under the proposed amendments, RILAs would be exempt from the conditions of rule 415, including furnishing the required undertakings pursuant to Item 512(a) of Regulation S-K. *See infra* footnote 331. For example, RILA registration statements would no longer be required to include a statement that the issuer undertakes to file a post-effective amendment to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. We preliminarily believe this requirement is not necessary for RILA registration statements on Form N-4 in light of the other amendments we are making to the prospectus and registration statement filing process for RILAs. *See infra* section II.E (discussing proposed amendments to rules 485 and 497 under the Securities Act).

229 *See* Section 24(e) of the Investment Company Act [15 U.S.C. 80a-24(e)]. Section 24(e) generally requires a registered separate account to amend its registration statement annually to update its prospectus for the purposes of section 10(a)(3). Section 24(e) also provides that, for the purposes of liability under Securities Act, the effective date of the latest amendment is deemed to be the effective date of the registration statement with respect to securities sold after the effectiveness of amendment.

proposed amendments, RILAs may be continuously offered on a registration statement for an indefinite amount of time. In that time, a RILA registration statement may be subject to a number of various post-effective amendments. Conversely, the proposed amendments do not include other undertakings which may be currently required in RILA registration statements. These undertakings relate to the process for conducting continuous offerings under rule 415, which RILAs will no longer be subject to under the proposed amendments. In addition, we are not including other undertakings that are unnecessary in light of the proposed amendments as a whole.[230] For example, RILA issuers currently are required to include an undertaking to remove from registration any of the securities being registered that remain unsold at the termination of an offering through a post-effective amendment.[231] However, under the proposed amendments, RILA issuers will be registering an indeterminate amount of securities and paying registration fee payments in arrears on amended Form 24F-2 for the life of an offering. Under this approach, a RILA issuer would only pay registration fees on the exact amount of net issuance of securities relating to an offering and therefore, it is unnecessary to additionally require an undertaking that relates to a surplus registration of securities during an offering.

e) Request for Comment

We request comment on these proposed amendments.

78. Are the instructions for the proposed new section on the facing sheet appropriate? Should there be additional or different options for the proposed new section on the facing sheet?

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230 *See* 17 CFR 229.512(a).

231 *See* 17 CFR 229.512(a)(3).

79. Are the definitions in Part A of the General Instructions of Form N-4 appropriate? If not, which definitions require additional clarity or modifications? For example, do commenters believe it is appropriate to use the collective term "registrant" to include insurance companies that may not be registered entities under the Securities Act? Do the definitions effectively convey which provisions apply to which type of annuity contract?
80. Do commenters agree with the statement that "investor account" is not generally used in insurance company disclosures to investors relating to annuity contracts?
81. Did we appropriately scope those provisions that practically only apply to variable options to those types of investment options? Are there any other disclosures we should limit to variable options? Conversely, are there provisions we limited to variable options that we should also apply to index-linked options?
82. Should we add any additional definitions to Part A of the General Instructions to Form N-4? Should we retain the term "investor account"?
83. Is the definition of "Index-Linked Option" appropriate? Should we revise the definition in any way? Does this definition encompass all potential RILAs and index-linked options offered in combination contracts as proposed as required by the RILA Act?
84. Do commenters agree that the proposed definition of "registered index-linked annuity" in rule 405 is appropriate? Do commenters agree that the proposed definition is inclusive of the types of RILAs encompassed in the definition of "registered index-linked annuity" in the RILA Act?

85. Do commenters agree that with the proposed definition of "Form available solely to investment companies registered under the Investment Company Act of 1940?" Do commenters think this may cause confusion as RILA issuers are not investment companies registered under the Investment Company Act?
86. Should we require RILA issuers to adhere to rules 480, 481, 483, and 484 when registering RILAs on Form N-4?
87. Do commenters agree that the Exhibit List for proposed Form N-4 encompasses the types of exhibits that RILA issuers currently include in registration statements and is appropriate for RILAs? If not, what exhibit requirements should govern RILAs registered on Form N-4? Are there additional exhibits that RILA issuers should be required to file as part of their registration statements on Form N-4? Are there any exhibits that the integrated disclosure requirements of Regulation S-K currently include that we should require on Form N-4?
88. Is it appropriate to require RILA issuers to furnish the undertakings in Item 34 of proposed Form N-4? Are there different or additional undertakings that should be required for these issuers?

8. Remaining Form N-4 Items

We propose to make applicable to RILAs the remaining requirements and disclosure items on the existing Form N-4 discussed below, which we do not propose to substantively change.[232] The general instructions to the proposed form include both organizational requirements along with substantive requirements for the preparation of the registration

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232 As noted above, some of these items would be amended to account for changes in defined terms and to use gender-neutral terminology. *See supra* section II.B.7.

statement, including instructions relating to the organization, presentation, and prospectuses permitted to be included in a registration statement. The remaining disclosure items principally provide investors with information about the annuity contract and how it operates. In addition, these items provide basic information about the insurance company or the securities offering itself, consistent with some of the disclosures provided currently in Forms S-1 or S-3.

a) General Instructions

RILAs offerings registered on Form N-4 will need to comply with the general instructions of that form. These general instructions are structured to include four parts: (A) Definitions;[233] (B) Filing and Use of Form; (C) Preparation of the Registration Statement; and (D) Incorporation by Reference.[234] This would result in a number of substantive outcomes for those issuers.[235] Specifically:

- *Plain English.* The instructions provide a number of points to issuers on how best to promote effective communication between issuers and prospective investors. For example, issuers are directed to use document design techniques that promote effective communication and to respond to the items in the form as simply and directly as reasonably possible and avoid the use of formulas as the primary means of

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233 *See supra* section II.B.7(b) (discussing proposed amendments to the definitions used in the form).

234 The items described in this section can generally be found in proposed General Instruction C of Form N-4. *See also supra* section II.B.[Other Amendments] (discussing definitional updates). EDGAR permits registrants to file required financial statements separately under a specific submission type. Thus, registrants may incorporate by reference into their post-effective amendment and other filings the financial statements filed under this EDGAR submission type. *See* VASP Adopting Release at n.592.

235 We are also proposing to correct a typographical error in General Instruction B.2(b) regarding items that can be omitted for registration statements or amendments filed only under the Investment Company Act. Currently, the instructions state that issuers can omit from Part C Items 26(c), (k), (l), and (m), but those items do not exist in the form and Item 26 (Financial Statements) is in the SAI, not Part C. This is supposed to refer to Item 27 (Exhibits), which do exist, are in Part C, and are more Securities Act in nature. This instruction would be updated to refer instead to Item 27 as a result.

communicating certain terms or features of a contract.[236] Issuers are also encouraged to use, as appropriate, Q&A formats beyond the KIT, tables, and other presentation methods in the form generally.[237]

- *Organization.* Issuers are directed to organize information in the prospectus and SAI to make it easy for investors to understand, with some limitations on the order of presentation.[238]
- *Other information.* Issuers are permitted to include (other than in Items 2 or 3) information in the prospectus or SAI not otherwise required as long as the additional information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure, or impede understanding of the information that is required. [239] In similar circumstances, issuers may include sales literature in the prospectus.[240]
- *Terminology.* Issuers are required to define special terms used in the prospectus in any presentation that clearly conveys meaning to investors.[241] Only these special terms must be defined or listed in any glossary or list of definitions elected to be used.[242] Registrants are not required to use the same terminology as that used in the

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236 *See* proposed General Instructions C.1.(a) and (c) to Form N-4. This specific text is not intended to discourage use of a formula, but rather, to clarify that if a formula is used in connection with a term or feature, investors are first provided appropriate plain English disclosure regarding the operation of the term or feature. *See* VASP Adopting Release at n.591.

237 *See* proposed General Instruction C.3.(c) to Form N-4. As discussed above, we are proposing to require Q&A formatted responses to the Key Information Table. *See supra* section II.B.2.

238 *See* proposed General Instruction C.3.(b) to Form N-4.

239 *See* proposed General Instruction C.3.(b) to Form N-4.

240 *See* proposed General Instruction C.3.(g) to Form N-4.

241 *See* proposed General Instruction C.3.(d) to Form N-4.

242 Registrants are also permitted to define terminology only used in one section in such section.

form as long as the registrant clearly conveys the meaning of, or provides comparable information as, the form's terminology.

- *Multiple Contracts.* Issuers are permitted to describe multiple contracts that are essentially identical in a single prospectus, and the instructions discuss the presentation of information regarding multiple contracts in these circumstances.[243] Further, issuers are permitted to combine multiple prospectuses into a single registration statement where the contracts are substantially similar.
- *Timing.* The instructions state that, consistent with Securities Act rules, in most circumstances prospectuses and SAIs used after the effective date of the registration statement shall be dated approximately as of such effective date, but that a revised or amended prospectus or SAI used thereafter need only bear the approximate date of its issuance. Each supplement to the prospectus or SAI shall be dated separately the approximate date of its first use.[244]
- *Provision of Websites.* Any websites included in an electronic version of the prospectus must include active hyperlinks or other means of facilitating access that leads directly to the relevant website address, though this requirement does not apply to a prospectus filed on EDGAR.[245]
- *Incorporation by Reference.* In addition to the general requirements of the Commission rules on incorporation by reference, issuers are not permitted to

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243 *See* proposed General Instruction C.3.(e) to Form N-4. The instructions state that "essentially identical" is a facts and circumstances-based determination but that contracts that differ in providing optional benefits or being group or individual contracts are not essentially identical whereas variances due only to State regulatory requirements would be.

244 *See* proposed General Instruction C.3.(f) to Form N-4; 17 CFR 230.423.

245 *See* proposed General Instruction C.3.(i) to Form N-4.

incorporate by reference information required to be in the prospectus unless otherwise permitted by the form, but may incorporate by reference the SAI into the prospectus without delivering the SAI and incorporate by reference information required to be included in the SAI or Part C.[246]

Collectively, these general instructions are designed to require clear disclosure to investors about the variable annuity contracts currently registered on the form and to make clear how issuers must prepare and file their registration statements. Requiring RILA issuers to prepare their registration statements in accordance with these instructions would likewise facilitate the provision of clear disclosure to investors and provide clear direction to these issuers on how to prepare and file their registration statements. Further, applying these requirements to RILAs as proposed would help ensure the comparability of different annuity offerings, for example, by ensuring that the filings are held to the same plain English, multiple contract disclosure, timing, website, and incorporation by reference standards.

b) Contract Disclosures

The table below summarizes disclosures in the existing Form N-4 about the annuity contract, how it operates, and how it is serviced by the insurance company, that we propose making applicable to RILA issuers without substantive change.

Table 4: Contract Disclosures

Item	Description
Prospectus (Part A)	

246 Proposed General Instruction D of Form N-4.

Item	Description
General Description of the Contracts (Item 8)	A general description of the contract, including disclosure of the parties' material rights under the contract; relevant contract provisions and limitations; contract obligations funded by the insurance company's general account; class of purchasers, and material changes that can be made to the contract by the insurance company.
Annuity Period (Item 9)	A description of the annuity options available, including a discussion of material factors that determine the benefits; annuity commencement date; frequency and duration of annuity payments; the effect of assumed investment return; any minimum amount necessary for an annuity option and the consequences of an insufficient amount; rights to change annuity options; and, if applicable, a disclosure that the investor will be unable to withdraw any contract value amounts after the annuity commencement date.
Benefits Available Under the Contract (Item 10)	A tabular summary overview of the benefits available under the contract (*e.g.*, standard or optional death benefits, standard or optional living benefits, etc.), briefly discussing, among other things: whether the benefit is optional; current and maximum fees associated with the benefit; how the benefit amount is calculated; and any associated restrictions or limitations.
Purchases and Contract Value (Item 11)	A description of the procedures for purchasing a contract, including concise explanations of minimum initial and subsequent purchase payment required, when these payments are credited, and how they are allocated to investment options. Also an identification of the principal underwriters (other than the insurance company) of the contracts and other information about that underwriter such as any affiliations.
Surrenders and Withdrawals (Item 12)	A description of how surrenders and withdrawals can be made from a contract, including limits on the ability to surrender, how proceeds are calculated, and when surrenders and withdrawals are payable. Issuers must also describe potential effect of surrenders and withdrawals, including how they could affect a contract's value or benefits, and whether any charges or contract adjustments will apply. Issuers should also describe any involuntary redemption provisions and any revocation rights, disclosing the calculation methodology and any associated limitations to investment options.
Loans (Item 13)	A description of the loan provisions of the contract, including, for example, loan availability and related restrictions, interest mechanics, the effect of a loan on the contract's value and death benefit, other effects that a loan could have on a contract; and loan procedures.

Item	Description
Taxes (Item 14)	A description of the material tax consequences to the investor and beneficiary of buying, holding, exchanging, or exercising rights under the contract. The description should include a discussion of the taxation of annuity payments, death benefit proceeds, periodic and non-periodic withdrawals, loans, and any other distribution that may be received under the contact, as well as the tax benefits accorded the contract and other material tax consequences. Issuers must identify the types of qualified plans for which the contracts are intended to be used and describe any effect of taxation on the determination of contract values.
Statement of Additional Information (Part B)	
Cover Page and Table of Contents (Item 18)	A statement of the name of the insurance company, the contract, and related class or classes. This item also requires a table of contents, a statement that the SAI is not a prospectus, information about how to obtain the prospectus, and a discussion of information the SAI incorporates by reference.
Non-principal Risks of Investing in the Contract (Item 20)	A summary of the non-principal risks of purchasing a contract not otherwise disclosed in the prospectus.
Services (Item 21)	Information on services provided to the registrant in connection with the contract. If not disclosed elsewhere, this requires a summary of the substantive provisions of certain management-related service contracts. The registrant must also provide the name and address of its independent public accountant. Where affiliates of the insurance company act as agents for the registrant in connection with the contract, issuers are required to provide specific information about the services performed and remuneration paid for the services. Issuers must also disclose if the insurance company is the principal underwriter of the contract.
Annuity Payments (Item 25)	A description of the method for determining the amount of annuity payments if not described in the prospectus and how any change in the amount of a payment after the first payment is determined.
Other Information (Part C)	
Management Services (Item 33)	A summary of the substantive provisions of any management-related service contracts not discussed in Parts A or B, including the last three years' payment history.

These requirements apply to existing Form N-4 issuers because these disclosures provide investors in these products with a concise presentation of material information about the annuity contract they would be purchasing, as well as other information that provides necessary context

about the contracts such as management service disclosures.[247] Because disclosure of this information is equally fundamental to the ability of investors to make informed investment decisions about RILA contracts, we are proposing to apply these requirements to RILAs. For example, existing Form N-4 issuers are required to summarize standard and optional benefits available to the investor under the contract because these benefits are primary features of variable contracts and are also often key differentiators between competing products.[248] Insurance companies also offer these benefits in connection with RILAs.

c) Issuer and Offering Disclosures

In addition to disclosures about the contract, the proposed amendments to Form N-4 would require that RILA issuers make certain disclosures relating to the issuer and offering consistent with the form's current requirements. The table below summarizes these items, omitting items in Form N-4 that, by their terms, would not apply to RILAs.

Table 5: Issuer and Offering Disclosures

Item	Description	Similar Form S-1 Disclosure
Prospectus (Part A)		
Legal Proceedings (Item 15)	A description of material pending legal proceedings to which the registered separate account, the principal underwriter, or the insurance company is a party, including similar information regarding any proceedings instituted or known to be contemplated by a governmental authority.	Item 11(c) (legal proceedings)
Statement of Additional Information (Part B)		

247 *See* Registration Forms for Insurance Company Separate Accounts That Offer Variable Annuity Contracts, Investment Company Act Release No. 14575 (June 24, 1985) [50 FR 26145 (June 25, 1985)] ("Forms N-3 and N-4 Adopting Release").

248 *See* VASP Adopting Release at n.26 and accompanying text.

Item	Description	Similar Form S-1 Disclosure
General Information and History (Item 19)	Basic information regarding the background and organization of the insurance company, including the jurisdiction in which it is organized and a description of its business.	Item 11(a) (description of business)
Underwriters (Item 23)	Identification of the principal underwriters (other than the insurance company), and for affiliated underwriters, a description of the nature of the affiliation. For each principal underwriter distributing the registrants' contracts, the insurance company must provide information about the offering and related commissions. If the registrant made payments to an underwriter of or dealer in the contracts during its last fiscal year over a threshold amount, the registrant must disclose certain information about those payments.	Item 8 (plan of distribution)
Other Information (Part C)		
Directors and Officers of the Insurance Company (Item 28)	A statement of the name, principal business address, position, and office held for each director or officer of the insurance company.	Item 11(k) (directors and executive officers)
Persons Controlled by or Under Common Control with the Insurance Company or the Registrant (Item 29)	Disclosure of persons directly or indirectly controlled by or under common control with the registrant or the sponsoring insurance company.	Item 11(k) (directors and executive officers)
Indemnification (Item 30)	Information about the effect of relevant indemnification agreements, arrangements, or statutory provisions through which underwriters or affiliates are insured or indemnified against any liability incurred in their official capacity.	Item 14 (indemnification of directors and officers)
Principal Underwriters (Item 31)	A statement of investment companies, other than any registered separate account related to the filing, each principal underwriter is also acting as a principal underwriter. More detailed information about principal underwriters identified in Item 23, such as recent information about commissions and other compensation received from the registrant by each principal underwriter.	Item 8 (plan of distribution)

Information about the issuer and the offering process are relevant when purchasing an annuity contract, including in the context of a RILA.[249] These items, which largely correspond to items currently required to be disclosed by RILAs on Forms S-1 and S-3 as detailed in the table above, provide the appropriate amount of information about the issuing insurance company and the offering of securities in a way tailored to annuity contract investors. For example, because an investor's rights under RILAs are dependent on the insurance company's claim-paying ability, RILA purchasers also share an interest in disclosures of material pending legal proceedings involving the insurance company or related parties. On the other hand, where Form S-1 disclosures have less relevance to RILAs, we have not included those disclosures in proposed Form N-4.

d) Request for Comment

We request comment on our proposed application of these requirements and disclosures to RILAs.

89. Is it appropriate to require RILA issuers to meet these general instructions of the form? Should we tailor any particular provision to account for the differences between RILAs and the variable annuities that currently use the form? For example, is there any reason to treat RILAs different for purposes of the "essentially identical" test?
90. The investor testing results suggested that investors had significant difficulty in understanding certain terminology used in connection with RILAs, in particular the words "term" and "investment term."[250] Should we, as a result, change any

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249 *See* Forms N-3 and N-4 Adopting Release.

250 *See* OIAD Report at Section 7, Conclusions, Summary of Findings.

instruction to aid in investor understanding? For example, the form currently provides that the prospectus disclosure requirements in Form N-4 are intended to elicit information for an average or typical investor who may not be sophisticated in legal or financial matters.[251] In light of this feedback in investor testing, should we amend this instruction or otherwise provide that insurance companies should not use "term," "investment term," or other terminology that investors found confusing? Regardless of whether insurance companies use "investment term" or different terminology, in the glossary definition of the "investment term" (or another term to describe that concept) should insurance companies be required to specifically disclose to investors that the "investment term" is not the same as the life of the contract? As another example, should we require, rather than permit, the use of a glossary or list of definitions for the entirety of the form so that investors have one place to look to understand a particular term? Should we clarify what terms are "special terms"? What terminology in particular should be considered a special term in the RILA context?

91. Should we define certain key terms that insurance companies must use in their registration statement to help to mitigate investor confusion and help investors compare one RILA to another? Which key terms should we address and how should they be defined?

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[251] *See* Instruction C.1.b of Form N-4.

92. Is it appropriate, as proposed, to apply these exiting Form N-4 disclosure requirements to RILA issuers? Are any of these disclosure items inappropriate for including in a RILA registration?
93. Are there other details about the RILA contract, not otherwise addressed above, that we should require be disclosed on amended Form N-4? Are there details regarding the issuer or offering that we should require?
94. Certain of these disclosures are repeated throughout the registration statement. For example, similar disclosures regarding principal underwriters are contained in the prospectus (Item 11) and SAI (Item 23). Should we limit these items to a particular location in the registration statement?
95. Under the proposal, certain information that RILA issuers currently provide on Forms S-1 and S-3 would still be required by Form N-4, but would be placed in the SAI rather than the prospectus. Should any of the information we propose to require in the SAI instead be provided in the prospectus?
96. Are these items properly ordered? Should we move any of these items to greater prominence or move items from the prospectus, SAI, or Part C to another part of the registration statement?

9. Inline XBRL

We are proposing to require RILA issuers to tag certain of the information they would disclose in their prospectuses and SAIs in a structured, machine-readable data language. Specifically, we are proposing to require RILA issuers to tag the required information in Inline XBRL in accordance with Rule 405 of Regulation S-T (17 CFR 232.405) and the EDGAR Filer

Manual.[252] The proposed requirements for RILA issuers would include tagging of the overview and more in-depth descriptions of index-linked options and contract adjustments that RILA issuers would have to include in their prospectuses under the proposal, the proposed disclosure of census-type information regarding contracts with index-linked options, and information disclosed about changes in and disagreements with accountants.[253] RILA issuers, in addition to variable contracts issuers whose contracts offer fixed options, would have to tag the proposed descriptions of fixed options available under the contract.[254] Form N-4 filers also would have to tag the proposed new disclosures indicating that the insurance company is relying on the exemption provided by rule 12h-7, and variable contract issuers would have to tag the proposed new statement relating to the risks of variable options.[255]

In addition, RILA issuers would have to tag those prospectus disclosures that Form N-4 currently requires to be tagged.[256] These include the following disclosure items: the Key Information Table, Fee Table, Principal Risks of Investing in the Contract, Other Benefits Available Under the Contract, and Investment Options Available Under the Contract in the statutory prospectus. The proposed Inline XBRL requirements, like the current Inline XBRL

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252 This proposed tagging requirements would be implemented by amending General Instruction C.3(h) of Form N-4, and by revising rule 405(b) of Regulation S-T to include the proposed RILA-specific disclosures. Pursuant to rule 301 of Regulation S-T, the EDGAR Filer Manual is incorporated by reference into the Commission's rules. In conjunction with the EDGAR Filer Manual, Regulation S-T governs the electronic submission of documents filed with the Commission. Rule 405 of Regulation S-T specifically governs the scope and manner of disclosure tagging requirements for operating companies and investment companies, including the requirement in rule 405(a)(3) to use Inline XBRL as the specific structured data language to use for tagging the disclosures.

253 *See* proposed General Instruction C.3(h) of Form N-4; *see also* proposed Items 2(b)(2), 2(d), 6(d), 7(e), 26(c), and 31A.

254 *See* proposed General Instruction C.3(h) of Form N-4; *see also* proposed Item 6(e).

255 *See* proposed General Instruction C.3(h) of Form N-4; *see also* proposed Items 6(a) (instruction) and 6(c)(1).

256 *See* rule 405(b) of Regulation S-T; proposed General Instruction C.3(h) of Form N-4; *see also* proposed Items 3, 4, 5, 10, and 17.

requirements for Form N-4 issuers, would only apply to contracts being sold to new investors. The result of this proposed approach would be that prospectus disclosure for contracts that are no longer being sold to new investors would not need to be tagged, as we believe tagging this disclosure would have less utility for current investors and other market participants.[257] Issuers of variable annuities registered on Form N-4 are currently required to tag certain registration statement disclosure items using Inline XBRL.[258] These items are those that would be most suited to being tagged in a structured format and be of greatest utility for investors and other data users that seek structured data to analyze and compare RILA contracts. This rationale is the same as that which the Commission articulated in originally adopting these tagging requirements in the context of variable annuity disclosure.[259]

In addition to these existing items, requiring Inline XBRL tagging of the new disclosure requirements we are proposing to include in Form N-4 would benefit investors, other market participants, and the Commission by making the disclosures more readily available and easily accessible for aggregation, comparison, filtering, and other analysis.[260] We chose these particular items in the form to structure—including those that issuers of variable annuities would newly have to structure—because we believe that they are the most salient to investors and benefit most from being structured. We believe that tagging this disclosure, along with the requirement for

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257 *See* VASP Adopting Release at paragraph accompanying n.904.

258 *See* General Instruction C.3(h) of current Form N-4; *see also* Interactive Data to Improve Financial Reporting, Release No. 33-9002 (Jan. 30, 2009) [74 FR 6776], as corrected by Release No. 33-9002A (Apr. 1, 2009) [74 FR 15666] (requiring operating companies to submit financial statements accompanying their registration statements and periodic and current reports in XBRL).

259 *See* VASP Adopting Release at section II.E.

260 *See supra* footnotes 253-255. These primarily include the proposed new disclosure items that are specific to RILAs, as opposed to extant Form N-4 disclosure items to which we are proposing incremental amendments to address RILAs along with variable annuities.

RILA issuers to tag the same other disclosure items that are currently tagged, would result in information being tagged that would best permit investors and other data users to analyze and compare RILAs. For example, this would enable automated extraction and analysis of descriptions of index-linked options available under the contract, information regarding the features of each currently offered index-linked option, and information regarding contract adjustments. This would allow investors and other market participants more efficiently to perform large-scale analysis and comparison across RILAs (including the index-linked options that different RILAs offer) and time periods. Similarly, the requirement to tag information about fixed options will permit the same type of analysis with respect to these investment options—including comparing fixed options across contracts, as well as index-linked options, variable options, and fixed options offered under the same contract.

As another example, census-type information about variable annuity contracts, which is parallel to the SAI disclosure we propose to require for contracts with index-linked options, is currently reported in structured data format.[261] Requiring census-type information about contracts with index-linked options to be tagged in Inline XBRL would help the Commission and staff identify trends in insurance companies' offerings of the contracts, similar to the tools the Commission and staff currently have to identify trends in the offering of variable annuity contracts. An Inline XBRL requirement also would facilitate other analytical benefits, such as more easily extracting and searching disclosures about annuities, and automatically comparing these disclosures against prior periods.

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261 *See supra* section II.B.I.A.6; *see also* Item F.14 of Form N-CEN.

We are proposing to require RILA issuers to submit Interactive Data Files as follows, consistent with the approach for issuers of variable annuities registered on Form N-4:

• For most post-effective amendments, Interactive Data Files would have to be filed either concurrently with the filing, or in a subsequent amendment that is filed on or before the date that the post-effective amendment that contains the related information becomes effective;[262]

• For initial registration statements (and post-effective amendments other than as described in the bullet immediately above), Interactive Data Files would have to be filed in a subsequent amendment on or before the date the registration statement or post-effective amendment that contains the related information becomes effective;[263] and

• For any form of prospectus filed pursuant to rule 497(c) or (e), Interactive Data Files would have to be submitted concurrently with the filing.[264]

We anticipate that this approach would facilitate the timely availability of important information in a structured format for investors, investment professionals, and other data users yielding substantial benefits. For data aggregators responding to investor demand for the data, the availability of the required disclosures in the Inline XBRL format concurrent with filing or before the date of effectiveness would allow them to quickly process and share the data and related analysis with investors.

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262 *See* proposed General Instruction C.3(h)(i)(B) of Form N-4. This instruction relates to post-effective amendments filed pursuant to paragraph (b)(1)(i), (ii), (v), (vi), or (vii) of rule 485.

263 *See* proposed General Instruction C.3(h)(i)(A) of Form N-4. This instruction relates to initial registration statements and post-effective amendments other than those filed pursuant to paragraph (b)(1)(i), (ii), (v), (vi), or (vii) of rule 485.

264 *See* proposed General Instruction C.3(h)(ii) of Form N-4.

Like other issuers, RILA issuers could request temporary and continuing hardship exemptions for the inability to timely file electronically the Interactive Data File.[265]

Request for Comments

We request comment generally on the proposed amendments to require the use of Inline XBRL, and specifically on the following issues:

97. Should we adopt rules that make the submission of structured data in the Inline XBRL format mandatory for RILA issuers?

98. Is it appropriate that RILA issuers would have to tag the same disclosure items that variable annuity issuers tag? Why or why not? If RILA issuers were to be required to tag other disclosure items that are also applicable to variable annuities, should variable annuity issuers also be required to tag these same items?

99. Is it appropriate that all Form N-4 filers would have to tag certain of the new disclosure items that we are proposing to add to Form N-4, in particular, proposed Items 2(b)(2), 2(d), 6(a) (instruction), 6(c)(1), 6(d), 6(e), 7(e), 26(c), and 31A of Form N-4? Should insurance companies *not* be required to tag any of these items, and if so, why not? Are there other proposed disclosure items that we should also require insurance companies to tag? If so, why?

100. Is it appropriate that the approach for RILA issuers to submit Interactive Data Files be consistent with the current approach for issuers of variable annuities registered on Form N-4, as proposed? If not, what alternative approach would be more appropriate and why? Is it appropriate that, like variable annuities registered

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265 *See* rule 201 Regulation S-T (temporary hardship exemption) and rule 202 of Regulation S-T (continuing hardship exemption).

on Form N-4, the proposed Inline XBRL requirements for RILA issuers would apply only to contracts being sold to new investors? Do commenters agree that tagging the prospectus disclosure would have less utility for current investors and other market participants?

101. Are any other amendments necessary or appropriate to require the submission of the proposed required information in Inline XBRL? If so, what are they?

C. Option to Use a Summary Prospectus

We are proposing to amend rule 498A to permit RILA issuers, as well as issuers of "combination contracts" offering a combination of index-linked options and variable options, to use a summary prospectus to satisfy statutory prospectus delivery obligations.[266] Investors would continue to have access to the RILA statutory prospectus and other information about the RILA contract online, with paper or electronic copies of this information upon request.[267] This proposed approach would provide parity between RILA issuers and issuers of variable annuities

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266 Section 5(b)(2) of the Securities Act makes it unlawful to carry or cause to be carried a security for purposes of sale or for delivery after sale "unless accompanied or preceded" by a prospectus that meets the requirements of section 10(a) of the Act. *See* section 10(a) of the Securities Act (generally requiring a prospectus relating to a security to contain the information contained in the registration statement). For purposes of this release, a prospectus meeting the requirements of a section 10(a) prospectus is referred to as a "statutory prospectus." For purposes of this section, we refer to RILA contracts and combination contracts together as "RILA contracts."

267 To further effectuate the changes being proposed, we propose to exclude RILA offerings from the provisions of rule 172, which provides that a final prospectus will be deemed to precede or accompany a security for sale for purposes of Securities Act section 5(b)(2) as long as the final prospectus meeting the requirements of Securities Act section 10(a) is filed or the issuer will make a good faith and reasonable effort to file it with the Commission as part of the registration statement within the required rule 424 prospectus filing timeframe. Consistent with registered investment companies and business development companies, RILA offerings would be subject to a separate framework governing communications with investors under the proposal. *See supra* section II.E; *see also* Offering Reform Release at section VI.B.1.b.

registered on Form N-4, which are permitted to use summary prospectuses to satisfy their prospectus delivery obligations.

RILA Summary Prospectus Overview

The current summary prospectus rule for variable contracts uses a layered disclosure approach designed to provide investors directly with key information relating to the contract's terms, benefits, and risks in a concise and reader-friendly presentation, with more detailed information available elsewhere. We anticipate that the summary prospectus framework would improve investor understanding of RILA contracts, as the Commission similarly expressed when it adopted the summary prospectus rule for variable contracts.[268] This proposed approach for RILA contracts builds on the Commission's decades of experience with layered disclosure and rules permitting the use of summary prospectuses.[269] The proposal also recognizes investors' expressed preferences for concise and engaging disclosure of key information. Accordingly, we believe the proposed approach is consistent with the RILA Act's mandate of designing

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268 *See* VASP Adopting Release at n.21 and accompanying text.

269 *See id.*; *see also* Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4545 (Jan. 26, 2009)] ("2009 Summary Prospectus Adopting Release"); Tailored Shareholder Reports for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements, Investment Company Act Release No. 34731 (Oct. 26, 2022) [87 FR 72758 (Nov. 25, 2022)] ("Tailored Shareholder Reports Adopting Release") (adopting rules incorporating a layered disclosure approach to open-end funds' annual and semi-annual reports to shareholders).

disclosure requirements "with the goal of ensuring that key information is conveyed in terms that a purchaser is able to understand."[270]

The proposed amendments to rule 498A would broaden the scope of the rule to address RILA contracts.[271] Under the proposed amendments, the rule's conditions for relying on the rule to satisfy prospectus delivery obligations would be the same for RILA contracts as for variable contracts.[272] These conditions include the requirements to send or give a summary prospectus to an investor no later than the time of the "carrying or delivery" of the contract security, as well as: (1) requirements for the contents that must be included in a summary prospectus, (2) limitations on binding a summary prospectus with other materials, and (3) requirements that the summary prospectus, statutory prospectus, and contract statement of additional information must be publicly accessible, free of charge, on a website in the manner that the rule specifies.

The proposed amendments to rule 498A would involve the use of two distinct types of summary prospectuses for RILA contracts, employing the same approach the rule currently uses

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270 *See* VASP Adopting Release at n.20 and accompanying text; Tailored Shareholder Reports Adopting Release at nn.10, 11, and 29 and accompanying text; *see also supra* discussion following footnote 7.

271 To facilitate this change, and to make the terminology used in rule 498A more consistent with certain terms used in the proposed amendments to Form N-4, we are also proposing a number of amendments to the rule's definitions. Specifically, we would (1) amend the definitions to "Class," "Contract," Investment Option," "Registrant," "Variable Annuity Contract," and "Variable Life Insurance Contract" to address RILA contracts, and/or to make changes to these definitions that correspond with amendments to certain definitions in Form N-4 (either definitions of these same terms in Form N-4, or definitions of other terms in Form N-4 that would otherwise affect the way these terms are defined in rule 498A); (2) add definitions for "Fixed Option," "Index-Linked Option," "Insurance Company," "Registered Separate Account," "RILA Contract," and "Variable Option" consistent with their counterparts in the proposed Form N-4 amendments; and (3) deleting the definition of "Depositor." These changes are necessary to communicate the provisions of the rule that would be applicable to RILA and combination contracts.

272 *See* proposed rule 498A(f). Rule 498A also provides that a communication relating to an offering registered on Form N-4 that a person sends or gives after the effective date of the registration statement (other than a prospectus that Section 10 of the Securities Act permits or requires) will not be deemed a prospectus under section 2(a)(10) of the Securities Act, under certain conditions. The proposed amendments to rule 498A would extend this provision to RILA contracts. *See* rule 498A(g). Under the proposed amendments, the rule 498A provision addressing information that may be incorporated by reference into a summary prospectus also would apply the same to RILAs as it does to other contracts currently within the scope of the rule. *See* rule 498A(d).

for variable contracts. An "initial summary prospectus," covering contracts offered to new investors, would include certain key information about the contract's most salient features, benefits, and risks, presented in plain English in a standardized order. The rule amendments would also require "updating summary prospectuses" to be provided to existing investors in RILA contracts as a condition to relying on the rule. The updating summary prospectus would include a brief description of certain changes to the contract that occurred during the previous year, as well as a subset of the information required to appear in the initial summary prospectus. Certain key information about the index-linked options that the contract offers would be provided in both the initial summary prospectus and updating summary prospectus.[273]

As under current rule 498A for variable contracts, the proposed use of summary prospectuses for RILA contracts would be voluntary. This would be appropriate to provide RILA issuers sufficient time to transition to a summary prospectus regime, as well as in recognition of the fact that there could be different relative benefits of using a summary prospectus for certain RILA issuers and investors in these contracts.[274] Similar considerations informed the Commission's decision to adopt a voluntary summary prospectus regime for variable contracts.[275]

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273 This proposed approach is consistent with the approach for information about variable options in variable contracts' summary prospectuses, in which certain key information about the portfolio companies offered as variable options appears in both the initial summary prospectus and updating summary prospectus. *See* proposed rule 498A(b)(5)(ix); proposed rule 498A(c)(6)(iv).

274 The Commission similarly discussed the relative benefits to variable contract issuers of using a summary prospectus, based on the types of products that these issuers offer and the length of their current prospectuses, as well as the benefit of more concise disclosure to investors, in adopting rule 498A. *See, e.g.*, VASP Adopting Release at section IV.E.1 (discussion in the Economic Analysis section of the release, addressing the Commission's consideration of mandating summary prospectuses for variable contracts).

275 *See* VASP Adopting Release at discussion accompanying nn.41-45; *see also infra* section III.C.1.c (discussing that different issuers and investors could expect to benefit differently from this optional prospectus delivery regime, although we expect a majority of RILA issuers to choose to use summary prospectuses and that therefore the majority of RILA investors will have the option to use both summary

Initial Summary Prospectus

As under the current rule 498A, an initial summary prospectus for a RILA contract may only describe a single contract that the RILA issuer currently offers for sale.[276] An initial summary prospectus may describe more than one class of a currently offered contract.[277] Aggregating disclosures for multiple contracts, or currently offered and no-longer-offered features and options of a single contract, can hinder investors from distinguishing between contract features and options that apply to them and those that do not. As a result, an initial summary prospectus could simplify and consolidate lengthy and complex disclosures. The content and ordering of items is designed to highlight aspects of a RILA contract that may not be emphasized in marketing materials and other disclosures.

Like other summary prospectuses that rule 498A addresses, we are proposing a standardized presentation for RILA initial summary prospectuses to require certain disclosure items that we believe would be most relevant to investors to appear at the beginning of the initial summary prospectus, followed by supplemental information.[278] The required presentation could also facilitate comparisons of different RILA contracts, as well as comparisons between RILA contracts and variable annuities. An initial summary prospectus must contain the information required by the rule, and only that information, in the order specified by the rule.[279] The

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prospectuses and statutory prospectuses in their decision-making, in whatever proportion investors think is best for their preferences).

276 *See* proposed rule 498A(b)(1).

277 The definition of the term "class" in the proposed amendments is the same as the definition in the current rule (that is, as a class of a contract that varies principally with respect to distribution-related fees and expenses). Proposed rule 498A(a).

278 *See* VASP Adopting Release at paragraph accompanying nn.58-59.

279 Proposed rule 498A(b)(5).

information would be required to appear in the same order, and under relevant corresponding headings, as the rule specifies.

The chart in Table 6 below outlines the information that we propose to require to appear in an initial summary prospectus for a RILA contract. We would not change these content requirements, with the exception of the ordering of the Overview of the Contract and KIT disclosures, from the current variable annuity requirements. The Commission has historically viewed these items as providing annuity investors with key information relating to a contract's terms, benefits, and risks in a concise and reader-friendly presentation, and highlighting aspects of the contract that may not be emphasized in marketing materials and other disclosures.[280] We preliminarily believe that this rationale is equally true in the context of RILA disclosure. Further, as discussed above, we propose that the Overview of the Contract disclosures (currently Item 3 of Form N-4, but proposed to be re-numbered as Item 2) should precede the KIT (currently Item 2 of Form N-4, but proposed to be re-numbered as Item 3), due to the context that the Overview section provides and based upon our experience with the form [and taking into account the results of investor testing].[281] This change would be reflected in the requirements of rule 498A.[282] Otherwise, the same order of disclosures would be provided as under the current rule.

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280 *See* VASP Adopting Release at nn. 47-48 and accompanying text. To the extent that these content requirements are unchanged from the content requirements for variable annuity summary prospectuses, our rationale for these requirements has not changed from the rationale that is discussed throughout the sections of the VASP Adopting Release that address each of the content items discussed in Table 6 below. *See* VASP Adopting Release at section II.A.1.c. Further, we provide our reasoning as to why these particular disclosures are important to investors in the RILA context as a general matter in section II.B, *supra.*

281 *See supra* section II.B.I.A.2.

282 Currently, rule 498A requires issuers to place "Important Information You Should Consider About the [Contract]" disclosures before "Overview of the [Contract] disclosures."

Table 6: Outline of the Initial Summary Prospectus

	Heading in Initial Summary Prospectus	*Relevant Paragraph in Proposed Amendments to Rule 498A*	*Item of Form N-4 (as proposed to be amended)*	*Applicable to RILA Contracts?*	*Applicable to Variable Annuities Registered on Form N-4?*
Cover Page	Identifying Information (front cover page)[1]	Rule 498A(b)(2)(i) through (iv)	-	✓	✓
	Legends (front cover page)[2]	Rule 498A(b)(2)(v)	-	✓	✓
	EDGAR Contract Identifier (back cover page)	Rule 498A(b)(3)	-	✓	✓
	Table of Contents (optional)	Rule 498A(b)(4)	-	✓	✓
Content	Overview of the [Contract]	Rule 498A(b)(5)(ii)	2	✓ (each paragraph of Item 2, as applicable)	✓ (each paragraph of Item 2 except (b)(2) and (d), which are generally only applicable to RILA contracts)
	Important Information You Should Consider About the [Contract]	Rule 498A(b)(5)(i)	3	✓ (with line items applicable to RILA contracts, as specified in instructions to Item 3)	✓ (with line items applicable to variable annuities, as specified in instructions to Item 3)
	Benefits Available Under the [Contract]	Rule 498A(b)(5)(iv)	10(a)	✓	✓
	Buying the [Contract]	Rule 498A(b)(5)(v)	11(a)	✓	✓
	Making Withdrawals: Accessing the	Rule 498A(b)(5)(vii)	12(a)	✓	✓

	Heading in Initial Summary Prospectus	*Relevant Paragraph in Proposed Amendments to Rule 498A*	*Item of Form N-4 (as proposed to be amended)*	*Applicable to RILA Contracts?*	*Applicable to Variable Annuities Registered on Form N-4?*
	Money in Your [Contract]				
	Additional Information About Fees	Rule 498A(b)(5)(viii)	4	✓	✓
	Appendix: [Investment Options/Portfolio Companies] Available Under the Contract	Rule 498A(b)(5)(ix)	17	✓ (Item 17(b) and 17(c), as applicable)	✓ (Item 17(a) and 17(c), as applicable)

Notes to Table 6:

[1]: The beginning or front cover page of a RILA contract's initial summary prospectus, like the initial summary prospectus of a variable annuity registered on Form N-4, would need to include the following information: (1) the insurance company's name; (2) the name of the contract, and the class or classes if any, to which the initial summary prospectus relates; (3) a statement identifying the document as a "Summary Prospectus for New Investors"; and (4) the approximate date of the first use of the initial summary prospectus.

[2]: The required legends would be the same for RILA contracts and for variable annuities registered on Form N-4. These legends address the purpose of the summary prospectus, the availability of the statutory prospectus and other information, information regarding the permitted cancellation period for the contract, and a statement that additional information about RILA contracts has been prepared by Commission staff and is available at investor.gov. The initial summary prospectuses for RILA contracts as well as variable annuities also would have to include the additional statements that we are proposing to require on the cover page of the prospectus for all Form N-4 issuers. *See supra* section II.B.1; *see also* proposed Item 1(a)(6)-(8) of Form N-4.

A RILA initial summary prospectus would be permitted to include a table of contents. A table of contents must show the page number of the various sections or subdivisions of the summary prospectus, and immediately follow the cover page in any initial summary prospectus delivered electronically.

The topics of the contents included in an initial summary prospectus—as well as the required headings under which these contents must appear—are the same for a RILA contract summary prospectus as for a summary prospectus of a variable annuity registered on Form

N-4.[283] Further, certain of these required contents would vary in substance to reflect the unique aspects of RILA contracts as compared to variable annuities. These are indicated in Table 1 above and include:

- Disclosure provided under the heading "Overview of the Contract" (Item 2 of Form N-4), where disclosure for RILA contracts must include specific information about index-linked options currently offered under the contract, as well as interim value adjustments or market value adjustments that could affect an investor's contract value;
- Disclosure provided under the heading "Important Information You Should Consider About the Contract" (Item 3 of Form N-4), where certain rows in the required table are specific to RILA contracts as opposed to variable annuities;
- Disclosure provided under the heading "Additional Information About Fees" (Item 4 of Form N-4), where the requirements for fee information for RILA contracts differ from the parallel requirements for variable annuities (reflecting that RILA contracts generally do not entail annual contract expenses, but there are other costs associated with an investment in a RILA contract); and
- Disclosure under the heading "Appendix: Investment Options Available Under the Contract" (Item 17 of Form N-4), where a RILA contract would include a different summary table for index-linked options offered under the contract than the summary table of variable options offered under a variable annuity.

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283 Proposed rule 498A(b)(5).

Each of these disclosure items, which would also appear in a RILA statutory prospectus, is discussed in more detail in section II.B above.

Updating Summary Prospectus

As under current rule 498A, RILA issuers would not send an updated initial summary prospectus to investors each year. Instead, any RILA issuers would send an updating summary prospectus, which would provide a brief description of certain changes with respect to the contract that occurred within the prior year.[284] This would allow investors to focus their attention on new or updated information relating to the contract. Additionally, the updating summary prospectus would include certain of the items required in the initial summary prospectus that are most likely to entail contract changes and where any such contract changes are most likely to be important to investors because they affect how investors evaluate RILA contracts and are relevant to investors when considering additional investment decisions or otherwise monitoring their contracts. This is consistent with the Commission's approach for variable annuity updating summary prospectuses.[285]

Because the initial summary prospectus is designed for someone making an initial investment decision, we believe that existing RILA investors would benefit more from receiving

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284 A RILA issuer, like a variable annuity issuer, could only use an updating summary prospectus if it uses an initial summary prospectus for each currently offered contract described under the contract statutory prospectus to which the updating summary prospectus relates. Proposed rule 498A(c)(1). *See also* VASP Adopting Release at n.209 and accompanying text.

285 *See* VASP Adopting Release at section II.A.2.a. As discussed above, the policy rationale for content requirements that would be the same among updating summary prospectuses for RILA contracts and variable annuity contracts—as well as the rationale for the location of these contents—is the same as that which the Commission articulated in adopting rule 498A. To the extent that these content requirements are unchanged from the content requirements for variable annuity summary prospectuses, our rationale for these requirements has not changed from the rationale that is discussed throughout the sections of the VASP Adopting Release that address each of the content items discussed in Table 7 below. *See* VASP Adopting Release at section II.A.2.c. Further, we provide our reasoning as to why these particular disclosures are important to investors in the RILA context as a general matter in section II.B, *supra.*

a shorter-form document including a brief summary of the changes to the contract, than from receiving the initial summary prospectus year after year.[286] This approach also takes into account the cost to maintain and update separate initial summary prospectuses for currently offered contracts and those no longer offered.

Unlike an initial summary prospectus, which could describe only a single contract that a RILA issuer currently offers for sale, an updating summary prospectus for a RILA could describe one or more contracts covered in the statutory prospectus to which the updating summary prospectus relates, as under current rule 498A.[287] Similar to the initial summary prospectus, an updating summary prospectus could also describe more than one class of a contract.

Updating summary prospectuses for RILA contracts, like initial summary prospectuses, would include specific disclosure items appearing in a prescribed order, under relevant corresponding headings.[288] An updating summary prospectus for a RILA contract would have to contain the information required by the rule, and only that information, in the order specified by the rule. The chart in Table 7 below outlines the information that we propose to require to appear in an updating summary prospectus for a RILA contract.

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286 The Commission discussed this rationale when it initially adopted rule 498A. *See* VASP Adopting Release at section II.A.2.a.

287 Proposed rule 498A(c)(2); *see also* VASP Adopting Release at nn.342-343 and accompanying paragraph.

288 Proposed rule 498A(c)(6).

Table 7: Outline of the Updating Summary Prospectus

	Heading in Updating Summary Prospectus	*Relevant Paragraph in Proposed Amendments to Rule 498A*	*Item of Amended Form N-4*	*Applicable to RILA Contracts?*	*Applicable to Variable Annuities Registered on Form N-4?*
Cover Page	Identifying Information (front cover page)[1]	Rule 498A(c)(3)(i) through (iv)	-	✓	✓
	Legends (front cover page)[2]	Rule 498A(c)(3)(v)	-	✓	✓
	EDGAR Contract Identifier (back cover page)	Rule 498A(c)(4)	-	✓	✓
	Table of Contents (optional)[3]	Rule 498A(c)(5)	-	✓	✓
Content	Updated Information About Your Contract	Rule 498A(c)(6)(i) through (ii)		✓	✓
	Important Information You Should Consider About the [Contract]	Rule 498A(c)(6)(iii)	3	✓ (with line items applicable to RILA contracts, as specified in instructions to Item 3)	✓ (with line items applicable to variable annuities, as specified in instructions to Item 3)
	Appendix: [Investment Options/Portfolio Companies] Available Under the Contract	Rule 498A(c)(6)(iv)	17	✓ (Item 17(b) and 17(c), as applicable)	✓ (Item 17(a) and 17(c), as applicable)

Notes to Table 7

[1]: The beginning or front cover page of a RILA contract's updating summary prospectus, like the updating summary prospectus of a variable annuity registered on Form N-4, would need to include the following information: (1) the insurance company's name; (2) the name of the contract(s), and the class or classes if any, to which the updating summary prospectus relates; (3) a statement identifying the document as an "Updating Summary Prospectus"; and (4) the approximate date of the first use of the updating summary prospectus.

[2]: The required legends would be the same for RILA contracts and for variable annuities registered on Form N-4. These legends address the purpose of the summary prospectus, the availability of the statutory prospectus and other information, and a statement that additional information about RILA contracts has been prepared by the SEC staff and is available at investor.gov. The updating summary prospectuses for RILA contracts as well as variable annuities also would have to include the additional statements that we are proposing to require on the cover page of the

	Heading in Updating Summary Prospectus	*Relevant Paragraph in Proposed Amendments to Rule 498A*	*Item of Amended Form N-4*	*Applicable to RILA Contracts?*	*Applicable to Variable Annuities Registered on Form N-4?*
prospectus for all Form N-4 issuers. *See supra* section II.B.1; *see also* proposed Item 1(a)(6) through (8) of Form N-4. [3]: The requirements for this optional table of contents would be the same for an updating summary prospectus as for an initial summary prospectus. *See* proposed rule 498A(b)(4); proposed rule 498A(c)(5).					

The updating summary prospectus for a RILA contract would be required to include a concise description of certain changes to the contract made after the date of the most recent updating summary prospectus or statutory prospectus that was sent or given to investors. These changes would appear under the heading "Updated Information About Your Contract," with a required legend following the heading.[289] The changes that the rule would require a RILA issuer to describe include those that relate to: (1) the availability of investment options under the contract; (2) the overview of the contract; (3) the KIT; (4) certain information about fees; (5) benefits available under the contract; (6) purchases and contract value; and (7) surrenders and withdrawals. The updating summary prospectus also could include a concise description of any other changes that the RILA issuer wishes to disclose, provided they occurred within the same time period as the other changes the rule would require the issuer to describe. In providing a concise description of a contract-related change in the updating summary prospectus, RILA issuers would have to provide enough detail to allow investors to understand the change and how it will affect them.[290]

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289 The legend would be the same for RILA contracts and variable annuities: "The information in this Updating Summary Prospectus is a summary of certain [Contract] features that have changed since the Updating Summary Prospectus dated [date]. This may not reflect all of the changes that have occurred since you entered into your [Contract]." Proposed rule 498A(c)(6)(i)(A).

290 Proposed rule 498A(c)(6)(i)(B); *see also* VASP Adopting Release at paragraph accompanying n.374.

The topics for which a change would necessitate a description in the updating summary prospectus would be the same for RILA contracts as for variable annuities registered on Form N-4. We do not anticipate that disclosures addressing these topics in a contract statutory prospectus would change frequently, and thus providing investors with a notice and a brief description of any changes that do occur may be more informative than repeating all the disclosures each year.[291] Despite the infrequency of changes, investors should be notified of any changes to these items given their importance to the investor's experience of investing in a RILA contract.[292]

We are proposing to amend rule 498A to specify that, in the context of a RILA contract updating summary prospectus, the change of availability of investment options includes a change to any of the features of the index-linked options disclosed in the table that Item 17(b) of Form N-4 requires (that is, the table in the appendix of investment options that will appear in a RILA contract summary prospectus).[293] When the Commission adopted rule 498A, it stated that a change that has affected availability of portfolio companies (or investment options) includes changes in the portfolio companies (or investment options) offered under the contract or available in connection with any optional benefit.[294] In the context of index-linked options, any change to the features of the index-linked options that the required table would describe—that is, the index, type of index, crediting period, index crediting methodology, limit on index loss, and/or guaranteed minimum limit on index gain—would meaningfully change the investor's

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291 *See* VASP Adopting Release at paragraph following n.372.

292 *See id.* at paragraph accompanying nn.365-369.

293 Proposed rule 498A(c)(6)(i).

294 VASP Adopting Release at n.361.

experience of investing in a RILA contract with the index-linked option that investor had previously chosen. For this reason, under the proposed amendments a change to any of these features would represent a change in the availability of the investment options that the RILA contract offers.

The topics of the additional contents included in an updating summary prospectus—as well as the required headings under which these contents must appear—would be the same for RILA contracts and for variable annuities registered on Form N-4.[295] Certain of these required contents, however, would vary in substance to reflect the unique aspects of RILA contracts as compared to variable annuities. These are indicated in Table 2 above and include:

- Disclosure provided under the heading "Important Information You Should Consider About the Contract" (Item 3 of Form N-4), where certain rows in the required table are specific to RILA contracts as opposed to variable annuities; and
- Disclosure under the heading "Appendix: Investment Options Available Under the Contract" (Item 17 of Form N-4), where a RILA contract would include a different summary table for index-linked options offered under the contract than the summary table of variable options offered under a variable annuity.

Online Accessibility of Contract Statutory Prospectus and Certain Other Documents Relating to the Contract

Investors who receive a RILA contract initial or updating summary prospectus would have access to more detailed information about the RILA contract, either by reviewing the information online, or by requesting the information to be sent in paper or electronically. In this

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[295] Proposed rule 498A(c)(6).

respect, the proposed amendments would include the same requirements for RILA contracts as for variable contracts. These requirements further the layered disclosure framework that rule 498A creates for variable contracts and would, under the proposed amendments, similarly create for RILA contracts. Those insurance companies that issue RILAs, to the extent that they also issue variable annuity contracts that use summary prospectuses under rule 498A, therefore should be generally familiar with the practice of making this information available online and be able to integrate it with existing processes for variable annuities. Similar to what the Commission expressed in the context of variable annuity summary prospectuses, permitting RILA investors to access the contract statutory prospectus in several ways (online and by physical or electronic delivery) would maximize the accessibility and usability of this information and that investors have historically indicated a preference for both online and paper resources.[296]

Under the proposed amendments, a RILA issuer relying on rule 498A (like a variable annuity issuer relying on this rule currently), would have to make the contract's current initial summary prospectus, updating summary prospectus, statutory prospectus, and SAI (together, the "required online contract documents") available online.[297] These required online contract documents would be required to be publicly accessible, free of charge, at the website address that the cover page of the summary prospectus specifies, on or before the time that the person relying

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296 *See* VASP Adopting Release at n.417 and accompanying text; and Office of Investor Education and Advocacy of the U.S. Securities and Exchange Commission, Study Regarding Financial Literacy Among Investors (Aug. 2012), available at https://www.sec.gov/news/studies/2012/917-financial-literacy-study-part1.pdf, at iv, xix. These proposed requirements are unchanged from the requirements for variable annuity summary prospectuses, and our rationale for these requirements has not changed from the Commission's rationale that is discussed throughout the sections of the VASP Adopting Release that discuss online accessibility requirements. *See* VASP Adopting Release at sections II.A.5 and II.A.6.

297 For proposed requirements relating to the required online contract documents, see generally proposed rule 498A(h).

on the rule provides the summary prospectus to investors.[298] The website address on which the required online contract documents appear must be specific enough to lead investors directly to the documents, although the website could be a central site with prominent links to each document.[299] The required online contract documents would have to be presented in a manner that is human-readable and capable of being printed on paper in human-readable format, and persons accessing the documents must be able to permanently retain electronic versions of the documents. The proposed amendments include requirements for linking within the electronic versions of the contract statutory prospectus and SAI that are available online, and also for linking between electronic versions of contract summary and statutory prospectuses that are available online.

Both initial summary prospectuses and updating summary prospectuses for RILA contracts would, like variable annuity summary prospectuses, be required to define any "special terms" elected by the registrant, using any presentation that clearly conveys their meaning to investors.[300] In RILA contract summary prospectuses that are available online, the proposed amendments (like the current rule) require that investors be able either to view the definition of each special term upon command, or to move directly back and forth between each special term and the corresponding entry in any glossary or list of definitions the summary prospectus includes.

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298 A current version of each of the required online contract documents would have to remain available for at least 90 days following either: (1) the time of the "carrying or delivery" of the contract security if a person is relying on the rule to satisfy its section 5(b)(2) prospectus delivery obligations; or (2) if a person is relying on the rule to send communications that will not be deemed to be prospectuses, the time that the person sends or gives the communication to investors. Proposed rule 498A(h)(1).

299 Proposed rule 498A(b)(2)(v)(B).

300 Proposed rule 498A(e).

Satisfying each of these requirements regarding online accessibility of contract statutory prospectuses and certain other documents relating to the contract is a condition for a RILA issuer to rely on rule 498A to satisfy prospectus delivery obligations.[301] Failure to comply with any of these conditions could result in a violation of section 5(b)(2) unless the contract statutory prospectus is delivered by means other than reliance on the rule. We recognize, however, that there may be times when, due to events beyond a person's control, the person may temporarily not be in compliance with the rule's conditions regarding the availability of the required online contract documents. The proposed amendments, like the current rule, includes a safe harbor provision addressing temporary noncompliance.[302]

Other Requirements for Summary Prospectus and Other Contract Documents

Like current rule 498A, the proposed amendments to rule 498A include additional requirements for RILA contract summary prospectuses. [303] These include:

- Certain requirements relating to the delivery of paper or electronic copies of the required online contract documents upon request;
- The requirement that a contract summary prospectus must be given greater prominence than any materials that accompany the contract summary prospectus;

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301 Proposed rule 498A(f)(4); proposed rule 498A(g)(4).

302 Proposed rule 498A(h)(4). This provides that the conditions regarding the availability of the required online contract documents will be deemed to be met, even if the required online contract documents are temporarily unavailable, provided that the person has reasonable procedures in place to ensure that those materials are available in the required manner. A person relying on the rule to satisfy prospectus delivery obligations is required to take prompt action to ensure that those materials become available in the manner required as soon as practicable following the earlier of the time when the person knows, or reasonably should have known, that the documents were not available in the manner required.

303 For these additional proposed requirements, see generally proposed rule 498A(i).

- Requirements that: (1) the required online documents be presented in a format that is convenient for reading and printing, and (2) a person be able to retain electronic versions of these documents in a format that is convenient for reading and printing; and
- The requirement for any website address that is included in an electronic version of the summary prospectus to be an active hyperlink.

Failure to comply with these additional requirements would not, however, negate a person's ability to rely on the rule to satisfy prospectus delivery obligations.

Request for Comments

We request comment on the proposed amendments to rule 498A, which would permit RILA issuers to use a summary prospectus to satisfy statutory prospectus delivery obligations:

102. Is it appropriate to permit RILA issuers, as well as issuers of "combination contracts," to use a summary prospectus to satisfy statutory prospectus delivery obligations? Why or why not?

103. Would the current rule 498A framework, which provides for an initial summary prospectus and an updating summary prospectus, be appropriate for RILA contracts?

104. Is it appropriate that the use of summary prospectuses for RILA contracts be voluntary, as proposed? Should the use of summary prospectuses for RILA contracts instead be mandatory?

105. Should an initial summary prospectus for a RILA contract only describe a single contract that the RILA issuer currently offers for sale, as proposed? Instead should we permit an initial summary prospectus to describe more than one contract? Do

commenters recommend any other changes to the proposed scope requirements for initial summary prospectuses for RILA contracts?

106. Is the proposed presentation for RILA initial summary prospectuses appropriate, or should we modify the initial summary prospectus presentation requirements in any way?

107. Are the proposed summary prospectus cover page requirements appropriate? For example, is it appropriate that initial (and updating) summary prospectuses for RILA contracts as well as variable annuities also would have to include the additional statements that we are proposing to require on the cover page of the prospectus for all Form N-4 issuers?

108. Do the proposed RILA initial summary prospectus content items represent the disclosure that would best highlight the key terms, benefits, and risks of a RILA contract? Do the proposed content items capture key considerations that a typical contract investor would find salient? Should an initial summary prospectus include additional information an investor would need in order to make an informed investment decision, and if so, what would this information be? For example, is there any information we are proposing to include in Item 6 of Form N-4 that we should include in the summary prospectus? Alternatively, should we exclude or modify any of the proposed initial summary prospectus disclosure requirements? To the extent that commenters suggest changes that would result in different content across initial summary prospectuses for RILA contracts versus variable annuities, why would such changes be appropriate, and how should we address

these suggested changes in the context of "combination contracts" offering a combination of index-linked options and variable options?

109. Under the proposal, would initial summary prospectuses for RILA contracts, on average, be longer, shorter, or about the same length as variable annuity initial summary prospectuses? What would account for any meaningful differences in average length?

110. Is the proposed updating summary prospectus approach appropriate for existing RILA investors? Do commenters agree that existing RILA investors would benefit more from a brief summary of the changes to the contract reflected in the statutory prospectus than from receiving all of the disclosures in the initial summary prospectus? Instead should existing RILA investors receive a summary prospectus akin to the initial summary prospectus year after year?

111. Should we permit, as proposed, an updating summary prospectus for a RILA contract to describe one or more contracts covered in the related statutory prospectus? Do commenters recommend any other changes to the proposed scope requirements for updating summary prospectuses for RILA contracts?

112. We request comment on the proposed requirement to include a brief description of certain contract-related changes in the updating summary prospectus. Would this disclosure requirement be useful to investors? Is the scope of changes that a RILA issuer would be required to discuss appropriate? Are there other topics about which we should require a RILA issuer to describe a change? Should we define a change in the availability of investment options that would require disclosure as a change to any of the features of the index-linked options that the table that Item

17(b) of Form N-4 would require, as proposed? If not, what definition would be more appropriate and why?

113. Do the other proposed RILA contract updating summary prospectus content items represent the disclosure that would be most appropriate and useful for existing investors, for example in considering whether to continue making additional purchase payments or reallocate contract value? If not, what alternative disclosure should we require?

114. Should rule 498A include, as proposed, the same requirements with respect to online accessibility of a RILA contract statutory prospectus and certain other documents relating to the contract as the rule provides for variable annuities (including, as described above, the requirements to make the required online contract documents available online, presentation and linking requirements for these documents, and requirements relating to the definitions of "special terms")? If not, what alternative requirements should we adopt to help ensure that investors who receive a RILA contract summary prospectus have access to more detailed information about the RILA contract if they want it? For example, should the required online contract documents also include information about the current limits on gains for each index-linked option offered under the contract? As another example, should the required online contract documents for issuers of RILAs and variable annuities that rely on rule 498A also include the financial statements of the registrant and/or insurance company, to the extent that these financial statements are not included in the SAI (if, for instance, an insurer's financial statements are filed on Form N-VPFS or Form 10-K, and are incorporated by

reference into the registration statement)? To what extent would using the same approach for both RILAs and variable annuities ease compliance burdens on insurers? Is it appropriate that, as proposed, satisfying each of these proposed online accessibility requirements would be a condition for a RILA issuer to rely on rule 498A to satisfy prospectus delivery obligations? Are there any modifications we should make to the proposed safe harbor provision for temporary noncompliance?

115. Should rule 498A include, as proposed, the same other requirements for summary prospectuses (relating to delivery upon request, prominence of the summary prospectus in relation to accompanying materials, "convenient for reading and printing" formatting, and hyperlinking requirements) as the rule currently requires for variable annuity summary prospectuses? Is it appropriate that, as proposed, satisfying each of these proposed requirements would *not* be a condition for a RILA issuer to rely on rule 498A to satisfy prospectus delivery obligations?

D. Accounting (Items 16 and 26)

We are proposing to permit RILA issuers to provide financial statements on amended Form N-4 in the same way that insurance companies currently do on Form N-4. The principal consequence of this change would be that the financial statements filed in connection with a RILA registration statement could be prepared in SAP to the same extent as currently permitted for insurance companies' financial statements filed on that form. Instruction 1 to Item 26(b) of Form N-4 currently permits insurance companies that are the depositors of variable annuity separate accounts to prepare their financial statements for use in a registration statement filed on Form N-4 in accordance with SAP if the depositor would not have to prepare its financial statements in accordance with GAAP except for use in that registration statement or other

registration statements filed on Forms N-3, N-4, or N-6 (the forms used to register insurance products that are issued by investment companies).[304] The instruction further states that the depositor insurance company's financial statements must be prepared in accordance with GAAP if it prepares financial information in accordance with GAAP for use by its parent (as defined in Regulation S-X) in any report under sections 13(a) and 15(d) of the Exchange Act or any registration statement filed under the Securities Act.[305] In interpreting this instruction the Commission has stated that the insurance product forms do not require the use of GAAP when: (1) GAAP financial statements are not prepared for either the depositor or its parent; or (2) the depositor's parent prepares GAAP financial statements, but the depositor's accounts are immaterial to its parent's consolidated financial statements and, therefore, neither partial GAAP financial statements nor a GAAP reporting package is prepared by the depositor.[306]

Forms S-1 and S-3 do not include an instruction similar to Instruction 1 of Item 26(b) of Form N-4. Rather RILAs registered on these forms are required to provide their financial statements in accordance with GAAP. The Commission, however, acting through authority delegated to the staff, has permitted insurance companies registering on Form S-1 to include SAP financial statements in RILA registration statements in the circumstances permitted by

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304 Similar to insurance products currently filing registration statements on these forms, RILA issuers would also be required, if all of the required financial statements of the insurance company are not in the prospectus, to state in the prospectus, under a separate caption, where the financial statements may be found and to briefly explain how investors may obtain any financial statements not in the SAI. Proposed item 16 of Form N-4.

305 Similar instructions are contained in the other forms used to register insurance products issued by investment companies. *See* instruction 1 to Item 31(b) of Form N-3 and instruction 1 to Item 28(b) of Form N-6.

306 *See* Registration Form for Insurance Company Separate Accounts Registered as Unit Investment Trusts that Offer Variable Life Insurance Policies, Investment Company Act Release No. 23066 (Mar. 13, 1998) [63 FR 13988 (Mar. 23, 1998)] (discussing the same instruction in Form N-6).

Form N-4.[307] The Commission has stated that this approach appropriately recognizes the cost burdens that would be imposed if the Commission were to require GAAP financial statements in cases where the depositor is not otherwise required to prepare financial information in accordance with GAAP.[308] We preliminarily believe this is also true for insurance companies that offer RILAs and that it is important to provide for the consistent treatment of financial statements for all insurance companies that meet the circumstances permitted by Form N-4. As a result, permitting RILA issuers to rely on Instruction 1 to Item 26 to provide SAP financial statements to the same extent as issuers registering offerings of variable annuities on Form N-4 would be consistent with investor protection. In addition, SAP financial statements, which focus on an issuer's ability to meet its obligations under its insurance contracts, as regulated by state law, appear to provide sufficient material information for investors evaluating RILAs.

Another consequence of requiring insurance companies to register offerings of RILAs on Form N-4 is that they will have greater flexibility to update their registration statement without the need to update certain financial statements. Under section 10(a)(3) of the Securities Act, RILA issuers, like variable annuity issuers, generally must file a post-effective amendment annually to update their audited fiscal year-end financial statements. In addition, Regulation S-X requires Form S-1 filers to include unaudited interim financial statements in any new registration statement or post-effective amendment that goes effective later than 134 days after the end of the

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307 *See, e.g.*, F&G Life Letter.

308 *See* Registration Form for Insurance Company Separate Accounts Registered as Unit Investment Trusts That Offer Variable Life Insurance Policies, Investment Company Act Release No. 25522 (Apr. 12, 2002) [67 FR 19848 (Apr. 23, 2002)]; *see also* VASP Adopting Release at n.813 and accompanying text.

insurer's fiscal year.[309] Form N-4 filers are not subject to this requirement.[310] In addition, after the end of an insurer's fiscal year, RILA issuers must include year-end audited financial statements in any new registration statement or post-effective amendment filed 45 days after the fiscal year-end.[311] However, Form N-4 filers instead have a 90-day grace period.[312] As a result of the proposal to include RILAs on Form N-4, RILA issuers therefore would be able to file and amend their registration statements during certain times of year without the need to update their financial statements, which RILA issuers cannot do today.[313] These approaches, in consideration of consistency in treatment among all insurance companies that meet the circumstances permitted by Form N-4, are equally appropriate for RILA filers on Form N-4.

We are also proposing to require RILAs to provide the information relating to changes in and disagreements with accountants on accounting and financial disclosure as detailed in 17 CFR 229.304 ("Item 304 of Regulation S-K"). Further, RILAs would be required to provide as an exhibit any letter from the insurance company's former independent accountant regarding its concurrence or disagreement with the statements made by the insurance company in the registration statement concerning the resignation or dismissal as the insurance company's

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309 17 CFR 210.3-12(a). RILA issuers that rely on rule 12h-7 are not required to provide periodic Exchange Act reports, including quarterly reports that include interim financial statements. Therefore, they must prepare interim financial statements for Securities Act registration statements, like Form S-1 and Form S-3, even though they do not prepare interim financial statements for other purposes.

310 *See* Instruction 3 to Item 26(b) of Form N-4.

311 *See* 17 CFR 210.3-01(c).

312 *See* Instruction 3 to Item 26(b) of Form N-4.

313 A further consequence of the proposed changes would be that insurance companies would generally be making available their RILA-related financial statements to investors on an annual basis, consistent with the timing of financial statements for variable annuities. Currently, insurance companies relying upon rule 12h-7 provide their RILA-related financials annually, whereas insurance companies not relying on that rule provide financial statements quarterly. Insurance companies not relying on rule 12h-7 will file financial statements more frequently than annually if there are any post-effective amendments to the registration statement that require updated financial statements. *See* Form 10-Q.

principal accountant. These items are currently provided by RILAs on Forms S-1 and S-3 and are designed to address the practice of "opinion shopping" for an auditor willing to support a proposed accounting treatment designed to help a company achieve its reporting objectives even though that treatment might frustrate reliable reporting.[314] The proposed amendments would not be required for variable annuities in light of their tiered investment company structure. Variable annuities typically invest indirectly in mutual funds offered as investment options under such contracts, which themselves are subject to similar disclosure obligations relating to changes in and disagreements with accountants on accounting and financial disclosure.[315]

We request comment on these aspects of the proposal.

116. Is it appropriate, as proposed, to permit RILA issuers to use the same approach with respect to the use of SAP financial statements, for purposes of preparing financial statements that are included on a registration statement on Form N-4, as Form N-4 currently provides for insurance company issuers? Why or why not?

117. Would SAP financials provide sufficient material information for a RILA investor to make an informed investment decision? Why or why not?

118. Why do insurance companies currently provide SAP financials instead of GAAP financials in their Form N-4 registration statements when permitted to do so? Do SAP financials currently provide sufficient material information for a variable annuity investor to make an informed investment decision?

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314 *See* Disclosure Amendments to Regulation S-K, Form 8-K and Schedule 14A Regarding Changes in Accountants and Potential Opinion Shopping Situations, Investment Company Act Release No. 16358 (Apr. 12, 1988) [53 FR 12924 (Apr. 20, 1988)]; *see also* item 11(i) of Form S-1.

315 *See* Item 27(b)(4) of Form N-1A.

119. Should we require the proposed items relating to changes in accountants for RILAs? If so, should we also require these items for all Form N-4 filers? If the information called for in Item 304 of Regulation S-K is required, is it appropriately placed in the SAI?

E. Filing and Prospectus Delivery Rules

1. Fee Payment Method and Amendments to Form 24F-2

We are proposing to require insurance companies to pay securities registration fees relating to RILA offerings using the same method used for variable annuities.[316] Specifically, issuers registering the offerings of RILAs on amended Form N-4 would be deemed to be registering an indeterminate amount of securities upon effectiveness of the registration statement.[317] These issuers would then be required to pay registration fees annually based on their net sales of these securities, no later than 90 days after the issuer's fiscal year ends, on the form that is used by registered separate accounts to pay securities registration fees relating to

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316 To accommodate the changes proposed in this release, EDGAR would be modified to require insurance companies registering RILAs to use a different CIK than that used for their other offerings. One CIK would be utilized to register the offerings of RILAs on Form N-4 and pay registration fees for securities relating to RILA offerings on Form 24F-2. The other would be utilized to register the insurance company's other offerings of securities as they do currently. As a result, insurance companies would need to utilize separate CIKs for their RILA-related filings. If the issuer only offers RILAs, it should only use one CIK. Further, we are proposing to amend rule 313 of Regulation S-T in order to permit filings relating to RILA offerings to have both an investment company type and contract identifier in order to facilitate RILA issuers' filing these forms and for ease in identification of particular RILA contracts.

317 The proposed rule amendments would apply the same registration fee payment approach to RILAs that is currently provided by rule 24f-2 to current Form N-4 issuers. *See* proposed rules 456(e) (providing that where the registration statement relates to a RILA offering, RILA issuers would be deemed to have registered an indeterminate amount of securities for purposes of sections 5 and 6(a) of the Securities Act upon the effective date of its registration statement); and 457(u) (providing for RILA issuers to pay registration fees for securities relating to RILA offerings on the same annual net basis as other Form N-4 issuers); *see also* proposed Form 24F-2. *See* section 4(e) of the Exchange Act [15 U.S.C. 78d-4(e)]; section 28 of the Securities Act [15 U.S.C. 77z-3]. We preliminarily believe that these actions are necessary or appropriate in the public interest and consistent with the protection of investors.

variable annuities (Form 24F-2).[318] We are further proposing to specify the calculation method for paying securities registration fees for RILA offerings, consistent with the fee calculation methodology that applies to variable annuities.[319] We are also proposing amendments to Form 24F-2 to specify when issuers can take credits for RILA redemptions that pre-date their use of that form and when expiring annuity contracts are rolled over into a new crediting period, as well as other non-substantive and conforming amendments.[320]

Currently, insurance companies, like most issuers, register a specific amount of securities when registering RILAs and are required to pay a registration fee for those securities to the Commission at the time of filing a registration statement on Form S-1 or S-3.[321] In contrast, the

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318 As a general matter, the proposed amendments would provide the same process for registering an indeterminate amount of securities relating to RILA offerings as is currently provided for exchange-traded vehicle securities under rule 456(d) (which, in turn, mirrors of the process for current Form N-4 issuers to register securities) except that (1) this process would be mandatory for RILAs and (2) RILA issuers would pay fees on Form 24F-2 instead of through a prospectus supplement in accordance with rule 424. *See also* Securities Offering Reform for Closed-End Investment Companies, Investment Company Act Release No. 33836 (Apr. 8, 2020) [85 FR 33290 (June 1, 2020)] ("Closed-End Fund Offering Reform Adopting Release"). For example, the proposed amendments would provide the same mechanics as other Form 24F-2 issuers when addressing interest calculations for late payments.

319 All payments of filings fees for RILA registration statements would continue to be made by wire transfer, debit card, or credit card or via an ACH and there would be no refunds. *See* 17 CFR 230.111; proposed instruction A.5 to Form 24F-2.

320 In addition to conforming changes in proposed Form 24F-2 to effectuate the changes discussed below, in order to improve the form we are proposing to: (1) remove reporting relating to shares paid for prior to Oct. 11, 1997; (2) remove the statement in current Instruction A.3 to consult the EDGAR Filer Manual because the instructions referenced in Instruction A.3 are intended to be removed from the EDGAR Filer Manual; (3) remove current Instruction C.4, which includes EDGAR header tags for Item 5 of the form, as this information is no longer sufficient for filing purposes and current technical specifications are provided through the technical specifications page on the Commission's webpage; (4) revise current Instruction C.9 for Item 5(vii) to correspond to the current instructions for fee filing rates on the Commission's website; (5) correct the website linked in current Instruction D.1; and (6) remove the estimated Paperwork Reduction Act burden cited in current Instruction F as extraneous in light of the OMB approval box that contains information on this topic.

321 In general, issuers today—including insurance companies issuing securities relating to RILA offerings—are required under the Securities Act to pay a registration fee to the Commission at the time of filing a registration statement. *See* sections 6(b)(1) (requiring applicants to pay a fee to the Commission at the time of filing a registration statement) and (c) (providing that a registration statement shall not be deemed to have taken place without payment of a registration fee) of the Securities Act [15 U.S.C. 77f(b)(1) and (c)]. This means they pay registration fees at the time they register the offering of securities, regardless of when

Investment Company Act provides that certain registered investment companies, including the variable annuity separate accounts that file on Form N-4, are deemed to have registered an indefinite amount of securities upon the effective date of their registration statement.[322] Instead of paying registration fees at the time of filing a registration statement, registered separate accounts pay registration fees in arrears based on their net issuance of securities, no later than 90 days after the issuer's fiscal year end, on Form 24F-2.[323] As a result, RILA issuers must currently ensure that they do not inadvertently sell more securities than they have registered, however this is not a concern in relation to variable annuities. Further, RILA issuers pay fees at effectiveness on Forms S-1 or S-3 for the securities being registered, while registered separate accounts do not pay a fee at effectiveness on Form N-4 but rather pay fees annually on Form 24F-2 on the net sales of securities that year.

Consistent with the other elements of this proposal, these proposed amendments are designed to require insurance companies to use the same framework to pay securities registration fees for RILAs that they do for variable annuities. Insurance companies offer RILAs in a manner substantially similar to variable annuities and would similarly benefit from paying registration fees on an annual net basis and from registering offerings of an indeterminate number of securities. The proposed amendments would provide registration fee payment parity for an insurance company that may offer one or more related insurance products, including index-

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(or if) they sell them. In addition, although well-known seasoned issuers have additional flexibility in paying filing fees, none of the insurance companies that issue securities relating to RILA offerings currently claim status as a well-known seasoned issuer. *See supra* footnote 21.

322 *See* 15 U.S.C. 80a-24(f).

323 *See id.*; Form 24F-2.

linked options offered as part of combination annuity contracts.[324] Requiring insurance companies to pay registration fees for securities relating to RILA offerings on Form 24F-2 would therefore be efficient for insurance companies. This approach would eliminate the risk that a RILA issuer may inadvertently oversell securities with respect to a registration statement on Form N-4, and the payment of fees on an annual net basis furthermore should lead to a reduction in overall filing fees relating to RILAs.[325] Further, by requiring RILA and variable annuity offerings to use the same form and payment method, this process also would be efficient for the Commission.

The proposed fee calculation method is also consistent with the continuous offering of RILAs to investors. These investors may make additional allocations or other investment decisions over time with respect to an investment in a RILA. One effect of this is that RILA issuers, unlike other Form S-1 or S-3 issuers, may have increased difficulty in using the filing fees associated with unsold securities of a particular RILA offering to offset the filing fees due for a subsequent registration statement. This is because many RILA issuers are not easily able to terminate a RILA offering, a necessary step to recoup fees paid on unsold securities for use in a separate RILA offering.[326]

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324 For combination products, each issuer of securities under the product (*e.g.*, the separate account for the variable option and the insurance company for the index-linked option) would file a separate Form 24F-2 relating to the payment of registration fees for its respective securities offered under the product.

325 As part of the proposed amendments to Form 24F-2, RILA issuers would be required to include the value of any expiring annuity contract or index-linked option that is rolled over into a new crediting period in its calculation of the aggregate sale price of securities sold during the fiscal year. RILA issuers further would be required to report such contracts or options as a redemption. This would result in zero net sales being reported in this situation. *See* proposed instruction C.4 to Form 24F-2.

326 *See* 17 CFR 230.457(p). To facilitate the transition to calculating fees on an annual net basis and filing Form 24F-2, a RILA's fee calculation should exclude excess securities that were registered under its last registration statement that remain unsold prior to the effectiveness of any final rule. *See* proposed instruction C.5 to Form 24F-2. This would be so that a filing fee is not charged twice for the same securities being registered.

We are also proposing amendments to Form 24F-2 that would indicate when RILA issuers can take credits for redemptions of securities not claimed in a prior fiscal year ("non-claimed prior redemptions"). Typically, issuers that file Form 24F-2 can take credit for these redemptions to offset some of the purchases being reported for the current fiscal year. This is only intended to be available for non-claimed prior redemptions that had occurred since the use of the form (and the payment of registration fees on an annual net basis) was available to the issuer.[327] The form, however, includes a legacy instruction for any non-claimed redemptions in a prior fiscal year that ends no earlier than October 11, 1995. This specific date is related to the timing of open-end funds' and unit investment trusts' transition to Form 24F-2.[328] With the addition of RILAs to this form, we are removing the reference to October 11, 1995 in Item 5(iii) of Form 24F-2 and amending the related instructions so that it is clear that issuers will only be able to take credit for non-claimed prior redemptions that occur on or after the date the issuer became eligible to use the form, which for RILA issuers would be the effective date of the proposed amendments, if adopted.[329]

We request comment on the proposed fee payment methodology for RILAs and the proposed amendments to Form 24F-2.

120. Is it appropriate to require RILA issuers to pay registration fees in arrears for the registration of securities? Would the process be more efficient for insurance companies than the current registration fee processes used by RILA issuers? If not,

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327 *See generally* Closed-End Fund Offering Reform Adopting Release at n.348.

328 *See* Registration Under the Securities Act of 1933 of Certain Investment Company Securities, Investment Company Act Release No. 22815 (Sep. 10, 1997) [62 FR 47934 (Sep. 12, 1997)] at n.9.

329 In addition to RILA issuers, interval funds have been able to use Form 24F-2 since Aug. 1, 2021 (the effective date of rule 24f-2 as applied to interval funds), so these funds likewise would only be able to take credit for non-claimed prior redemptions since that date.

what is the appropriate manner in which RILA issuers should pay registration fees? For example, should we instead amend Form N-4 to permit or require the payment of fees on that form for RILA issuers at the time the issuer files the registration statement, consistent with insurance companies' current practices when paying registration fees for securities offerings registered on Forms S-1 and S-3?

121. Instead of *requiring* RILA issuers to pay registration fees in arrears as proposed, should we *permit* RILA issuers to choose whether to take this treatment or use some other registration fee system?

122. Is the proposed calculation methodology appropriate for RILAs? If not, what aspects of the methodology should be changed and why?

123. Is it appropriate to have RILA issuers file Form 24F-2 for this purpose, or should we instead have RILA issuers file a prospectus pursuant to rule 424(i), consistent with the treatment of exchange-traded vehicle securities under rule 456(d)?

124. Are the proposed amendments to Form 24F-2 appropriate? Should we tailor Form 24F-2 to RILAs in other ways? Are the proposed amendments clear as to how a RILA issuer would use that form? Are there any other clarifications we should offer?

125. Should we, as proposed, require separate Form 24F-2 filings for index-linked options and variable options that are offered as investment options in combination contracts? If not, how can we amend Form 24F-2 and rules 456 and 457 to accommodate combination contracts, given different legal entities are issuing the securities associated with different types of investment options?

126. Are the proposed amendments to rule 456 and 457 sufficiently clear as to how RILA issuers should calculate and pay the registration fees for securities relating to RILA offerings? Should we amend the rules further to provide more clarity?

127. The proposed amendments to rule 456 and Form 24F-2 provide procedures for how to address a merger or the cessation of operations of the issuer, which in the RILA context is the insurance company issuing the RILA. Are these provisions necessary for RILA issuers? Should these instructions instead address the cessation or merger of the particular RILA being reported?

128. Do commenters agree with the proposed requirements for how to address non-claimed prior redemptions? Why or why not?

129. Are there any other considerations or changes we should make to facilitate requiring RILA issuers to pay registration fees in arrears, either regarding securities already registered by RILA issuers or for some other reason?

2. Post-Effective Amendments and Prospectus Supplements

To facilitate the registration of RILA offerings on Form N-4 and consistent with the other elements of this proposal, we are proposing amendments to require RILA issuers to use the same framework for filing post-effective amendments to the registration statement that other issuers on Form N-4 currently use. Specifically, the proposal would amend rule 485 to require RILA issuers to use that rule when amending RILA registration statements on Form N-4. This change would permit RILA issuers to file post-effective amendments that become automatically effective under rule 485(a) after a specified period of time after the filing or, in certain enumerated

circumstances, immediately effective under rule 485(b).[330] In addition, we are also proposing amendments that would require RILA issuers to apply rule 497 under the Securities Act when appropriate to file RILA prospectuses and prospectus supplements with the Commission.[331] These amendments are intended to facilitate a uniform post-effective amendment and prospectus filing framework for issuers on Form N-4 and should provide increased efficiencies for RILA issuers and Commission staff by applying consistent procedures for all security offerings registered on Form N-4.

Our rules currently provide different processes for RILA issuers on Forms S-1 and S-3 and current issuers on Form N-4 to update and keep current a registration statement or prospectus. Form N-4 is used by separate accounts that are unit investment trusts that offer variable contracts to register their securities under the Investment Company Act and to register an indefinite amount of continuously-sold securities under the Securities Act. Therefore, these issuers have a system of updating their disclosures that facilitates that structure. Issuers on Form N-4 typically update their registration statements annually through a post-effective amendment filed in accordance with rule 485 in order to, among other things, comply with Securities Act requirements.[332] Rule 485(b) provides for the immediate effectiveness of many of the routine updates that issuers on Form N-4 may make over the course of a continuous, long-term offering, for example, those amendments filed for no purpose other than to bring the financial statements

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330 *See* rule 485(b).

331 Consistent with this change, we are also proposing corresponding changes to (1) rule 424(f) to specify that RILA issuers must use rule 497 rather than rule 424 when filing prospectuses and prospectus supplements, and (2) rule 415(b) to exempt RILA offerings from the requirements of paragraph (a) of that rule consistent with the treatment of variable annuity separate accounts.

332 *See, e.g.*, section 10(a)(3) of the Securities Act [15 USC 77j(a)(3)].

up to date under section 10(a)(3) of the Securities Act.[333] These issuers also file forms of prospectuses used in their offerings through rule 497 and can supplement their prospectuses, also known as "stickering," to reflect certain changes to the information disclosed by making a filing with the Commission in accordance with rule 497.

Conversely, RILA issuers currently follow the processes operating companies use to update their registrations statements. Operating companies that are engaged in a continuous offering of securities, like RILA issuers, are similarly required to update their registration statement each year and may update their registration statement for changes other than to bring the financial statements up to date.[334] For RILAs whose offerings are registered on Form S-1, these updates typically occur through a post-effective amendment.[335] Rule 462 currently provides RILA issuers with a limited set of circumstances, none of which are specific or generally relevant to RILA offerings, in which a post-effective amendment to a registration statement is effective upon filing.[336] Rather, when a RILA issuer seeks to update a RILA registration statement on Form S-1, the issuer must file a post-effective amendment that is typically declared effective by Commission staff acting pursuant to delegated authority.[337]

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333 *See* rule 485(b)(1)(i). Material post-effective amendments, however, are not immediately effective. *See* rule 485(a).

334 *See, e.g.*, section 10(a)(3) of the Securities Act; rule 415(a); Item 512 of Regulation S-K.

335 Under Form S-3, the section 10(a)(3) update need not be made through a post-effective amendment. Rather, under this form, the section 10(a)(3) update generally occurs when the issuer files its annual report on Form 10-K containing the issuer's audited financial statements for its most recently completed fiscal year.

336 *See* rule 462(d) and (e). For example, this rule provides that a post-effective amendment that seeks only to add exhibits to a registration statement would be effective upon filing. In addition, although a well-known seasoned issuer is permitted to file a post-effective amendment to an automatic shelf registration statement with immediate effectiveness, none of the insurance companies currently offering RILAs currently claims status as a well-known seasoned issuer.

337 *See* 15 U.S.C. 77h; 17 CFR 229.501(a); 17 CFR 230.473. *See also supra* footnote 335 (describing the Form S-3 post-effective amendment process).

In addition to differences in the post-effective amendment process, RILA issuers also follow different processes to file prospectuses than current Form N-4 filers, relying on rule 424 rather than rule 497. Although these rules provide for similar processes, there are certain differences. For example, rule 424 requires an issuer to file a prospectus only if the issuer makes substantive changes or additions to a previously-filed prospectus, whereas rule 497 requires funds to file every prospectus that varies from any previously-filed prospectus.[338] Accordingly, under the proposed amendments, a RILA issuer would be required to file every prospectus relating to a RILA offering that varies in form from a previously filed prospectus before it is first used.[339] This approach would provide a publicly accessible, usable database of current RILA prospectuses which would also assist the Commission in conducting its regulatory functions. In addition, rule 424 includes provisions related to continuous or delayed securities offering under rule 415.[340] However, in light of the proposed amendments to the RILA registration framework, these provisions would no longer be applicable to RILAs.[341]

Consistent with the other elements of this proposal, the proposed amendments are designed to provide parity between RILAs and other annuities registered on Form N-4. RILAs, like variable annuities, are longer-term investment products that are continuously offered and must maintain a current registration statement and up-to-date prospectus for new investors as well as for existing investors that may be able to make additional contributions or reallocate assets. Accordingly, applying rule 485's simplified post-effective amendment process is a more

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338 *See* rule 424(a); rule 497.

339 *See* proposed rule 497(e).

340 *See* rule 424(b).

341 *See* proposed rule 415(b).

appropriate framework for RILA registration statements in light of their similarity to variable annuities. RILA registration statements are routinely updated over the course of an offering and may be subject to material and non-material amendments over the long-term nature of the investment product. As such, the proposed amendments addressing the post-effective amendment process for RILA registration statement should provide benefits to current RILA issuers using Form S-1 by reducing administrative complexity when updating financial statements included in a registration statement or when making other changes to a registration statement through rule 485's provisions for automatic and immediate effectiveness.[342] Requiring RILA issuers to rely on the simplified post-effective amendment process would enable these issuers to update their disclosures in a manner that complements and facilitates RILAs' offering structure and particularly provide efficiency in the context of combination contracts.

Requiring RILA issuers to rely on rules 485 and 497 also would provide a uniform post-effective amendment and prospectus filing framework for all issuers using Form N-4 and provide insurance companies that may offer one or more related insurance products, including index-linked options offered as part of combination annuity contracts, consistent filing requirements across related products. This should also result in enhanced efficiencies as these issuers would no longer be required to manage distinct filing processes for related products. In addition, employing the framework provided by rules 485 and 497 would provide Commission staff with an increased degree of administrative efficiency by facilitating the review of amendments containing material changes to RILA registration statements while permitting amendments with non-material changes to become effective immediately.

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342 *See* proposed rule 485.

We request comment on the proposed application of rules 485 and 497 to RILAs.

130. Should we require RILA issuers to file post-effective amendments to registration statements on Form N-4 under rule 485? Are there additional circumstances not currently enumerated in the rule for which we should permit the immediate effectiveness of post-effective amendments?

131. Do commenters agree that the current post-effective amendment process for RILA registration statements on Form S-1 may result in increased uncertainty and costs for RILA issuers than if the same issuers used the proposed post-effective amendment process under proposed rule 485 to amend RILA registration statements? Will using the process required by rule 485 mitigate these concerns?

132. Should we require RILA issuers to file prospectuses and prospectus supplements under rule 497 rather than under rule 424? If not, what is a more appropriate process for RILA issuers to file prospectuses and prospectus supplements given the proposed move of RILA registration statements to Form N-4?

133. How would RILA issuers be affected by the requirement to file the exact form of prospectus under rule 497, given rule 424 only requires filers to file prospectuses that contain substantive changes from or additions to a previously filed prospectus?

134. Are there other filing rules that should be amended to help facilitate the movement of RILA registration statements to Form N-4? Is so, please explain what rules should be amended and the rationale for the suggested changes.

3. Prospectus Delivery

We also propose to prohibit the use of rule 172 in connection with the offering of a RILA. Under rule 172, a final prospectus is deemed to precede or accompany a security for sale for purposes of Securities Act section 5(b)(2) as long as the final prospectus meeting the

requirements of Securities Act section 10(a) is filed or the issuer will make a good faith and reasonable effort to file it with the Commission as part of the registration statement within the required rule 424 prospectus filing timeline.[343]

Registered investment companies, including variable annuity separate accounts, are excluded from rule 172 and therefore must deliver a prospectus to investors.[344] Therefore, we are excluding RILA offerings from rule 172 to ensure that investors receive a prospectus about these complex investments and because we are proposing to treat offerings of RILAs like offerings of variable annuities in other respects. Moreover, we understand that, as a practical matter, RILA issuers typically do not rely on rule 172 because RILA issuers typically deliver prospectuses to accompany or precede other communications, such as annuity applications, in order to avoid those communications being offers that otherwise would be non-conforming prospectuses that violate section 5 of the Securities Act.[345]

We request comment on excluding RILA offerings from rule 172.

135. Is our understanding correct that RILA issuers typically deliver prospectuses to investors to accompany or precede other communications, and thus do not rely on rule 172? If not, in what circumstances to RILA issuers typically rely on rule 172? Is there any reason we should permit RILA issuers to rely on rule 172 even though issuers cannot rely on the rule for other offerings registered on Form N-4?

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343 *See* Rule 172(b) and (c); *see also* Offering Reform Release at n.561 and accompanying text.

344 *Id.* at section VI.B.1.b.

345 *See* section 2(a)(10) of the Securities Act (providing, in part, that a communication sent or given after the effective date of the registration statement shall not be deemed a prospectus if it is proved that prior to or at the same time with such communication a written prospectus meeting the requirements of section 10(a) was sent or given to the person to whom the communication was made). *See also* Offering Reform Release at n.561 (stating that a final prospectus only filed as provided in rule 172 will not be considered to be sent or given prior to or with a written offer within the meaning of this clause of section 2(a)(10)).

F. Materially Misleading Statements in RILA Sales Literature

We are proposing to amend rule 156 to make its provisions applicable to RILA sales literature. Under the Federal securities laws applicable to all securities (including RILA offerings), it is unlawful for any person to use materially misleading communications in connection with the offer or sale of any security.[346] Rule 156 does not prohibit or permit any particular representations or presentation, rather it is an interpretive rule that provides factors to be weighed in considering whether a statement involving a material fact is or might be misleading in the specific context of investment company sales literature for purposes of the Federal securities laws, including sales literature relating to the sale of variable annuities. Applying this rule to RILA sales literature is consistent with the RILA Act in that it would provide RILA issuers guidance on ways to avoid presenting investors with materially misleading advertisements, which should help ensure that investors receive the information necessary to make informed decisions about these products.[347]

Rule 156 provides guidance on whether a statement involving a material fact is misleading in sales literature, depending on an evaluation of the context in which it is made, with the rule providing four non-exhaustive factors to guide in this determination.[348] While these factors have some relevance to the marketing of all securities, similarities between variable annuities and RILAs (as to how and to whom they are marketed), make the extension of rule 156 to RILAs particularly appropriate. Like investment company sales literature generally (and variable annuity marketing materials particularly), RILA advertisements discuss complex

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346 *See* 15 U.S.C. 77q(a); 15 U.S.C. 78j(b); 17 CFR 240.10b-5.

347 *See* Mutual Fund Sales Literature Interpretive Rule, Investment Company Act Release No. 10915 (Oct. 26, 1979); [44 FR 64070 (Nov. 6, 1979)] ("Rule 156 Release").

348 *See* rule 156(b).

investment features, and RILA issuers should benefit from rule 156's contextual analysis in considering whether a particular representation is materially misleading. Thus, the proposed amendments to rule 156 would help address these concerns by focusing attention to specific areas of RILA sales literature that we have identified as being particularly susceptible to misleading statements.[349]

Commission staff have reviewed RILA advertisements to better understand how insurance companies market these products to investors. As part of this review, and based upon prior experience reviewing RILA registration statements, the staff identified common RILA marketing approaches that could benefit from rule 156's guidance about advertising statements that could be misleading under the Federal securities laws without appropriate context.

For example, in the sales literature reviewed by the staff, insurance companies typically marketed RILAs as growth products based primarily on the linkage to an underlying index. Current rule 156(b)(1)(ii) provides that a statement could be misleading because of "[t]he absence of explanations, qualifications, limitations or other statements necessary or appropriate to make such statement not misleading." Thus, if rule 156 were applied to RILAs as proposed, rule 156 would assist insurance companies in considering whether representations about a RILA as a growth product would require qualification in light of particular RILA features, such as the existence and extent of any limitations on upside index performance. Representations that highlight downside protections of a RILA could similarly be misleading without the context of the cost or limitation of those protections (*e.g.*, upside limitations). The same analysis would apply to representations that tout customization without discussing the trade-offs associated with

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349 *See, e.g.*, Rule 156 Release (Rule 156 is "intended to highlight general areas which, based on the Commission's regulatory experience with investment company sales literature, had proven to be particularly susceptible to misleading statements").

that customization (*e.g.,* long lock-up periods to get the best rates or having to experience a contract adjustment when making a change), or fail to explain that the insurance company has reserved the right to change or remove key features of the contract while surrender charges still apply. If RILA sales literature discussed these aspects of the contract without adequately explaining these limitations or the insurer's discretion to alter key features, that omission could make the advertisement misleading. Accordingly, the application of rule 156(b)(1)(ii) to RILA sales literature would require an insurance company to consider whether an advertisement would be materially misleading if it suggests a given RILA is a loss-avoidance vehicle or a customizable product in the absence of qualifying explanations or statements. Similarly, if sales literature advertises a particular feature of the product's bounded return structure (including, *e.g.*, a specified index; an upside feature such as a particular "cap rate" or "participation rate"; or a downside feature such as a "floor" or "buffer") that is not available for the life of the product or the full term of any surrender charge period, the rule would require consideration of whether the statement is misleading without providing additional context as to the insurer's discretion.

As another example, current rule 156(b)(4) provides that "[r]epresentations about fees or expenses associated with an investment in a fund could be misleading because of statements or omissions made involving a material fact, including situations where portrayals of the fees and expenses associated with an investment in the fund omit explanations, qualifications, limitations, or other statements necessary or appropriate to make the portrayals not misleading." While RILA investors are not typically charged direct ongoing fees or expenses, RILAs do typically limit an investor's ability to participate in upside performance, and charges like contract adjustments can impose costs upon highlighted features such as guaranteed benefits. In the context of RILA sales literature, the proposed application of this provision of rule 156 to RILA advertisements would

require consideration about whether representations or portrayals either of a RILA's costs or charges (*e.g.*, advertising implying that a RILA had low costs or no ongoing charges), or optional benefits that are subject to a contract adjustment, would necessitate qualifying statements or explanations regarding the costs or tradeoffs to the investor to receive an advertised benefit or those generally associated with the RILA.[350]

Lastly, current rule 156(b)(2)(i) states that "[r]epresentations about past or future investment performance could be misleading because of statements or omissions made involving a material fact, including situations where: [p]ortrayals of past income, gain, or growth of assets convey an impression of the net investment results achieved by an actual or hypothetical investment which would not be justified under the circumstances, including portrayals that omit explanations, qualifications, limitations, or other statements necessary or appropriate to make the portrayals not misleading." In the context of RILA advertising, the proposed provision would require consideration of whether illustrations about the operation of a RILA or its features could be misleading because, for example, they use assumptions (such as limits on gains or index performance that includes dividends whereas the RILA's index does not include dividends) that are not currently offered or exceed what could be reasonably anticipated or use "cherry picked" data. Including historical index performance in an advertisement also would mislead investors if, for example, it suggested that the performance shown is predictive of future performance of the

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350 Insurance companies may apply a contract adjustment to the investors' account when an investor annuitizes or takes advantage of benefits like "free withdrawal" provisions (that typically permit investors to withdraw up to 10% of the contract value each year without paying a surrender charge), death benefits, systemic withdrawals, and guaranteed benefits. *See* The Design and Regulatory Framework of Registered Index-Linked Annuities, ALI CLE Conference on Life Insurance Products 2022 ("It is important to note that interim value adjustments may apply to surrenders and *all* types of 'withdrawals,' such as free look payments; annuitization; death benefit payments; deductions for third party advisory fees; systemic withdrawals; and even income payments under guaranteed benefit riders.")

index or a RILA. On the other hand, using the index's historical performance to illustrate how a RILA works *in a fair and balanced way* (*e.g.*, by showing index performance relative to representative limits on gains and losses, as some RILA advertisements currently do) would be consistent with the proposed extension of rule 156 to RILA advertisements, assuming those advertisements otherwise include appropriate caveats to ensure that the illustrations are not misleading.[351] Moreover, our preliminary view is that purporting to show the historical *performance of the RILA or any particular index-linked option itself* would generally be materially misleading. This is because the terms of a RILA investment, such as limits on gains, change frequently, making past performance irrelevant to current investors who are not able to utilize those past rates in current market conditions. In addition, to the extent that a RILA is using a point-to-point crediting method, that RILA's return to an investor would be particularly sensitive to the specific date the investor purchased the RILA and when the crediting period ends for the index-linked option chosen by the investor.[352] This further increases the likelihood of a current investor's investment experience deviating from the historical performance of a given RILA, even when that RILA had similar terms to those currently offered. Our understanding is that insurance companies do not currently advertise the historical performance of the RILA or any particular index-linked option itself.

In addition to rule 156, advertisements and sales literature for existing N-4 issuers is subject to 17 CFR 230.482 ("rule 482"). Rule 482 requires, among other things, enhanced disclosures in investment company and business development company advertisements designed

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351 *See* rule 156(b)(1)(ii) (statement can be misleading because of "absence of explanations, qualifications, limitations or other statements necessary or appropriate to make such statement not misleading").

352 *See, e.g.,* OIAD Report at Section 3, Comparing RILA Features, Variations in Term Length and Simulated Returns; Section 7, Conclusions, Implications of the Research: The Economics of RILAs.

to convey balanced information to prospective investors, particularly with respect to standardizing representations of a fund's past performance.[353] These provisions were introduced as a result of the Commission's experience with fund advertisements that were creating unrealistic or misleading expectations through representations regarding past performance.[354] Accordingly, rule 482 now permits funds to use performance data in their advertisements, but only according to standardized methodologies set forth in the rule. Unlike the rules applicable to most RILAs, rule 482 also permits registered investment companies and business development companies to provide advertisements and sales literature to investors without it being accompanied or preceded by a statutory prospectus.[355]

While not required by the RILA Act, we nevertheless considered whether RILA advertising might raise similar concerns that would justify amending rule 482 to include RILAs. As explained below, we have not yet seen sufficient evidence to support an expansion of rule 482 to RILAs at this time, though we acknowledge such concerns may develop in the future.[356] This conclusion largely follows from the rule's standardized performance data requirements, which do not align with current practices in RILA advertisements. While variable annuity marketing materials frequently utilize standardized performance returns, this is not the case with RILA advertisements. Rather than relying on past performance, insurance companies typically market RILAs on other bases that are less amenable to standardized performance metrics, for

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353 *See* Amendments to Investment Company Advertising Rules, Investment Company Act Release No. 26195 (Sept. 29, 2003) [68 FR 57760 (Oct. 6, 2003)] ("482 Amendment Release").

354 *See id.*

355 *See* 17 CFR 230.433(b)(2).

356 As a result, RILA sales literature, as "free writing" prospectuses, would continue to be subject to 17 CFR 230.164 and 17 CFR 230.433, as well as any other applicable rule that permits a communication notwithstanding the "gun jumping" provisions of the Securities Act.

example highlighting that these are flexible products whose features can be customized to fit a particular investor's needs. RILA advertising also typically does not attempt to utilize past performance, suggesting there is neither a need for rules prescribing RILA-specific past performance metrics, nor sufficient experience to inform the development of such metrics. For these reasons, we would not change rule 482 to include RILAs.

We request comment on the proposed application of rule 156 to RILAs and our proposal not to amend rule 482 to include RILAs.

136. Would the application of rule 156 to RILA sales literature help to prevent or address material misstatements in those communications? Is there any other action we should take to address this concern?

137. Are there differences between variable annuities and RILAs that would justify not extending rule 156 to RILA sales literature as proposed?

138. Instead of extending rule 156 to RILAs, should we create a new rule that specifically and solely deals with materially misleading information in RILA sales literature? If so, what is it about RILAs that necessitates a RILA-specific rule about materially misleading sales literature, and what particular areas or topics should we address in a RILA-specific sales literature rule?

139. Do commenters agree with the contextual concerns highlighted above with regards to the representations typically used in RILA sales literature? Are there other claims or suggestions in RILA sales literature that insurance companies use that we should be concerned about?

140. Do insurance companies currently utilize any performance metrics in RILA advertisements? Why do insurance companies not currently utilize past

performance in RILA sales literature to the same extent as variable annuity advertisements? Is there a way to standardize RILA past performance information? Is there a way to view RILA past performance information as other than as materially misleading?

141. Do commenters agree that advertising the historical performance of a RILA or any particular index-linked option would be misleading in light of the customized nature of RILA contracts and the pace at which the RILA features that determine RILA performance are subject to change?

142. Are there benefits to investors in amending rule 482 to include RILA advertising materials? If so, how should it be amended? How would we address past performance metrics for a RILA in light of the customized nature of RILAs and the changing nature of RILA features?

143. Should we permit insurance companies to provide RILA sales literature to investors without being accompanied or preceded by a summary or statutory prospectus as variable annuities do? How would insurance companies be able to present such a complex product to investors in a way that they can understand?

G. Existing Commission Letters

Certain Commission letters, or portions thereof, exempting insurance companies from the requirement to provide financial statements prepared in accordance with GAAP in connection with the registration of an offering of RILAs on Form S-1 based on the authority provided in 17 CFR 210.3-13 ("3-13 Exemptions") would be withdrawn or rescinded in connection with any adoption of this proposal in light of the proposed change to permit RILAs to provide SAP financial statements on amended Form N-4 in the same way that other insurance companies are

permitted to do so on current Form N-4.[357] Following the compliance date of any final rule, some letters, or portions thereof, would be moot, superseded, or otherwise inconsistent with the final rule and, therefore, would be withdrawn or rescinded. If commenters believe that additional Commission letters or other actions, or portions thereof, should be withdrawn or rescinded, they should identify the letter or guidance, state why it is relevant to the proposal, how it or any specific portion thereof should be treated, and the reason therefor. Based on the proposal, 3-13 Exemptions that would be withdrawn or rescinded would include, but would not necessarily be limited to, all of the 3-13 Exemptions listed below.

Table 8: Existing Commission Letters

Name	Date
Great-West Life & Annuity Insurance Company and Great-West Life & Annuity Insurance Company of New York	9/28/2018
Athene Annuity and Life Company	9/28/2018
Allianz Life Insurance Company of North America and Allianz Life Insurance Company of New York	9/28/2018
MONY Life Insurance Company of America	3/7/2019
Symetra Life Insurance Company and First Symetra National Life Insurance Company of New York	8/8/2019
Forethought Life insurance Company	10/17/2019
Nationwide Life Insurance Company	10/17/2019
Minnesota Life Insurance Co.	6/11/2020
MEMBERS Life Insurance Co.	11/6/2020
Transamerica Life Insurance Company and Transamerica Financial Life Insurance Company	2/11/2021
Midland National Life Insurance Company	8/12/2021
Protective Life Insurance Company and Protective Life and Annuity Insurance Company	10/14/2022
Everlake Life Insurance Company	10/21/2022

[357] Rule 3-13 provides, in part, that the "Commission may, upon the informal written request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the financial statements herein required or the filing in substitution therefor of appropriate statements of comparable character." We would not be rescinding exemptions provided in any of the letters outlined below provided with respect to non-RILA insurance products because they are not affected by this rulemaking.

Name	Date
Fidelity & Guaranty Life Insurance Company and Fidelity & Guaranty Life Insurance Company of New York	3/17/2023
Delaware Life Insurance Company and Gainbridge life Insurance Company	4/28/2023

We request comment on the proposed recessions.

144. Are there any other Commission letters or actions that should be rescinded or withdrawn if the proposal is adopted?

145. Are there any staff letters or guidance pieces that would be moot, superseded, or otherwise inconsistent with the final rule?

146. In a future rulemaking, should we consider codification of any 3-13 Exemptions that have been granted to other insurance products? If so, what considerations should the Commission consider in doing so?

H. Registered Market-Value Adjustment Annuities

In addition to RILAs, there are other non-investment company insurance products that are securities under the Federal securities laws. Like RILAs, offerings of these securities are currently registered by insurance companies on Forms S-1 or S-3. For example, some annuity contracts that offer fixed investment options and apply market-value adjustment annuities ("MVAs") to amounts withdrawn from such fixed options before the end of the fixed option's term (*e.g.*, due to contract withdrawals, transfers to other investment options, and annuitization) are required to register the MVA with the Commission ("registered MVAs").[358] For these annuities, fixed options are either offered on their own or in a combination contract with variable options. Like RILAs, a significant feature of a registered MVA is the contract adjustment.

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358 Registered MVAs are securities because the MVA feature imposes certain investment risks on purchasers. *See* Section 3(a)(8) of the Securities Act and 17 CFR 230.151; *see also SEC v. Variable Annuity Life Insurance Co. of America*, 359 U.S. 65, 77 (1959).

Because RILAs and registered MVAs differ only with respect to the manner in which interest is calculated and credited, many of the disclosures we are proposing for RILAs on Form N-4 would also be appropriate for registered MVAs. This is particularly true of the proposed disclosures relating to the operation of contract adjustments, given their importance in both a RILA and a registered MVA.

We are not proposing to require insurance companies to register offerings of registered MVAs on Form N-4 at this time because the RILA Act does not address these securities and imposes specific timelines for the Commission both to propose rules and to adopt final rules. We request comment below, however, on whether we should also require insurance companies to register offerings of registered MVAs on Form N-4. To help commenters evaluate these requests for comment, we also have analyzed the changes to Form N-4 we believe would be necessary to accommodate offerings of these securities:

- Adding registered MVAs to the list of permissible uses of Form N-4 on the facing page and general instructions;[359]
- Adjusting the definition of "Contract Adjustment" in the form to account for investment options beyond index-linked options;
- In the discussion of how interest is calculated for the contract's fixed options in the description of the insurance company, registered separate account, and investment options, requiring: (1) a statement that an investor could lose a significant amount of money due to the contract adjustment if amounts are removed from a fixed option prior to the end of its term, (2) a description of the transactions subject to a contract adjustment

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359 *See*, *e.g.*, proposed General Instruction B.1 of Form N-4.

with cross-references to the related disclosure in the prospectus, and (3) a prominent statement of the maximum amount of loss, as a percentage, an investor could experience from a negative contract adjustment and that this loss could be greater due to surrender charges and tax consequences;[360]

- Adjusting the disclosures in the prospectus about contract adjustments in the charges-related disclosures to account for investment options beyond index-linked options having contract adjustments;[361]
- In the appendix of available investment options, in the discussion of fixed options, requiring: (1) a legend stating that if amounts are withdrawn from a fixed option before the end of its term, the insurance company may apply the contract adjustment and that this may result in a significant reduction in contract value; and (2) the provision of appropriate cross-references to the prospectus disclosure relating to contract adjustments;[362]
- Requiring registered MVAs to provide the same disclosure proposed for RILAs regarding changes in accountants;[363]
- Requiring registered MVAs to provide the same census-type information as we are proposing for RILAs;[364] and

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360 *See* proposed Item 6(e)(2) of Form N-4.

361 *See* proposed Item 7(e) of Form N-4.

362 *See* proposed Item 17(c) of Form N-4.

363 *See* proposed Item 26(c) of Form N-4. As with RILAs, if insurance companies were required to use Form N-4 for registered MVAs, they would also be permitted to use SAP in registered MVA registration statements to the same degree as other Form N-4 filers. *See supra* section II.D. If we were to do this, 3-13 Exemptions provided in connection with registered MVAs would be withdrawn or rescinded for the reasons discussed in section II.G above.

364 *See* proposed Item 31A of Form N-4.

- Requiring the same undertakings and exhibits for registered MVAs as we are proposing for RILAs.[365]

In addition to these changes to Form N-4, if we were to require insurance companies to use Form N-4 to register offerings of registered MVAs, we would anticipate providing the same functional changes we are proposing for RILAs, that is, the ability to use a summary prospectus and the use of the same filing and marketing rules, for the same reason as we are proposing these changes for RILAs.[366] For example, we could create a defined term "registered market value-adjusted annuity" in rule 405 that would be an annuity (1) that is deemed a security; (2) that is offered or sold in a registered offering; (3) that is issued by an insurance company that is subject to the supervision of either the insurance commissioner or bank commissioner of any State or any agency or officer performing like functions as such commissioner; (4) not issued by an investment company; and (5) whose value may reflect a positive or negative adjustment (based on calculations using a predetermined formula, or a change in interest rates, or some other factor or benchmark) if amounts are withdrawn before the end of a specified period. We could then use this definition to apply to registered MVAs those Securities Act rules we propose to apply to RILAs.[367] We would also expect to have the same requirements as to the use of Inline XBRL for similar reasons.[368]

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365 *See* proposed Items 27(q) and 34(b) of Form N-4.

366 *See supra* sections II.C, E, and F.

367 This definition mirrors that of "registered index-linked annuity" we are proposing to add to rule 405 for RILAs, other than the last provision which borrows from the definition of "contract adjustment" we are proposing to add to Form N-4. We could also consider creating a defined term in rule 405 that combines both the RILA and registered market-value adjusted annuity definitions for simplicity.

368 *See supra* section II.B.9.

We request comment on whether to require insurance companies to register the offering of registered MVAs on Form N-4.

147. Would it be appropriate to require insurance companies to register the offering of registered MVAs on Form N-4 (as proposed to be as amended in this proposal)? Should all of the changes suggested above apply to registered MVAs?

148. Is the definition of "registered market-value adjusted annuity" included above as an example the correct one?

149. Are there any other disclosures that would be relevant in the registered MVA context?

I. Technical Amendment to Form N-6

The Commission is proposing a technical amendment to Form N-6 to reflect the correct placement of an amendment to this form that the Commission adopted in 2020 in the release titled "Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets" (herein referred to as the "Exempt Offering Framework Adopting Release").[369] In that release, the Commission adopted, among other amendments, amendments to certain instructions associated with the Exhibits items of Form N-4 and Form N-6. The amendatory instructions in the Exempt Offering Framework Adopting Release erroneously referred to outdated Exhibits items of these forms. That is, the amendatory instructions referred to Items 24 and 26 respectively, instead of Items 27 and 30 respectively (as adopted by the Commission in earlier amendments to Forms N-4 and N-6 in the VASP Adopting

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369 Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, Investment Company Act Release No. 34082 (Nov. 2, 2020) [86 FR 3496 (Jan. 14, 2021)].

Release).[370] The amendments we are proposing to Form N-4 correctly reflect the placement of the amendment that the Commission adopted in the Exempt Offering Framework Adopting Release in Item 27 of the form instead of in Item 24. We are also proposing a technical amendment to Item 30 of Form N-6 that correctly reflects the placement of the amendment that the Commission adopted in the Exempt Offering Framework Adopting Release in this item instead of in Item 26.

J. Compliance Period

We are proposing a compliance date one year after publication of final amendments in the *Federal Register*.[371] All initial registration statements and post-effective amendments that are annual updates to effective registration statements on Form N-4 that are filed after the compliance date would be required to comply with the amendments. This compliance period is designed to give registrants sufficient time to comply with the proposed changes, including to update their registration statements; to prepare to use rules 485 and 497 to update their registration statements and file prospectuses with the Commission; and to begin paying securities registration fees on Form 24F-2.

RILAs that have previously registered offerings of securities on Forms S-1 or S-3 would file a post-effective amendment to their registration statement pursuant to rule 485(a) at the time of their next annual update following the compliance date, using Form N-4.[372] In appropriate

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370 *See* Exempt Offering Framework Adopting Release at amendatory instructions 50 and 51; *see also* VASP Adopting Release at section II.C.4 (Table 6).

371 This compliance period would apply for all of the amendments in this release other than the technical amendment to Form N-6 discussed in section II.I *supra*.

372 A post-effective amendment filed under rule 485(a) [17 CFR 230.485(a)] generally becomes effective either 60 days or 75 days after filing, unless the effective date is accelerated by the Commission. RILA registrants generally should be able to rely on template filing relief, in which case they would not need to file a rule 485(a) filing for each RILA. *See* proposed amended rule 485(b)(1)(vii). Existing RILA issuers

circumstances, we would consider requests by registrants with respect to existing variable annuity contracts to file post-effective amendments pursuant to Securities Act rule 485(b)(1)(vii) when these post-effective amendments make conforming changes to comply with the proposed amendments to Form N-4.[373]

We also are proposing to provide a six-month delayed effective date for all amendments except for the amended Form N-4, amended rule 498A, and technical amendments to Form N-6, such that all other final amendments would be effective six months after publication in the Federal Register. Thus, we propose that a registrant would be able to rely on rule 498A to satisfy its obligations to deliver a RILA contract's statutory prospectus beginning on the effective date of the rule amendments, provided that the registrant is also in compliance with the amendments to Form N-4. The delayed effective date for remaining amendments would provide the Commission time to prepare the EDGAR system to accommodate transitioning RILA offerings onto the proposed framework.[374]

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that only issue RILAs and will be using the same CIK would be permitted to transition by filing a 485APOS or 485BPOS in EDGAR. Both of these submission types allow the entity to keep its current Securities Act file number, and both allow the filer to obtain new contract IDs and the needed Form N-4 investment company type designation in EDGAR. RILA issuers that will be acquiring new CIKs for their RILA offerings would need to transition by filing an administrative Form N-4 submission under a newly-issued CIK to obtain a new Securities Act file number, new contract IDs, and the Form N-4 investment company type (which is used for EDGAR purposes only).

373 A post-effective amendment filed under rule 485(b) may become effective immediately upon filing. A post-effective amendment may be filed under rule 485(b) if it is filed for one or more specified purposes, including to make nonmaterial changes to the registration statement. A post-effective amendment filed for any purpose not specified in rule 485(b) generally must be filed pursuant to rule 485(a). Under rule 485(b)(1)(vii), the Commission may approve the filing of a post-effective amendment to a registration statement under rule 485(b) for a purpose other than those specifically enumerated in the rule. The Commission's staff has been delegated the authority to approve registrants' requests under rule 485(b)(1)(vii). 17 CFR 200.30-5(b-3)(1).

374 There would be no transition period associated with the technical amendment to Form N-6 discussed in section II.I *supra*.

We are not delaying the effective date of the proposed changes to Form N-4 and rule 498A, however, to allow registrants to begin filing registration statements under the revised form as soon as possible. We believe allowing registrants to use the new form as soon as possible following the Commission's adoption of final amendments is consistent with Congress's intent in directing the Commission to prepare and finalize a new form for RILAs within 18 months of enactment.

We request comment on the proposed compliance period:

150. Would the proposed compliance period provide registrants sufficient time to prepare to comply with the amendments? Would more time be appropriate or, conversely, should we provide a shorter compliance period to ensure that investors receive the benefit of the proposed amendments more quickly?

151. Should we provide a separate compliance period to provide more time for insurance companies to comply with the requirement to structure certain disclosure in Inline XBRL? For example, should we provide an additional year period after the date insurance companies are required to first update their disclosure?

152. Is it appropriate to permit a registrant to rely on rule 498A to satisfy its obligations to deliver a RILA contract's statutory prospectus beginning on the effective date of the rule amendments, provided that the registrant is also in compliance with the amendments to Form N-4?

K. General Request for Comment from Retail Investors

We are requesting input from the retail investor community relating to the experiences of seeking information about, and investing in, a RILA. We understand that RILAs are typically sold to retail investors. This, together with the congressional mandate to design disclosure requirements for RILAs with the goal of ensuring that key information is conveyed in terms a

purchaser is able to understand, makes feedback from retail investors particularly relevant as we consider the disclosures that would be required in a RILA registration form.[375] Specifically, we invite retail investors seeking to comment on their feedback with annuities generally and RILAs in particular to submit a short Feedback Flyer, available at Appendix D.

III. ECONOMIC ANALYSIS

A. Introduction

We are mindful of the costs imposed by, and the benefits obtained from, our rules. Section 3(f) of the Exchange Act, section 2(b) of the Securities Act, and section 2(c) of the Investment Company Act state that when the Commission is engaging in rulemaking under such titles and is required to consider or determine whether the action is necessary or appropriate in (or, with respect to the Investment Company Act, consistent with) the public interest, the Commission shall consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors. Further, section 23(a)(2) of the Exchange Act requires the Commission to consider, among other matters, the impact such rules would have on competition and states that the Commission shall not adopt any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

We are proposing amendments to our rules designed to carry out the requirements of Section 101(b) Division AA, Title I of the Consolidated Appropriations Act, 2023, to establish a registration form for RILAs. The Commission is proposing to amend the form currently used by most variable annuity separate accounts, Form N-4, to require issuers of RILAs to register

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375 *See supra* discussion accompanying and following footnote 7.

offerings on that form as well. To facilitate this amendment, the Commission is also proposing to amend certain filing rules and make other related amendments. In addition, we are proposing other amendments to Form N-4 that would apply to all issuers that use that form. We are also proposing to apply a current Commission rule that provides guidance as to when sales literature is materially misleading under the Federal securities laws to RILA advertisements and sales literature.

While the Commission has developed a set of specific registration forms for variable insurance contracts, RILA issuers cannot use those forms because a RILA issuer is not an investment company. Currently, insurance companies register the offerings of RILAs on the Securities Act registration forms that are typically used to register traditional debt or equity offerings, Forms S-1 and S-3. Because Forms S-1 and S-3 are not tailored to the particular characteristics of RILAs (or indeed insurance products more generally), these forms include a number of disclosure requirements that may be less material to investors when evaluating an insurance product like a RILA and do not include line-item requirements mandating RILA-specific information that is of importance to investors in these products. The inclusion of disclosures that are of little relevance to investors and the omission of information that is of importance to investors limits the usefulness of the information investors currently receive about RILAs and thus their ability to make informed investment decisions. In addition, Forms S-1 and S-3 require the use of GAAP financial statements, rather than the SAP financial statements that the State insurance regulators require. SAP financial statements, which focus on an issuer's ability to meet its obligations under its insurance contracts, as regulated by State law, appear to provide sufficient material information for investors evaluating RILAs. Investors may also benefit from the lower cost burdens on issuers provided by the use of SAP financial statements,

to the extent that those savings are passed along to investors. The proposed rule would increase the usefulness of the information provided to current and prospective investors in RILAs by:

- Adapting the existing registration and disclosure framework for variable insurance contracts to accommodate RILAs;
- Requiring RILA-specific disclosure requirements in Form N-4, including disclosures specific to the underlying investment options, such as, for each available index-linked option, the index, crediting period, and index crediting methodology;
- Proposing amendments to Form N-4 based on our experience in administering the form and in reaction to our observations of investor testing, which would be applicable to all issuers that use this registration form and which are designed to improve disclosures;
- Switching the order of the Key Information Table and Overview of the Contract items;
- Utilizing a question and answer format for the Key Information Table;
- Removing an instruction that permits registrants to omit additional disclosure in the prospectus that repeats information disclosed in the Overview of the Contract or the Key Information Table; and
- Extending the current rule providing factors to be weighed in considering whether a statement involving a material fact is or might be misleading in the specific context of investment company sales literature to RILAs, in order to address misleading statements about RILA fees, product features, and certain performance presentations in RILA sales literature.

We have considered the potential costs and benefits that would result from the proposed rules, as well as the potential effects on efficiency, competition, and capital formation. Certain potential economic effects of the proposed rule would stem from the statutory mandate, while

others would stem from the discretion we are exercising. We discuss the potential economic effects of the proposed amendments in section III.C. We also consider certain alternatives to our proposed approach to implementing the statutory mandate, as discussed in section III.E. We note that, where possible, we have attempted to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from the proposed rule. In some cases, however, we are unable to quantify the economic effects because we lack the information necessary to provide a reasonable and reliable estimate. Nevertheless, as described more fully below, the Commission is providing both a qualitative assessment and quantified estimate of the economic effects, where feasible. The Commission invites commenters to include estimates and data that could help it form useful estimates of the economic effects of the proposed amendments.

B. Baseline

1. Affected Parties

The proposed rule would affect issuers of and investors in RILAs, as well as issuers of and investors in variable annuities that are registered on Form N-4.

a. The Market for Annuity Products

As of January 2023, there were 90 RILAs registered with the Commission issued by 23 insurance companies.[376] Among the 90 RILAs, 50 are stand-alone RILA products, while 40 are combination contracts that offer index-linked options as well as variable options. The number of RILAs registered with the SEC on Form S-1 is 52, while the remaining 38 are registered on

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376 Based on analysis of Forms S-1, S-3 and POS AM filed by RILA issuers.

Form S-3. A little over half of the registered RILAs (47 RILAs) report SAP financials, with the remainder (43 RILAs) reporting GAAP financials.[377]

RILA contracts currently offer a variety of index-linked options. Specifically, RILA contracts that are currently registered with the Commission offer index-linked options whose returns are linked, in part, to between two and nine indices with an average among RILAs of 4.3 indices.[378] The indices associated with current RILA contracts commonly include the S&P 500, Russell 2000, and NASDAQ-100. RILA contracts offer index-linked options with less well known indices and ETFs as well, but with much less frequency.[379]

As discussed in Section I, index-linked options whose returns are based, in part, on the same index may nevertheless have different elements that contribute to an investor's returns. Notably, different index-linked options whose returns are linked to the same index may offer different crediting periods (the set length of time for measuring growth of contract value based on the performance of the linked index—for example, one or three years), crediting methodologies, and buffer or floor levels. RILAs that are currently registered with the Commission offer between 4 and 64 index-linked options, with an average of 22.8 index-linked options. Common crediting periods include one, two, three, and six years, with one year being most common. In the past, index-linked options with terms as long as 10 years have been offered, although the longest index-linked option term currently offered is six years. For those "combination" contracts that offer index-linked options and variable options, the number of

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377 EDGAR Database. Certain Commission letters, or portions thereof, exempt insurance companies from the requirement to provide financial statements prepared in accordance with GAAP in connection with the registration of an offering of RILAs on Form S-1. *See* Section II.G.

378 Data obtained from Forms S-1, S-3 and POS AM filed by RILA issuers.

379 Data obtained from Forms S-1, S-3 and POS AM filed by RILA issuers.

variable options ranges from 1 to 100, with an average of 10.4 variable options. The most common variable option is a money market fund – in all instances of combination contracts, a money market fund (or, in one case, a similar liquid investment) is offered as a variable option.

Table 9 provides information on the dollar amount of RILA sales from 2016 to 2022.[380] RILA sales have increased from $7.3 billion in 2016 to $41.1 billion in 2022, which represents a 463% increase between these two years.

Table 9: Sales of RILAs, 2016-2022

	2016	2017	2018	2019	2020	2021	2022
Sales of RILAs ($ billions)	7.3	9.0	11.2	17.4	24.1	38.7	41.1
Source: *Fact Tank: Sales Data*, LIFE INSURANCE MARKETING AND RESEARCH ASSOCIATION, https://www.limra.com/en/newsroom/fact-tank/ (using data from the U.S. Individual Annuity Sales surveys for Q4 for each year from 2016 through 2022).							

A recent survey of insurers found that 85% of respondents believed in 2021 that RILA sales would increase by 10% or more over the next three years, 10% believed that RILA sales would increase by less than 10%, while 5% believed that RILA sales would remain the same over that time period. No respondents indicated that they believed RILA sales would decrease.[381] When surveyed about the factors driving the growth in RILA sales, the three most commonly cited reasons were: (1) increased understanding of RILAs among advisers and broker-dealers (85%), (2) the entrance of large, reputable insurers into the RILA market (80%), and (3)

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380 *Fact Tank: Sales Data*, LIFE INSURANCE MARKETING AND RESEARCH ASSOCIATION, https://www.limra.com/en/newsroom/fact-tank/ (using data from the U.S. Individual Annuity Sales surveys for Q4 for each year from 2016 through 2022).

381 Cerulli Associates & Insured Retirement Institute, *Custom Key Findings, U.S. Annuity Markets 2021: Acclimating to Industry Trends and Changing Demand* Ex. 1 (2021) ("Cerulli Report"), *available at* https://www.irionline.org/wp-content/uploads/2022/02/IRI-Key-Findings_2021_Final_12622.pdf

increased supply due to the entrance of large issuers and distributors of RILAs (80%).[382] Respondents also indicated that they expected to see the largest increases in sales among the following distribution channels: independent agents or broker/dealers, captive insurance agents, regional broker/dealers, and wirehouses.[383] RILAs were also the product most insurers indicated had "tremendous" growth potential over the near term. [384]

As of 2019, there were a total of 2,396 unique variable annuity products offered by a total of 33 companies.[385] Net assets totaled $2,018.0 billion. Also in 2019, variable annuity sales totaled $98.3 billion.[386] Of the total sales, $62.8 billion (64% of total sales) were annuities within qualified plans and $35.5 (36%) were non-qualified annuities.[387] Investors purchased annuities across various distribution channels – captive agents, $34.5 billion, (35% of total sales); independent financial planners/NASD firms, $39.2 billion (40%); banks/credit unions, $9.2 billion (9%); wirehouses/regional broker-dealers, $12.6 billion (13%); and direct response, $2.8 billion (3%).[388]

b. Issuing Insurance Companies

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382 *Id*. at Exhibit 2.

383 *Id*. at Exhibit 3. Other RILA distribution channels include: brokerage general agencies/independent marketing organizations, registered investment advisers, and direct sales.

384 Cerulli Report at Exhibit 5.

385 See Insured Retirement Institute Retirement Fact Book 2020 ("IRI Fact Book"). In 2018 (the last year for which this information is available in the 2020 edition), the total number of variable annuity contracts in force was 17.9 million, with an average individual contract value of $113,053.

386 *Id*.

387 *Id*.

388 *Id*.

The number of insurance companies currently offering securities registered as RILAs with the Commission is 23, from 19 insurance company complexes. Out of these 23 insurance companies, 15 of them register RILAs on Form S-1, while the remaining 8 use Form S-3.[389]

Insurance companies offer, on average, 4 RILA contracts, ranging from a maximum of 11 RILAs to a minimum of 1 RILA. The top two issuers offer 21 RILAs in total, or 29% of the number of existing RILA products.[390]

c. Investors

In 2021 there were an estimated 83 million individuals aged 45–64 and 56 million individuals aged 65 or older in the United States, representing 25 percent and 17 percent of the total population, respectively.[391] The number of individuals age 65 or older is projected to be 65 million (19 percent of the total projected population) in 2025, 78 million (21 percent of the projected population) in 2035, 83 million (22 percent of the projected population) in 2045, and 90 million (24 percent of the projected population) in 2055.[392]

Individuals that are planning for, or are already in, retirement face increasing challenges with respect to achieving their income goals for retirement. First, people are living longer. Second, traditional defined-benefit retirement systems that provide guaranteed income are being replaced with defined-contribution systems that require people to accumulate their own

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389 Data obtained from Forms S-1, S-3 and POS AM filed by RILA issuers.

390 Calculated using data obtained from Forms S-1, S-3 and POS AM filed by RILA issuers.

391 Annual Estimates of the Resident Population for Selected Age Groups by Sex for the United States: Apr. 1, 2020, to July 1, 2021 (NC-EST2021-AGESEX). We do not have demographic data on RILA investors. A 2013 survey found that 86 percent of individual annuity investors purchased their first annuity before ag 65, including 47% who were between the ages of 50 and 64 years old. The average age of investors at first purchase of an annuity is 51. The average current annuity investor age is 70. See The Gallup Organization and Mathew Greenwald & Associates for The Committee of Annuity Insurers, *Survey of Ownership of Individual Annuity Contracts* (2013).

392 Projected Age Groups and Sex Composition of the Population: Main Projections Series for the United States, 2017-2060. U.S. Census Bureau, Population Division: Washington, DC.

retirement savings.[393] Evidence suggests that, on average, individuals may not be saving appropriately to meet their retirement goals. For example, one survey found that while 74 percent of individuals are saving for retirement: (1) 51 percent of older individuals have less than $50,000 saved for retirement, (2) 57 percent of individuals save less than 10 percent of their income, and (3) 33 percent of individuals save less than 5 percent of their income.[394] In addition to the finding that individuals may not be saving an appropriate amount for retirement, there is also concern that individuals may not be taking on an appropriate amount of financial risk.[395]

Investors may not be saving appropriately to meet their retirement goals for several reasons. For example, individuals may face meaningful burdens (*e.g.*, search costs) when trying to identify appropriate investments or savings products. Once identified, investors may face additional burdens (*e.g.*, acquiring and analyzing large amounts of information) to determine which specific investments or saving products among the ones identified allow investors to best meet their savings goals.[396] Second, improving technology has permitted the development of more complex and confusing financial products.[397] As a result of the burden associated with identifying appropriate investments, as well as the burden of acquiring and analyzing

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393 John Y. Campbell, *Restoring Rational Choice: The Challenge of Consumer Financial Regulation* (NBER Working Paper No, 22025, 2016), *available at* http://www.nber.org/papers/w22025 ("Campbell Paper").

394 Insured Retirement Institute, *Retirement Readiness Among Older Workers 2021* (2021) ("IRI Survey"), *available at* https://www.irionline.org/wp-content/uploads/legacy/default-document-library/iri-retirement-readiness-2021_fullreport.pdf.

395 *See* Campbell Paper. Campbell argues that individuals take too little financial risk and that the willingness to take financial risk varies with wealth—individuals with greater wealth are willing to take on more financial risk than individuals with less wealth.

396 John Y. Campbell, Howell E. Jackson, Brigitte C. Madrian, and Peter Tufano, *Consumer Financial Protection*, 25 J. ECON. PERSPECTIVES 91 (2011) ("Campbell et al. Paper"). Campbell et al. note that making decisions about financial products often requires considerable information on terms and conditions, particularly for financial decisions that are undertaken only infrequently.

397 *See* Campbell Paper.

information to choose among the set of appropriate investments, investors may spend less time and effort (*i.e.*, resources) than is required to make appropriate investment decisions.

Investors may not be saving appropriately for other reasons, as well. For example, some investors may not make the appropriate decisions for themselves even if they were presented with all the information that was required to make a decision. Decision making limitations may be particularly problematic in the context of saving for retirement because learning from experience is difficult. Investing in retirement products is only done infrequently and the outcomes from investing decisions are delayed, perhaps for decades, and are subject to large random shocks, so that personal experience is slow to accumulate and is contaminated by noise. Also, financial innovation can reduce the relevance of an investor's prior experiences. For example, prior experience investing in investment vehicles with unbounded returns would be less relevant for investing in RILAs (which have bounded returns) than it would be for investing in variable annuities (which have unbounded returns).[398] Another possibility is that investors may

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398 *See* Campbell et al. Paper. The Campbell Paper identifies five aspects of "financial ignorance" that may lead to poor investor decision making. First, investors may lack understanding of basic concepts necessary to make appropriate decisions. For example, investors appear to lack an understanding of diversification and the tradeoff between risk and return. Second, investors may not understand the terms of financial contracts. Third, it appears that, rather than using all available historical data to form views about future returns on alternative strategies, investors rely on their own specific experiences to form an opinion. Fourth, individuals appear to not understand their own difficulties with financial decision making. Finally, investors appear to not understand the incentives faced by other parties and the effect these incentives have on their strategic behavior. Other studies suggest poor investment decisions may result from investor uncertainty and lack of investor familiarity with different assets. For example, individuals may not invest appropriately because individuals are unable, given historical experience, to form precise estimates of how they expect assets to perform in the future. *See, e.g.*, Raymond Kan and Guofu Zhao (2007). Optimal Portfolio Choice with Parameter Uncertainty, *Journal of Financial and Quantitative Analysis*, 27(3), 621-656. Rather than being unable to form precise estimates of how they expect assets to perform in the future, investors may not have, perhaps due to not having the requisite experience, the ability to form any expectation about how they expect an asset to perform in the future. If investors' ambiguity is great enough, they simply may choose not to invest in particular assets. *See, e.g.*, David Easley and Maureen O'Hara (2009). Ambiguity and Nonparticipation: The Role of Regulation, *Review of Financial Studies*, 22(5), 1817-1843. Finally, investors may make poor investment decisions because they choose to overweight investment in assets with which they are familiar, and underweight, or exclude, investment assets with which they are less familiar. *See, e.g.*, Gur Hubberman (2001). Familiarity Breeds Investment,

have preferences that lead them to favor present consumption over future consumption ("present-biased preferences") and, as a result, they save an inappropriate amount for retirement.[399] Finally, many people have a limited financial capacity to save, particularly individuals already burdened with student loans and mortgages.

2. Current Regulatory Requirements

As discussed in section I above, RILAs are securities for purposes of the Securities Act, and public offerings of RILAs, therefore, must be registered with the Commission.[400] Unlike variable annuity contracts for which the Commission has adopted a specific registration form tailored to those products, insurance companies register RILA offerings on Form S-1 or Form S-3.

Form S-1 is available to any issuer (except foreign governments and issuers of asset-backed securities) to register securities for which no other registration form is authorized or prescribed. A registration statement on Form S-1 contains extensive disclosure about all aspects of the issuer's business and financial condition and consists of two parts: a prospectus (Part I), and additional information not required to be included in the prospectus (Part II), but that is publicly available on the Commission's EDGAR website. Form S-1 allows incorporation by reference only on a very limited basis. The prospectus must contain financial statements meeting the requirements of Regulation S-X, which generally includes audited financial statements

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Review of Financial Studies, 14(3), 659-680 and Massimo Massa and Andrei Simonov (2006). Hedging, Familiarity, and Portfolio Choice, *Review of Financial Studie*s, 19(2), 633-685.

399 *See* Campbell et al. Paper. Campbell et al. note that individuals with present-biased preferences favor present consumption which can lead an individual to make decisions today that reduce their future welfare in a way that the individual later regrets.

400 *See supra* footnote 5 and accompanying text.

prepared in accordance with GAAP.[401] Currently, disclosures about RILA offerings are largely unstructured. The audited financial statements in the prospectus, if prepared in accordance with GAAP, must be tagged in Inline XBRL if the Form S-1 contains a price or a price range.[402] Form S-1 must be declared effective by the Commission before any sales of the registered securities may be made. The time required for Commission review will depend on the number and complexity of Commission comments and the issuer's ability to adequately address those comments. The issuer must pay the Commission registration fee before it files a Form S-1. The amount of the fee is based on the proposed maximum aggregate offering price.[403] The issuer must indicate the amount of each type of security being registered and calculate the fee payable for each security.

Form S-3 is a "short-form" registration statement under the Securities Act that can be used by companies that have been subject to reporting obligations under the Exchange Act for at least one year and that satisfy certain other requirements.[404] Reporting obligations under the

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401 Certain Commission letters, or portions thereof, exempt insurance companies from the requirement to provide financial statements prepared in accordance with GAAP in connection with the registration of an offering of RILAs on Form S-1. As discussed in Section III.B.1.a, 47 RILAs report SAP financials.

402 *See* 17 CFR 229.601(b)(101)(i)(B).

403 Generally, Form S-1 (or S-3) fees paid for a withdrawn registration statement are available to the issuer for use with its future registration statements. The amount available for use as an offset under rule 429 under the Securities Act equals the portion of the filing fee paid that is associated with any unsold securities of the same class registered on an earlier registration statement. Once a filing fee has been used as an offset, those unsold securities on the earlier registration statement are deemed deregistered. RILAs are continuously offered to investors, who in many cases are long-term investors that may make additional allocations or other investment decisions with respect to an investment in a RILA. Because RILA investors may make additional allocations or other investment decisions with respect to an investment, unless a prior RILA offering is completely unsold, RILA issuers may have increased difficulty in using filing fees associated with unsold securities of a prior offerings.

404 The issuer must be either organized under U.S. law with its principal business operations in the United States or a foreign private issuer that reports under the Exchange Act using the domestic reporting forms. The issuer must have a class of securities registered under section 12(b) or 12(g) of the Exchange Act, or be required to file reports under section 15(d) of the Exchange Act. The issuer must have been subject to the reporting requirements of the Exchange Act and have filed all reports and materials required under sections

Exchange Act include audited financial statements prepared in accordance with GAAP and structured in Inline XBRL. A registration statement on Form S-3 contains extensive disclosure about all aspects of the issuer's business and financial condition and consists of two parts: a prospectus which includes, either directly or incorporated by reference from the issuer's Exchange Act filings, detailed information about the issuer (Part I), and additional information not required to be included in the prospectus (Part II), but that is publicly available on the Commission's EDGAR website.

Registration using Form S-3 offers issuers advantages over registration using Form S-1. First, Form S-3 allows significant incorporation by reference, which allows for shorter prospectuses and makes Form S-3 easier to complete. Also, Form S-3 also allows for forward incorporation by reference, eliminating the need to file post-effective amendments to keep registration statements current.

A Form S-3 filed by a non-WKSI must be declared effective by the Commission. A Form S-3 receives either a full review, a targeted review of one or more sections of the registration statement, or no review. Commonly, a full review takes approximately 30 days with targeted reviews taking less time. The time to resolve any Commission comments will depend on the number and complexity of the Commission's comments. An issuer must pay Commission filing fees before it files Form S-3. The amount of the filing fee is based on the proposed maximum aggregate offering price.

13, 14, and 15(d) of the Exchange Act for the 12 calendar months preceding the filing of Form S-3, and, with certain exceptions, must have timely filed all such reports and other materials required to be filed during the 12 calendar months and any portion of a month immediately preceding the filing of the registration statement. An issuer that meets all of the requirements of Form S-3 and that has a public float of $75 million or more (*i.e.*, "seasoned issuers") may use Form S-3 to register any offering of debt or equity for cash.

Under the Federal securities laws applicable to all securities (including RILA offerings), it is unlawful for any person to use materially misleading communications in connection with the offer or sale of any security.[405] Rule 156 is an interpretive rule that provides factors to be weighed in considering whether a statement involving a material fact is or might be misleading in the specific context of investment company sales literature, including literature relating to the sale of variable annuities.

As discussed in section I above, in 2022 Congress enacted the RILA Act directing the Commission to adopt a new registration form for RILAs within 18 months of enactment (*i.e.*, the end of June 2024). If the Commission fails to adopt the form by the end of June 2024, the RILA Act provides that issuers can begin registering the offering of RILAs on Form N-4.

3. Market Practice

Annuities can play a role in helping investors save for retirement and receive guaranteed lifetime income during retirement.[406] There are multiple types of annuities available to help investors who have different financial goals or tolerances for risk save for retirement: fixed annuities, variable annuities, and RILAs. Fixed annuities offer investors preservation of their investment by guaranteeing a minimum rate of return, but with little opportunity for asset growth. During the accumulation phase,[407] a traditional (*i.e.*, book value) fixed annuity offers

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405 *See* 15 U.S.C. 77q(a); 15 U.S.C. 78j(b); 17 CFR 240.10b-5.

406 *Id*. The IRI Fact Book argues that annuities give investors the ability to create their own pensions. The IRI Fact Book also argues that, unlike mutual funds, annuities offer a wide variety of guarantees to protect an investor's investment. For example, death benefits provide principal protection in the event that an investor dies during a market downturn.

407 During the accumulation phase, also called the savings phase, capital builds up. In this phase, the investor pays premiums into the contract to accumulate assets. *See* IRI Fact Book.

investors a fixed rate of return (known in advance) for a given period of time.[408] A market value adjusted annuity (see section II.H) is similar to a traditional annuity, but the assets are subject to a market value adjustment based on interest rate changes.[409] Fixed index annuities guarantee a certain rate of return,[410] but also provide the potential for (limited) additional returns based on the performance of a specified market index.[411]

Variable annuities accumulate savings based on the performance of the underlying investment options chosen by an investor. Typically, investors are able to choose among investment options that pass on the returns of a wide variety of mutual funds such as equity funds, bond funds, funds that combine equities and bonds, actively managed funds, index funds, domestic funds, and international funds.[412] Depending on the investment options chosen, variable annuities can offer investors the greatest opportunity for asset growth, but they also can involve the greatest amount of investment-based risk, compared to other types of annuities.[413]

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408 *Id*. The IRI Fact Book also notes that fixed annuities involve less investment risk because they offer a guaranteed minimum rate of interest. The minimum rate is not affected by fluctuations in market interest rates.

409 *Id*. The IRI Fact Book contends that fixed index annuities are designed for investors who want to partake in the benefits of a market-linked vehicle with a protected investment floor if there is a downturn in the index.

410 Currently, insurance companies with a minimum A.M. Best Insurance Ratings of A- offer fixed rate annuities that guarantee between 3.70% and 5.40% for a three-year period, and between 3.20% and 5.25% for a ten-year period. *Multi-Year Guarantee Annuities (MYGA)*, ANNUITY ADVANTAGE (accessed Aug. 17, 2023, and filtered by "State" of "- All"; "Min AM Best" of "A-"; "Years" of "10"; and "Range" of "Exact"), https://www.annuityadvantage.com/annuity-rates-quotes/multi-year-guarantee-annuities/?rating=4&years=10&pos=300&sort=guarantee_period_yield&limit=all.

411 IRI Fact Book.

412 *Id*.

413 Additionally, variable annuities often involve direct fees, such as insurance charges, and indirect expenses, including management and other fees and expenses associated with the underlying mutual funds in which the variable annuity subaccounts invest. *See* IRI Fact Book.

RILAs are an index-linked product that can be purchased by individual investors as part of both qualified and non-qualified retirement accounts.[414] RILAs combine features of fixed-index annuities and variable annuities. RILAs limit or reduce downside risk in return for an investor accepting limited upside performance. In exchange for giving up the complete protection of principal offered by fixed annuities, a RILA investor is potentially afforded greater upside potential than that provided by fixed annuities, though typically less than the potential upside of investing in the same index within a variable annuity.[415] RILAs allow investors some ability to customize a level of risk with which they are comfortable.[416] Like other annuities, RILAs have an accumulation phase followed by a payout phase. The accumulation phase is divided into one or more crediting periods.[417] Also like other annuities, after a "surrender charge" period (generally, 3 to 10 years following an investor's last premium payment), investors can usually surrender their contract at the end of any crediting period and receive full account value.[418] Investors, however, may lose money if they withdraw early from an investment option or from the contract, as explained in section I.A above.

At the end of a crediting period, the issuer credits a RILA investor's contract value with "interest" (which can be either positive or negative) that is based on the performance of a

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414 Thorsten Moenig, *It's RILA Time: An Introduction to Registered Index-Linked Annuities*, 89 J. RISK & INS. 339 (2022) ("Moenig Paper").

415 *See* IRI Fact Book.

416 *Id*. The IRI Fact Book also contends that historically investors generally fell into one of two camps: those willing to exchange safety of principal for modest returns, and those able to tolerate the higher risk of being invested in securities in exchange for greater upside potential. RILAs address a developing demand for products that allow investors some ability to customize a level of risk with which they are comfortable. Structured annuities (*i.e.*, RILAs) meet the needs of the in-between investor who wants some degree of certainty but also desires some upside potential.

417 *Id*.

418 *Id*.

specified index, subject to restrictions on the upside, through a cap and/or "participation rate," as well as some form of downside protection.[419] If the index declines, the credited loss is lessened by either a floor (a maximum loss percentage), a buffer (index losses are credited to the RILA investor's contract value only when they exceed a certain threshold), or a downside participation rate (the loss credited to contract value is a certain percentage of the index loss).[420] RILA downside protection mechanisms typically do not change over time, whereas issuers may, and likely will, change upside limits on gains for both new contracts as well as existing contracts to reflect changing market conditions.[421] If a RILA contract offers downside protection in the form of a floor, then the increased volatility would expose the issuer to greater downside risk. To offset the increased downside risk, an issuer might choose to reduce its upside risk by lowering cap rates.[422] If the RILA contract offers downside protection in the form of a buffer, then increased volatility would expose the issuer to reduced downside risk. The reduced downside risk might cause issuers to increase cap rates.[423]

Also, unlike variable annuities, most RILAs do not include any direct ongoing fees or charges to the investor. Insurance companies, however, can benefit from offering RILAs in at least three ways. First, insurance companies can benefit from a favorable imbalance between the downside protections that a RILA contract offers, and the upside limits the contract offers.[424]

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419 *Id*.

420 *Id*. The Moenig Paper argues that RILAs are structurally similar to fixed-index annuities except that RILAs may credit negative returns. A fixed-index annuity can be viewed as a special case of a RILA with a floor of 0%. The insurer provides full protection on the index return in exchange for a low cap rate (commonly between 2% and 4%).

421 *See* Moenig Paper.

422 *Id*.

423 *Id*.

424 *Id*.

That is, insurance companies set the level of upside limits such that their value (to the issuer) exceeds the cost of providing the downside protection mechanism to investors.[425] One study estimates an average annual cost to investors from the imbalance between the downside protections that a RILA contract offers and the upside limits is approximately 0.17% of the RILA investment amount.[426] To assess if the findings of the study continue to be relevant for the current RILA market, the staff conducted an independent analysis of RILA contract terms. Specifically, staff examined 24 one-year term rates linked to the S&P 500 index, Nasdaq 100 index, Russell 2000 index, and MSCI EAFE.[427] These rates were offered by three insurance companies across a two-week interval.[428] In particular, staff calculated the fair value of the portfolio, composed of a risk-free zero-coupon bond with one-year maturity and a collection of hypothetical index options with one-year expiration that would replicate the promised payoff for

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425 We understand that for shorter crediting periods and for common indexes such as the S&P 500, insurance companies are able to use exchange-traded derivative securities to closely approximate the insurer's liabilities from a RILA contract at the end of each crediting period. For example, for a RILA with both a floor and a cap, the insurance company can hedge its liability by purchasing a call option (with an appropriate strike price given the floor) and selling a call (with a higher strike price that is dependent on the cap). The insurance company can offer a cap such that the proceeds from selling the call with the higher strike price exceed the cost of purchasing the call option with the lower strike price. For a RILA with a downside buffer (as opposed to a floor) and a cap, the process for insurance companies to hedge their liabilities is similar, but with a different mix of options. In the case of a RILA with a downside buffer and a cap, the insurance company would purchase a call option, sell a call option (with a higher strike price), and selling a put option (with a lower strike price, as appropriate given the downside buffer). In this case, the insurance company can offer a cap such that the proceeds from selling the call and the put exceed the cost of the call option with the lower of the two strike prices.

426 *See* Moenig Paper; Public Filings on EDGAR.

427 The staff obtained the term rates from *Rates: Current rates for Allianz Index Advantage ADV Variable Annuity*, ALLIANZ, https://www.allianzlife.com/what-we-offer/Annuities/registered-index-linked-annuities/index-advantage-adv/rates (visited Sept. 14, 2023); *Variable Annuities*, EQUITABLE, https://equitable.com/retirement/products/variable-annuities (click "View Performance Cap Rates") (visited Sept. 14, 2023); *Nationwide Defender Annuity*, NATIONWIDE (Sept. 1, 2023), (visited Sept. 14, 2023)..

428 Each contract designates a distinct set of buffer and cap rates with no additional features. The sample period spans from September 5 to 15, 2023. The Moenig Paper cited an industry survey as a source for the data in its analysis. We understand that the industry survey cited does not contain updated product-level contract-level details beyond the data cited in the Moenig Paper. We request comment on data sources (*e.g.*, pricing vendors) that should be considered for these calculations. *See infra* section III.F.

each contract.[429] Staff used the Black-Scholes formula for European options to derive fair prices of these hypothetical index options. In estimating the implied volatility for each specific strike price, staff utilized an estimated one-year volatility surface.[430] The volatility surface estimates the values for implied volatility across a range of standardized options with varying implied strike prices, including both calls and puts. Staff then linearly interpolated between the implied volatilities with implied strikes adjacent to the strike price of each hypothetical option to obtain the implied volatility. This implied volatility is used as an input in the Black-Scholes formula to derive the fair values of the options.[431] Staff assumed that the options expire in exactly one year. The annual cost of each contract is defined as the difference between the par value and the calculated risk-neutral fair price of the contract, divided by the par value.[432]

Table 10 presents the mean and median annual costs for each of the twenty-four contracts during the sample period. The annual costs hover around zero for all contracts. The mean annual costs are positive for nearly all of the contracts, ranging from 0.04% for contract 22 and 0.93% for contract 20, but negative for others, such as contract 1, contract 2, contract 3, and contract 16. These results are consistent with the Moenig Paper's findings of a mean cost of 0.17%.

Table 10: Pricing of twenty-four sample RILA contracts

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429 More specifically, the options position encompasses a long At-the-Money (ATM) call option, coupled with a short Out-the-Money (OTM) call option with strike price equal to the index value increased by a factor of the cap rate and a short OTM put option with strike price equal to the index value decreased by a factor of the buffer rate.

430 The volatility surface data is obtained through IvyDB OptionMetrics.

431 The other model inputs – the end-of-day S&P 500 index value and the risk-free interest rate – are obtained through IvyDB OptionMetrics.

432 The staff incorporated any explicit annual product fee charged by the insurance company into the cost calculation. This analysis could be extended to incorporate several additional factors that differentiate the RILA from the replicating strategy that would be priced in a market. For example, it does not consider any effective difference to the investor in liquidity because of early withdrawal charges or penalties, differences in portfolio value prior to maturity, death benefits, or specific crediting methods. We request comment on these aspects of pricing of RILA contracts below. *See infra* section III.F.

	Mean	Median
Contract 1	-0.30%	-0.30%
Contract 2	-0.64%	-0.64%
Contract 3	-0.30%	-0.29%
Contract 4	0.57%	0.61%
Contract 5	0.34%	0.34%
Contract 6	0.37%	0.50%
Contract 7	0.42%	0.44%
Contract 8	0.39%	0.40%
Contract 9	0.60%	0.58%
Contract 10	0.72%	0.74%
Contract 11	0.51%	0.46%
Contract 12	0.09%	0.09%
Contract 13	0.22%	0.22%
Contract 14	0.24%	0.25%
Contract 15	0.35%	0.36%
Contract 16	-0.08%	-0.11%
Contract 17	0.16%	0.11%
Contract 18	0.12%	0.13%
Contract 19	-0.08%	-0.22%
Contract 20	0.93%	0.93%
Contract 21	0.63%	0.64%
Contract 22	0.04%	0.04%
Contract 23	0.33%	0.33%
Contract 24	0.38%	0.38%

Note: The table summarizes the annual costs for each of the twenty-four contracts offered by three insurance companies during a two-week interval. *See Rates: Current rates for Allianz Index Advantage ADV Variable Annuity*, ALLIANZ, https://www.allianzlife.com/what-we-offer/Annuities/registered-index-linked-annuities/index-advantage-adv/rates (visited Sept. 14, 2023); *Variable Annuities*, EQUITABLE, https://equitable.com/retirement/products/variable-annuities (click "View Performance Cap Rates") (visited Sept. 14, 2023); *Nationwide Defender Annuity*, NATIONWIDE (Sept. 1, 2023), https://nationwidefinancial.com/media/pdf/VAM-3629AO.pdf (visited Sept. 14, 2023). At the end of each business day, we employ a market price approach to compute the fair value of each contract. We then compare the fair value to the par value to derive the annual cost and incorporate any explicit product fee. Subsequently, we compute the mean and median annual costs for each contract over the two-week measurement period.

Also, we understand that, generally, insurance companies can benefit from offering RILAs by investing RILA proceeds into fixed-income securities such as corporate bonds, thereby earning a "credit risk premium." Further, insurance companies can benefit when a RILA offers index-linked options whose index for measuring performance is a price-based index that does not account for dividend payments. For example, if an investor chooses an index-linked

option whose performance is based, in part, on the S&P 500 Price Return Index, the credited return may be based on the point-to-point change in the S&P 500, which does not include the dividend payments of the underlying stocks.[433] The excluded dividends can act as an implicit "fee" on investors with the magnitude of the implicit fee being comparable to average dividend rates among the underlying index stocks.[434]

While most RILAs do not include any explicit ongoing fees or charges to the investor, RILAs typically have charges for early or mid-term withdrawals. As discussed in section II.B.2.a, charges for early or mid-term withdrawals could include, surrender charges, contract adjustments, and transaction charges (separate from surrender charges).[435]

RILAs differ from other annuity contracts in other ways as well. Variable annuities involve a direct investment of premiums into subaccount(s) that correspond to one, or more, of many mutual funds. RILA premiums, on the other hand, are not directly invested into the assets of the underlying index, and typically investors can only choose among index-linked options whose returns are based on a small number of mainstream indexes.[436] Also, the financial guarantees common to variable annuities are long term and are only applied when the contract terminates, either at maturity or due to the investor's death, or if the account value reaches zero due to guaranteed withdrawals.[437] These factors make variable annuity guarantees difficult to

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433 *See supra* footnote 431.

434 *Id*. The Moenig Paper provides the following example. If stock prices rise by 7% on average over the crediting period, in addition to paying 2% in dividends, then the RILA account would be credited 7%, even though investors in the underlying stocks would earn a 9% return. Omitting dividend payments benefits insurers by reducing the cost of providing a given amount of downside protection (*e.g.*, through lower option prices).

435 *See also supra* footnote 431.

436 *See* Moenig Paper.

437 *Id*.

value and hedge due to their long-term nature (potentially 25 years, or more).[438] The guarantees that RILA contracts offer as part of their bounded return structure, on the other hand, are short-term (*i.e.*, they are limited to the crediting period of the index-linked option the investor selects, which is usually one, two, three, or six years) and tied to the performance of a common index, so that issuers can hedge the embedded liabilities accurately through the financial markets.[439]

Further, guarantees that RILA contracts offer may be much less dependent on investor behavior than variable annuity guarantees. Variable annuity investors may have a strong incentive to surrender or exchange their policy when an embedded guarantee loses its value (*i.e.*, moves "out of the money").[440] The guarantees RILA contracts offer reset with the end of the crediting period of the index-linked option the investor selects, so such guarantees are more commonly "at the money" and investors do not have as strong of an incentive to surrender or exchange their policies.[441]

Additionally, RILAs and variable annuities differ with respect to their use of proceeds. As discussed in Section II.B.4, variable annuity proceeds are held in separate accounts and, therefore, insulated from the issuer's creditors. Variable annuity proceeds in unitized sub-accounts must be invested as the investor chooses and returns are credited to the account directly. Like variable annuity proceeds, RILA proceeds are placed into a (non-unitized) separate account. As a result, the proceeds are not insulated from the issuer's creditors. Also, RILA proceeds can be invested as the issuer sees fit.

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438 *Id*.

439 *Id*.

440 Thorsten Moenig and Nan Zhu (2018). Lapse-and-Reentry in Variable Annuities, *Journal of Risk and Insurance*, 85(4), 911-938 ("Moenig and Zhu Paper").

441 *See* Moenig Paper.

We understand that for index-linked options offering shorter crediting periods, and whose returns are based on common indexes such as the S&P 500 Index, insurance companies are able to invest RILA proceeds in exchange-traded derivative securities that closely approximate the issuer's liabilities from a RILA contract at the end of each crediting period.[442] In doing so, insurance companies are able to hedge away their risk at a low cost. Further, we understand that insurance companies can, and do, invest the remaining proceeds into fixed-income securities (*e.g.*, corporate bonds) that allow them to earn a "credit risk premium."[443] The credit risk premium can be an important source of benefits to issuers.[444]

C. Benefits and Costs

1. Benefits

a. Use of Form N-4

Unlike variable annuity offerings that are registered on Form N-4, insurance companies register RILA offerings on Forms S-1 or S-3. These forms include a number of disclosure requirements that are specific to the insurance company issuing the RILA that the Commission does not require in the registration statements for offerings of variable annuities.

We are proposing that insurance companies use Form N-4 to register the offering of RILAs and we are proposing to adapt Form N-4 for that purpose.[445] Because it is an existing form, we believe RILA issuers and investors are familiar with Form N-4. As a result of expanding the scope of Form N-4 to address RILAs, RILA offerings would be registered on the same form as variable annuities. Requiring that insurance companies register RILA offerings on

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442 *Id*.

443 *Id*.

444 *Id*.

445 *See* proposed General Instruction B.1 of Form N-4.

Form N-4 would leverage insurance-product specific disclosure requirements reflected in the form and also would permit the summary prospectus layered disclosure framework the Commission adopted in 2020 for variable annuities.

The following sections discuss the specific benefits deriving from the contents and requirements of the form in detail. In addition to these benefits, expanding the scope of Form N-4 to include RILAs would benefit investors by making it easier for them to evaluate and compare RILAs, and also to compare other annuity products with RILAs. For example, investors may require less effort to evaluate and compare annuity products that register using the same form. To the extent that investors require less effort to evaluate and compare these annuity products, investors may be more likely to make decisions that better align with their investment goals.

b. Contents of Form N-4

The proposal is designed to facilitate the Commission's goal it sought to achieve in adopting Form N-4, namely to help investors make an informed investment decision regarding the annuity products that are registered on that form. The registration process on Form N-4 uses a layered disclosure approach designed to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly presentation, with access to more detailed information for those investors who want it. Providing investors with key information is particularly important in the context of annuity contracts since their structure is typically more complex than other types of investment products commonly sold to retail investors.

Specifically, the proposal would update the contents of Form N-4 to specifically address RILAs, including by: (1) amending the form's general instructions; (2) amending the requirements for front and back cover pages; (3) updating the Key Information Table; (4) providing new principal disclosures regarding RILA investment options; and (5) providing for

new contract adjustment and fee disclosures. The proposal would also include certain other technical and conforming amendments to Form N-4 and related rules designed to accommodate the inclusion of RILA offerings on that form as well as requiring the insurance company to provide disclosure in response to the remaining items on Form N-4 to the extent applicable.

(1) General Instructions

The proposal would require RILA offerings registered on Form N-4 to comply with the general instructions of that form, including requirements related to: (1) using document design techniques that promote effective communication, (2) organizing information to make it easier for investors to understand, (3) including information in the prospectus or SAI not otherwise required so long as the additional information is not incomplete, inaccurate, or misleading, and does not obscure or impede understanding of the information that is required, (4) requiring Form N-4 filers to define special terms used in the prospectus in any presentation that clearly conveys meaning to investors, (5) allowing insurance companies to describe multiple contracts that are essentially identical in a single prospectus, (6) making available the dates of both the prospectus and SAI, (7) providing an interactive data file related to certain information on the form, (8) requiring insurance companies to include active hyperlinks, or other means of facilitating access that leads directly to the relevant website, for an electronic version of the prospectus, and (9) the use of incorporation by reference. The general instructions are designed to require clear and consistent disclosure to investors about annuity contracts currently registered on the form and to make clear how filers must prepare and file their registration statements.

We believe clear disclosure benefits investors by making it easier for investors to evaluate and compare offerings. Concise and decision-useful disclosures can help facilitate the investment decision-making process. Also, the presentation of information in a consistent

manner could facilitate not only the evaluation and comparison among RILA offerings, but also could facilitate the comparison of RILAs to other annuity products.[446] Further, certain investors, while aware of variable annuities, simply may not be aware of RILAs as an investment option. Presentation of information in a consistent manner on Form N-4 could increase investor awareness of RILAs as an investment option.

(2) Front and Back Cover Pages

The proposal would make certain changes to information currently required on the front and back pages of a prospectus for all registrants on Form N-4. Like variable annuities registered on Form N-4, RILAs would be required to present certain information on the front and back cover pages of the prospectus. The proposal would require several new cover page disclosures for all Form N-4 issuers. One of these would provide additional information distinguishing among the investment options available in the annuities registering on Form N-4 and cross-reference the prospectus appendix that provides additional information about each option. These changes could help investors better understand what investment options are available under the contract, in an easily identifiable location. Also, the proposal would require the inclusion of three new legends that highlight risks that are particularly prevalent in RILAs. The new legends that highlight risk that are particularly prevalent in RILAs should benefit investors by putting them on notice of these key considerations at the outset, helping the investor make informed decisions.

(3) Key Information Table

As required for current Form N-4 issuers, the proposal would require RILA issuers to provide a Key Information Table in their registration statements. The KIT includes a summary of

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446 The consistent presentation of information also could facilitate information collection by third parties such as investment advisers and data aggregators who could then, in turn, provide information to investors.

five areas: (1) fees and expenses, (2) risks, (3) restrictions, (4) taxes, and (5) conflicts of interest. The KIT is important summary disclosure for investors that is included in the prospectus, and the proposed amendments to the KIT requirements are intended to highlight important considerations related to RILAs, including certain unique and/or opaque aspects of RILAs.[447] Consistent with our layered disclosure approach for variable annuities registered on Form N-4, RILA issuers would be required to provide cross-references in the KIT to the location in the statutory prospectus where the subject matter is described in greater detail. Certain of the amended KIT requirements would apply to all Form N-4 issuers. In particular, in a change from the current KIT requirements for Form N-4 issuers, the amendments would require that responses in an item be presented in a Q&A format.[448] In a change for all Form N-4 issuers, the proposal also would change the order in which the KIT appears relative to the Overview of the Contract disclosures in the prospectus.

Overall, the proposed KIT requirements (like the current KIT requirements for variable annuities) are designed to provide a brief description of key facts about a RILA in a specific sequence and in a standardized presentation that is designed to be easy to read and navigate. We believe that a standardized presentation that is designed to be easy to read and navigate benefits investors by making it easier for investors to evaluate and compare RILA offerings. Also, the standardized presentation of information could facilitate not only the evaluation and comparison

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447 Many of the summary points presented in the KIT are discussed in greater detail in other parts of the form. In this way, the KIT is an integral part of the layered disclosure approach the Commission traditionally has taken with annuity products. To ensure that the KIT serves this function effectively, we also are proposing to delete Form N-4's general instruction stating that where the discussion of information required by the Overview of the Contract (currently Item 3) or KIT (currently Item 2) also responds to the disclosure requirements in other items of the prospectus, registrants need not include additional disclosure in the prospectus that repeats the information disclosed in the Overview of the Contract or the KIT. *See infra* footnote 84 and accompanying text.

448 Currently, such format is suggested but not required. *See* General Instruction C.3.(c) of Form N-4.

among RILA offerings, but also could facilitate the comparison of RILAs to other annuity products.

(4) Principal Disclosure Regarding RILA Offerings

The proposal would amend Form N-4 to require disclosure that would provide investors with information about all annuities whose offerings are registered on Form N-4 as well as with specific information about RILAs and the index-linked options available under the RILA contracts. With regard to Form N-4 issuers generally, the proposal would require registrants to disclose investment option risk, early withdrawal risk, contract benefits risk, insurance company risk, and the risk of contract changes. With regard to specific information about RILAs, the proposal includes requirements related to: (1) information about RILAs generally and an overview of certain key elements of any index-linked option offered under the contract; (2) a more in-depth description of index-linked investment options available under the contract; (3) the inclusion of an appendix that consolidates certain summary information related to index-linked options and fixed options available under the contract (which would accompany similar information about variable options offered under a "combination" contract); and (4) certain principal risk disclosures relating to investing in the RILA contract that the prospectus describes.

The proposed disclosure requirements are designed to provide additional information regarding the risk of investing in Form N-4 issuers generally, as well as the unique aspects of RILAs and certain summary and detailed information about index-linked options available under a RILA contract. The information could benefit investors by making it easier for investors to evaluate and compare variable annuity products registered on Form N-4. The required disclosure relating to index-linked and fixed options available under a contract could benefit investors by

facilitating the comparison of these investment options to other investment options available under the contract, as well as to investment options that other RILA contracts offer.

(5) Addition of Contract Adjustments and Other Amendments to Fee and Expense Disclosures

RILA investors have the ability to take a withdrawal or transfer out their money before the end of a crediting period. If amounts are removed from an investment option before the end of a crediting period, typically an insurance company will apply an interim value adjustment to the investor's contract value. The IVA, which will adjust the contract value based on a formula, can move up and down as market conditions change throughout the crediting period and may adjust daily. The IVA is irrelevant if the investor does not move money from an investment option until the end of the crediting period, but it becomes relevant if the investor withdraws or transfer the money before the end of a crediting period. Similarly, a positive or negative market value adjustment could apply if amounts are partially or fully withdrawn from the contract before the end of a specified period. These contract adjustments, whose calculation varies by insurance company, may have a positive or negative effect on the value of the contract.

We propose amendments to Form N-4 to require specific disclosures with respect to contract adjustments. Currently, Form N-4 requires variable annuity registrants to provide comprehensive information on the fees and expenses that investors will pay when buying, owning, and surrendering a contract, including expenses paid each year during the time the investor owns the contract. Although RILAs typically do not charge the explicit fees and expenses common to variable annuities, they do typically utilize contract adjustments. Since negative adjustments may result in substantial costs to investors, we believe that it is important to include a detailed description of contract adjustments in the registration statement.

Specifically, we are proposing to expand current disclosure requirements to address contract adjustments that could affect investors' contract value when buying, owning, and surrendering or making withdrawals from an investment option. We are also proposing certain other specific disclosures about contract adjustments, such as requiring disclosures about the maximum potential loss that an investor could experience in connection with a negative contract adjustment.

We believe that these disclosures would benefit investors since they would be able to better evaluate the costs of purchasing and owning annuity contracts, including RILAs. In addition, these disclosures can make less-informed investors aware of RILAs' unique characteristics, which could increase investor understanding of RILAs as an investing option.

(6) Other Amendments to Form N-4

The proposal would include certain other amendments to Form N-4 and related rules designed to accommodate the inclusion of RILA offerings on Form N-4. These include amendments to Form N-4's facing sheet, definitions, exhibit list, and required representations, as well as amendments to certain Securities Act rules that help to implement the proposal. Because these other amendments to Form N-4 and related rules are designed to accommodate the inclusion of RILA offerings on Form N-4, the benefits that could accrue as a result of these other amendments are those that result from RILA issuers registering offerings on Form N-4 rather than Form S-1 or Form S-3.

The proposal would also amend Form N-4's required exhibits list to add new Item 27(p) for all issuers, which would require the filing of any power of attorney included pursuant to rule 483(b). While this exhibit is already required to be filed with a Form N-4 registration statement under rule 483(b), practices differ in regard to the placement of a required power of attorney

exhibit within the exhibit list. This amendment would benefit investors in comparing these exhibits for all annuity products whose offerings are registered using Form N-4 by standardizing the location of these exhibits in the registration statement. Facilitating the comparison of annuity products could benefit investors by helping them to invest in RILAs in a manner that is consistent with their overall financial needs and objectives.

We are also proposing to add new Item 31A in Form N-4 to require census-type information on RILAs offered in connection with the applicable registration statement. Under this proposed new item, an insurance company would have to provide information regarding any RILA offered through the registration statement, as of the most recent calendar year-end, including (1) the name of each contract; (2) the number of contracts outstanding; (3) the total value of investor allocations attributable to index-linked options; (4) the number of contracts sold during the prior calendar year; (5) the gross premiums received during the prior calendar year; (6) the amount of contract value redeemed during the prior calendar year; and (7) whether the contract is a combination contract. The information in new Item 31A would help the Commission and staff in identifying trends in insurance companies' offerings of RILAs and have a more complete understanding of the marketplace for annuity securities.

We also propose amendments to Item 34 of Form N-4 to require RILA issuers to include two specific undertakings in their registration statements on Form N-4: (1) to file, during any period in which offers or sales are made, through a post-effective amendment to its registration statement, any prospectus required by section 10(a)(3) of the Securities Act and, (2) that, for the purposes of determining liability under the Securities Act, each post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

These proposed undertakings are the same as two undertakings RILA issuers currently provide in registration statements. We believe that it remains appropriate for RILA issuers to continue to furnish these representations concerning post-effective amendments to a registration statement as, under the proposed amendments, RILAs may be continuously offered on a registration statement for an indefinite amount of time.

(7) Remaining Items

The proposal would require RILA issuers to provide disclosure in response to the remaining items on Form N-4 to the extent applicable. These are items that we have previously determined are relevant in the context of variable annuity offerings. Requiring RILA filers to provide disclosure in response to the remaining items on Form N-4 to the extent applicable would help ensure that comparable information is provided in a standardized, consistent manner for all filers using Form N-4.

We believe standardized, consistent disclosure of comparable information benefits investors by making it easier for investors to evaluate and compare RILA offerings. Also, the presentation of information in a standardized, consistent manner across all filers using Form N-4 could facilitate not only the evaluation and comparison among RILA offerings, but also could facilitate the comparison of RILAs to variable annuities. Further, certain investors, while aware of variable annuities, simply may not be aware of RILAs as an investment option. Presentation of information in a standardized, consistent manner on Form N-4 could increase investor awareness of RILAs as an investing option. Facilitating the comparison of annuity products could benefit investors by helping them to invest in RILAs in a manner that is consistent with their overall financial needs and objectives.

(8) Inline XBRL

The proposal would require many of the newly added disclosures on Form N-4 to be structured (*i.e.*, tagged) in Inline XBRL, a structured, machine-readable data language.[449] In addition, RILA issuers would have to tag those prospectus disclosures that Form N-4 currently requires to be tagged.

Currently, disclosures about RILA offerings are largely unstructured; only the insurance company's financial statements, if reported in GAAP and included in a registration statement that includes a price or price range, are required to be tagged in Inline XBRL.[450] Certain of the existing disclosures on Form N-4 are required to be tagged in Inline XBRL.[451]

The proposed tagging requirements are designed to make the tagged disclosures more readily accessible for aggregation, comparison, filtering, and other analysis. As a point of comparison, XBRL requirements for public operating company financial statement disclosures have been observed to improve investor understanding of the disclosed information.[452] While those observations are specific to operating company financial statement disclosures (including footnotes), and not to disclosures on Form N-4, they indicate that the proposed Inline XBRL requirements would provide investors with increased insight into key features of the contract that

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449 *See supra* section II.B.9..

450 *See supra* footnote 402.

451 Currently tagged disclosures include: Item 2 (Key Information), Item 4 (Fee Table), Item 5 (Principal Risks of Investing in the Contract), Item 10 (Benefits Available under the Contract), and Item 17 (Portfolio Companies under the Contract). *See* Instruction C.3.h of Form N-4; 17 CFR 232.405(b)(2)(iii).

452 *See, e.g.,* Birt, J., Muthusamy, K. & P. Bir, *XBRL and the Qualitative Characteristics of Useful Financial Information*, 30 ACCOUNT. RES. J. 107 (2017) (finding "financial information presented with XBRL tagging is significantly more relevant, understandable and comparable to non-professional investors"); Cahan, S.F., Chang, S., Siqueira, W.Z. & K. Tam, *The roles of XBRL and processed XBRL in 10-K readability*, J. BUS. FIN. ACCOUNT. (2021) (finding 10-K file size reduces readability before XBRL's adoption since 2012, but increases readability after XBRL adoption, indicating "more XBRL data improves users' understanding of the financial statements"); Efendi, J., Park, J.D. & C. Subramaniam, *Does the XBRL Reporting Format Provide Incremental Information Value? A Study Using XBRL Disclosures During the Voluntary Filing Program*, 52 ABACUS 259 (2016) (finding XBRL filings have larger relative informational value than HTML filings).

is described in the Form N-4 registration statement. For example, the data tagging could allow third parties such as financial data aggregators to efficiently compare and otherwise process the disclosed information into analyses accessible to investors.

c. Option to Use a Summary Prospectus

We are proposing to amend rule 498A to permit RILA issuers, as well as issuers of "combination contracts" offering a combination of index-linked options and variable options, to use a summary prospectus to satisfy statutory prospectus delivery obligations. Investors would continue to have access to the RILA statutory prospectus and other information about the RILA contract online, with paper or electronic copies of this information upon request. The current summary prospectus rule for variable contracts uses a layered disclosure approach designed to provide investors directly with key information relating to the contract's terms, benefits, and risks in a concise and reader-friendly presentation, with more detailed information available elsewhere. The proposed amendments to rule 498A would broaden the scope of the rule to address RILA contracts.

As discussed in section II.C above, the proposed amendments to rule 498A would involve the use of two distinct types of summary prospectuses for RILA contracts, employing the same approach the rule currently uses for variable contracts. An "initial summary prospectus," covering contracts offered to new investors, would include certain key information about the contract's most salient features, benefits, and risks, presented in plain English in a standardized order. The rule amendments would also require "updating summary prospectuses" to be provided to existing investors in RILA contracts. The updating summary prospectus would include a brief description of certain changes to the contract that occurred during the previous year, as well as a subset of the information required to appear in the initial summary prospectus. Certain key

information about the index-linked options that the contract offers as investment options would be provided in both the initial summary prospectus and updating summary prospectus.

The proposed rule would create a choice for insurance companies. They may meet their prospectus delivery obligations by providing the statutory prospectus, or they may satisfy these obligations by providing a summary prospectus and making statutory prospectuses and other required documents available online. Those insurance companies that expect to benefit by providing summary prospectuses would choose to rely on the proposed amendments to meet their prospectus delivery obligations. Those insurance companies that do not expect to benefit from this optional prospectus delivery regime would choose to continue to provide statutory prospectuses to investors.

The presentation proposed for the initial summary prospectus may also reduce the investor effort required to compare RILA contracts, to consider different index-linked options that a RILA offers, or to compare RILA contracts with each other and with variable annuity contracts, when an investor considers a new investment. Information provided in a concise, user-friendly presentation could allow investors to compare information across contracts and as a result, may lead investors to make decisions that better align with their investment goals.[453]

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[453] Research suggests that individuals are generally able to make more efficient decisions when they have comparative information that allows them to assess relevant trade-offs. *See*, *e.g.*, Christopher K. Hsee, George F. Loewenstein, Sally Blount, Max H. Bazerman (1999). Preference Reversals Between Joint and Separate Evaluations of Options: A Review and Theoretical Analysis, *Psychological Bulletin*, 125(5), 576–90; see also Jeffrey R. Kling, Sendhil Mullainathan, Eldar Shafir, Lee Vermeulen, Marian V. Wrobel (2012). Comparison Friction: Experimental Evidence from Medicare Drug Plans, *Quarterly Journal of Economics*, 127(1), 199–235. In a randomized field experiment, some senior citizens choosing between Medicare drug plans were randomly selected to receive a letter with personalized, standardized, comparative cost information. Plan switching was 28% in the group that received a letter with personalized, standardized, comparative cost information, but only 17% in the comparison group, and the intervention caused an average decline in predicted consumer cost of about $100 a year among letter recipients.

If insurance companies choose to meet their prospectus delivery obligations by delivering summary prospectuses to investors, with other documents available online, investors would then have a choice as well. Under the layered disclosure framework we are proposing for RILAs, investors would receive information in the form of a summary prospectus, with more detailed information available online if the investor chooses to access it.[454] Thus, investors can continue to review the statutory prospectuses by accessing them online, or they may request paper or electronic delivery of statutory prospectuses on an ad hoc basis. Alternatively, investors may choose only to consult the summary prospectuses. Further, if investors want to rely on some combination of summary and statutory prospectuses to receive information about the contract, that choice is available to them as well. Given the Commission's experience administering the optional summary prospectus regime for variable annuities, we expect a majority of RILA issuers would choose to use summary prospectuses. Thus, we expect that the vast majority of investors will have the option to use both summary prospectuses and statutory prospectuses in their decision-making, in whatever proportion investors think is best for their preferences.

Initial Summary Prospectus. Should insurance companies issuing RILAs choose to use summary prospectuses, investors may benefit in a number of ways.[455] The proposed initial summary prospectus for RILAs would be limited to describing only the contract and features currently available under the statutory prospectus. This focus could make more salient the features and risks of a RILA, thereby facilitating investors' evaluation of those features and risks.

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454 During investor testing, several participants felt they would need information beyond the information contained in the KIT to make a decision about a RILA. See OIAD Report at Section 5, Qualitative Testing, Results from Round 1.

455 Some investors may prefer to read statutory prospectuses, and therefore, the advantages associated with summary disclosure, as described in this section, may not apply to those investors. The statutory prospectus would, under the proposed rule, be available online and in paper or electronic format upon request.

We are proposing a standardized presentation for RILA initial summary prospectuses to require certain disclosure items that would be most relevant to investors to appear at the beginning of the initial summary prospectus, followed by supplemental information. An initial summary prospectus must contain the information required by the rule, and only that information, in the order specified by the rule.[456] The information would be required to appear in the same order, and under relevant corresponding headings, as the rule specifies. The required presentation could also facilitate comparisons of different RILA contracts, as well as comparisons between RILA contracts and variable annuities.

We believe standardized, consistent disclosure of comparable information benefits investors by making it easier for investors to evaluate and compare RILA offerings. Also, the presentation of information in a standardized, consistent manner could facilitate not only the evaluation and comparison among RILA offerings, but also could facilitate the comparison of RILAs to other variable annuities. Further, certain investors, while aware of variable annuities, simply may not be aware of RILAs as an investment option. Presentation of information in a standardized, consistent manner in an initial summary prospectus could increase investor awareness of RILAs as an investing option.

In addition, given the time required to review a statutory prospectus, RILA investors may benefit from summary prospectuses because they offer a shorter alternative to statutory prospectus disclosure. There is evidence that suggests that consumers benefit from summary disclosures.[457] Within the specific context of investing, there is evidence from related contexts

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456 Proposed rule 498A(b)(5).

457 There is evidence that the summarization of key information is useful to consumers. *See, e.g.*, Sumit Agarwal, Souphala Chomsisengphet, Neale Mahoney, Johannes Stroebel, *Regulating Consumer Financial Products: Evidence from Credit Cards* (NBER Working Paper No. 19484, rev. 2014), *available at*

that suggests that summary prospectuses allow investors to spend less time and effort to arrive at the same portfolio decision as if they had relied on a statutory prospectus.[458] This research is consistent with the 2012 Financial Literacy Study, which showed that at least certain investors favor a layered approach to disclosure with the use, wherever possible, of summary documents containing key information about an investment product or service.[459]

Also, investors allocate their attention selectively,[460] and the sheer volume of disclosure in a statutory prospectus may discourage some investors from reading contract statutory prospectuses. The observations of a telephone survey conducted on behalf of the Commission with respect to mutual fund statutory prospectuses (which are typically shorter than variable contract statutory prospectuses, and shorter than RILA statutory prospectuses are expected to be under the proposal) are consistent with the view that the volume of disclosure may discourage

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https://www.nber.org/papers/w19484. The authors find that a series of requirements in the CARD Act, including provisions designed to promote simplified disclosure, has produced decreases in both over-limit and late fees, saving US credit card users $20.8 billion annually; *see also* Robert L. Clark, Jennifer A. Maki & Melinda Sandler Morrill, *Can Simple Informational Nudges Increase Employee Participation in a 401(k) Plan?* 80 S. ECON. J. 677 (2014). The authors find that a flyer with simplified information about an employer's 401(k) plan, and about the value of contributions compounding over a career, had a significant effect on participation rates.

458 *See* John Beshears, James J. Choi, David Laibson & Brigitte C. Madrian, *How Does Simplified Disclosure Affect Individuals' Mutual Funds Choices?*, *in* EXPLORATIONS IN THE ECONOMICS OF AGING 75 (David A. Wise ed., 2010) ("Beshears Paper"), *available at* https://scholar.harvard.edu/laibson/publications/how-does-simplified-disclosure-affect-individuals-mutual-fund-choices. We note, however, that while the authors find evidence that investors spend less time making their investment decision when they are able to use summary prospectuses, there is no evidence that the quality of their investment decisions is improved. In particular, "On the positive side, the Summary Prospectus reduces the amount of time spent on the investment decision without adversely affecting portfolio quality. On the negative side, the Summary Prospectus does not change, let alone improve, portfolio choices. Hence, simpler disclosure does not appear to be a useful channel for making mutual fund investors more sophisticated …" *Id.* at 13 (manuscript page).

459 *See* 2012 Financial Literacy Study.

460 *See* George Loewenstein, Cass R. Sunstein & Russell Golman. (2014) *Disclosure Psychology Changes Everything*, 6 ANN. REV. ECON. 391 (2014).

investors from reading statutory prospectuses.[461] That survey observed that many mutual fund investors do not read statutory prospectuses because they are long, complicated, and hard to understand. Responses to investor surveys in other contexts, also suggest that shareholders may be more likely to read more concise shareholder reports.[462]

To the extent summary prospectuses increase readership of RILA contract disclosures, they could improve the quality and efficiency of portfolio allocations made on the basis of disclosed information for those investors who otherwise would not have read the statutory prospectus.

The presentation proposed for the initial summary prospectus may also reduce the investor effort required to compare RILA contracts, to consider different index-linked options that a RILA offers, or to compare RILA contracts with each other and with variable annuity contracts, when an investor considers a new investment. Information provided in a concise, user-friendly presentation could allow investors to compare information across contracts and as a result, may lead investors to make decisions that better align with their investment goals.[463] For example, the proposed amendments would require insurance companies to distill certain key product information into tables, which could facilitate comparison across different products.

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461 Prior to the Commission's 2009 adoption of mutual fund summary prospectus rules, the Commission engaged a consultant to conduct focus group interviews and a telephone survey concerning investors' views and opinions about various disclosure documents filed by companies, including mutual funds. During this process, investors participating in focus groups were asked questions about a hypothetical Summary Prospectus. Investors participating in the telephone survey were asked questions relating to several disclosure documents, including mutual fund prospectuses. *See* Abt SBI, Inc*., Final Report: Focus Groups on a Summary Mutual Fund Prospectus* (May 2008), available at https://www.sec.gov/comments/s7-28-07/s72807-142.pdf. Although the results from the investor testing reflect stated investor preferences, they do not provide us with information with respect to the extent to which RILA investors would actually be more likely to read a RILA summary prospectus relative to a statutory prospectus.

462 Tailored Shareholder Reports Adopting Release.

463 *See supra* footnote 453.

Further, the proposed framework for RILA contract summary and statutory prospectuses also includes design elements to facilitate investor use. In particular, the proposed amendments include requirements for linking both within the electronic version of a contract statutory prospectus and between the electronic versions of the contract statutory prospectus and the contract summary prospectus. The linking requirement would permit investors who use the electronic versions of contract prospectuses to quickly navigate between related sections within the contract statutory prospectus and back and forth between related sections of the contract summary prospectus and the contract statutory prospectus. Further, the proposal would also require that investors either be able to view the definition of each special term used in an online summary prospectus upon command, or to move directly back and forth between each special term and the corresponding entry in any glossary or list of definitions that the summary prospectus includes. This requirement would facilitate understanding of terms that may be confusing or unfamiliar among investors viewing the documents online.

Updating Summary Prospectus. As under current rule 498A, we are not proposing that RILA issuers send an updated initial summary prospectus to investors each year. Instead, any RILA issuer that relies on rule 498A would send an updating summary prospectus, which would provide a brief description of certain changes with respect to the contract that occurred within the prior year.[464] The updating summary prospectus would also include certain of the information required in the initial summary prospectus that we consider most relevant to investors when considering additional investment decisions.[465] Further, updating summary prospectuses for RILA contracts, like initial summary prospectuses, would include specific disclosure items

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464 Proposed rule 498A(c)(1).

465 *See supra* footnote 285 and accompanying text.

appearing in a prescribed order, under relevant corresponding headings.[466] An updating summary prospectus for a RILA contract would have to contain the information required by the rule, and only that information, in the order specified by the rule.

The proposed updating summary prospectus for RILAs would have many of the same benefits for investors associated with the initial summary prospectus discussed above, with respect to presenting key information in an easier and less time-consuming manner for investors. Specifically, because many terms of the RILA contract do not change from year-to-year, the contract statutory prospectus may contain large amounts of disclosure that is duplicative of disclosure that the investor has previously received. Those changes that do occur may be important to investors, but the disclosure about these changes could be difficult for the investor to identify given the volume of prospectus disclosure that investors would otherwise receive, and the current lack of a requirement to identify new or changed information.

Under the proposed amendments, the updating summary prospectus would include a concise description of important changes affecting the statutory prospectus disclosure relating to certain topics that occurred within the prior year—namely: (1) the availability of investment options under the contract, (2) the overview of the contract, (3) the KIT, (4) certain information about fees, (5) benefits available under the contract, (6) purchases and contract value, and (7) surrenders and withdrawals. These are topics that are most likely to entail contract changes and, for the reasons previously noted, are the types of contract changes most likely to be important to investors because they affect how investors evaluate RILA contracts and are relevant to investors when considering whether to continue in the existing option (if available) or transfer funds to a

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466 Proposed rule 498A(c)(6).

different option. The proposed updating summary prospectus, if used by issuers to satisfy their prospectus delivery obligations, would likely reduce the burden on investors and increase their understanding of their contract by highlighting certain changes to the contract made during the previous year, while foregoing the repetition of most information that had remained unchanged.

d. Use of Statutory Accounting

The proposal would permit RILA issuers to provide financial statements on amended Form N-4 in the same way that insurance companies currently do on Form N-4.[467] As a result of this change, the financial statements filed in connection with a RILA registration statement could be prepared in SAP to the same extent as currently permitted for insurance companies' financial statements filed on that form. We expect this approach to appropriately recognize the cost burdens if we were to require GAAP financial statements in cases where the insurance company is not otherwise required to prepare financial information in accordance with GAAP. In addition, SAP financial statements, which focus on an issuer's ability to meet its obligations under its insurance contracts, as regulated by State law, appear to provide sufficient material information for investors evaluating RILAs. As a result, permitting insurance companies to provide SAP financial statements when registering the offering of a RILA to the same extent as they can in connection with variable annuities on Form N-4 would be consistent with investor protection. Also, investors could benefit to the extent the reduced cost burdens provided by SAP financial statements are passed along to investors.

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467 Certain Commission letters, or portions thereof, exempt insurance companies from the requirement to provide financial statements prepared in accordance with GAAP in connection with the registration of an offering of RILAs on Form S-1. As discussed in Section III.B.1.a, among RILA contracts that are currently registered with the Commission, 47 RILAs report SAP financials and 43 RILAs report GAAP financials.

The proposal also would require RILAs to provide information relating to changes in and disagreements with accountants on accounting and financial disclosure as detailed in 17 CFR 229.304 ("Item 304 of Regulation S-K"). Further, RILAs would be required to provide as an exhibit any letter from the insurance company's former independent accountant regarding its concurrence or disagreement with the statements made by the insurance company in the registration statement concerning the resignation or dismissal as the insurance company's principal accountant. These items are currently provided by RILAs on Forms S-1 and S-3 and are designed to address the practice of "opinion shopping" for an auditor willing to support a proposed accounting treatment designed to help a company achieve its reporting objectives even though that treatment might frustrate reliable reporting.[468] Because the requirements for Form N-4 filers under the proposal are the same as for Form S-1 and Form S-3 filers currently, we would not expect any additional benefits from the requirement to provide information relating to changes in and disagreements with accountants on accounting and financial disclosure.

e. Filing Rules

Fee Payment Method and Amendments to Form 24F-2. The proposal would require RILA issuers to pay registration fees for RILAs using the same method that other filers on Form N-4 currently use. Issuers registering the offerings of RILAs on amended Form N-4 would be deemed to be registering an indeterminate amount of RILAs upon effectiveness of the registration statement. These issuers would then be required to pay registration fees annually based on their net sales of these securities, no later than 90 days after the issuer's fiscal year ends, on the form that is used by current Form N-4 filers to pay registration fees (Form 24F-2).

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468 *See* Disclosure Amendments to Regulation S-K, Form 8-K and Schedule 14A Regarding Changes in Accountants and Potential Opinion Shopping Situations, Investment Company Act Release No. 16358 (Apr. 12, 1988) [53 FR 12924 (Apr. 20, 1988)]; *see also* item 11(i) of Form S-1.

The proposal would further specify the calculation method for paying RILA registration fees, consistent with the fee calculation methodology that applies to current Form N-4 filers. The proposal would also indicate when issuers can take credits for RILA redemptions that pre-date their use of that form and when expiring annuity contracts are rolled over into a new crediting period as well as other minor technical amendments.

The proposed filing rules would provide benefits to insurance companies. Rather than registering a specific amount of securities, insurance companies would register an indefinite amount of securities upon the effective date of their registration statement. Registering an indefinite amount of securities benefits insurance companies by eliminating the risk that a RILA issuer may inadvertently oversell securities with respect to a registration statement on Form N-4. The payment of fees on an annual net basis furthermore should lead to a reduction in overall filing fees relating to RILAs. To the extent that there are cost savings for issuers, some of those savings may potentially be passed on to investors.

Post-Effective Amendments and Prospectus Supplements. As discussed in section II.E, the proposal would require RILA issuers to use the same framework for filing post-effective amendments to the registration statement as is currently used by other filers on Form N-4. First, the proposal would amend rule 485 under the Securities Act to require RILA issuers to use that rule when amending RILA registration statements on Form N-4. Requiring RILA issuers to use that rule when amending RILA registration statements on Form N-4 would permit RILA issuers to file post-effective amendments that become automatically effective under rule 485(a) after a specified period of time after the filing or, in certain enumerated circumstances, immediately effective under rule 485(b). Issuers may benefit to the extent automatic effectiveness allows issuers to tap favorable windows of opportunity in the RILA market, to structure terms of RILAs

on a real-time basis to accommodate investor demand, and to determine or change the plan of distribution in response to changing market conditions.

Second, the proposal would require RILA issuers to apply rule 497 under the Securities Act when appropriate to file RILA prospectuses and prospectus supplements with the Commission. Under the proposed amendments, a RILA issuer would be required to file every prospectus relating to a RILA offering that varies in form from a previously filed prospectus before it is first used. This approach—rather than requiring filing only if the issuer makes substantive changes from or additions to a previously-filed prospectus—may benefit both investors and issuers. The requirement that insurance companies file every prospectus that varies in form from a previously filed prospectus before it is first used could facilitate investor evaluation and comparison by making publicly available the most timely information currently available to investors. We would expect this benefit to be minimal, however, because rule 424 under the Securities Act requires RILA issuers only to file prospectuses that contain substantive changes. Prospectuses required to be filed under rule 497 that would not be required to file under rule 424, then, would be prospectuses updated with minor, non-substantive changes and likely of limited informational benefit to investors.

As discussed above, certain issuers use a short-form registration statement on Form S-3, which requires less information than Form S-1 and allows for significant incorporation by reference. Certain issuers also can rely on rule 430B under the Securities Act to omit certain information from the "base" prospectus when the registration statement becomes effective and later provide that information in a subsequent Exchange Act report (forward) incorporated by reference, a prospectus supplement, or a post-effective amendment. Issuers registering annuity product offerings on Form N-4, on the other hand, have limited ability to incorporate information

by reference into their registration statements and cannot forward incorporate information from subsequently filed Exchange Act reports. Issuers registering annuity product offerings on Form N-4 also cannot rely on rule 430B to omit certain information from the base prospectus. Under the proposal, then, RILA investors would have all the information available in one location rather than needing to separately access the information on a website or request the incorporated materials. As a result, costs to investors for assembling and assimilating necessary information could decrease, with a potentially stronger effect for investors that may not have the technical capabilities or monetary resources to search efficiently through multiple information sources.

Issuers may benefit from applying rule 497 as well. The proposed rule would facilitate a uniform post-effective amendment and prospectus filing framework for all Form N-4 filers, which would provide insurance companies with more consistent filing requirements across similar products. This, in turn, could benefit insurance companies by making it easier to execute such offerings and may decrease compliance costs.

f. Materially Misleading Statements in RILA Sales Literature

The proposal would amend rule 156 to make its provisions applicable to RILA sales literature. Rule 156 is an interpretive rule that provides factors to be weighed in considering whether a statement involving a material fact is or might be misleading in the specific context of investment company sales literature, including literature relating to the sale of variable annuities. Proposed amendments to rule 156 would indicate that whether a statement involving a material fact is misleading in RILA sales literature would depend on an evaluation of the context in which it is made, with the rule providing non-exhaustive factors to guide in this determination.

For example, rule 156(b)(1)(ii) currently provides that a statement could be misleading because of the absence of explanations, qualifications, limitations or other statements necessary or appropriate to make such statement not misleading. This provision, where made applicable to

RILA sales literature, would generally require an insurance company to consider whether an advertisement would be materially misleading if it markets the investment as a growth investment, a loss-avoidance vehicle, or a customizable product in the absence of qualifying explanations or statements. Similarly, if sales literature advertises a particular feature of the product's bounded return structure that is not available for the life of the product or the full term of any surrender charge period, the provision as made applicable to RILA sales literature would require consideration of whether the statement is misleading without providing additional context as to the issuer's discretion to make changes.

Further, rule 156(b)(4) currently provides that representations about fees or expenses associated with an investment in a fund could be misleading because of statements or omissions made involving a material fact, including situations where portrayals of the fees and expenses associated with an investment in the fund omit explanations, qualifications, limitations, or other statements necessary or appropriate to make the portrayals not misleading. We are proposing to amend this provision also to address representations about the fees or expenses associated with a RILA contract. In the context of RILA sales literature, this provision as amended would require consideration about whether representations or portrayals either of a RILA's costs or charges, or optional benefits that are subject to a contract adjustment, would require qualifying statements or explanations regarding the economic costs to the investor to receive an advertised benefit or those generally associated with the RILA.

Also, rule 156(b)(2)(i) currently states that representations about past or future investment performance could be misleading because of statements or omissions made involving a material fact. This includes situations where portrayals of past income, gain, or growth of assets convey an impression of the net investment results achieved by an actual or hypothetical

investment which would not be justified under the circumstances, including portrayals that omit explanations, qualifications, limitations, or other statements necessary or appropriate to make the portrayals not misleading. This provision, where made applicable to RILA sales literature, would require consideration of whether illustrations about the operation of a RILA or its features could be misleading because, for example, they use assumptions that are not currently offered or exceed what could be reasonably anticipated or use "cherry picked" data.

By reducing the potential for misleading or fraudulent statements in RILA sales literature, applying rule 156 to RILAs would provide investors with protections and help ensure that investors receive the information necessary to make informed decisions about these products. Ensuring that investors receive the information necessary to make informed decisions could benefit investors by facilitating investor evaluation of RILAs as well as investor comparison of RILAs to other annuity products.

2. Costs

The proposal could lead to certain additional costs for insurance companies. These costs would likely vary across insurance companies, depending on their existing lines of business. Costs may also vary depending on the extent to which insurance companies create prospectuses that vary in form from previously filed prospectuses and the frequency of certain events, such as changes in accountants and disagreements with accountants on accounting and financial disclosure. Generally, the costs would be lower for insurance companies that currently offer products that register on Form N-4, for those insurance companies that do not change or remove key features of RILAs frequently, and for those insurance companies that do not experience changes in, and disagreements with, accountants on accounting and financial disclosure.

We anticipate that the costs to insurance companies would be comprised of both direct compliance costs and indirect costs. Direct costs for insurance companies would consist of

internal costs (for compliance attorneys and other non-legal staff, such as computer programmers, to prepare and review the required disclosure) and external costs (including filing fees, outside legal and accounting fees, as well as any costs associated with outsourcing all or a portion of the Form N-4 filing responsibilities to a filing agent, software consultant, or other third-party service provider).

The proposal could lead to certain costs for investors as well. Any portion of additional costs that is not borne by insurance companies would ultimately be passed on to RILA investors. Investors also may bear costs associated with certain proposed changes such as the proposed change in filing rules as well as an insurance company's option to use a summary prospectus.

a. Direct Costs

Form N-4. We believe that the direct costs associated with the proposed amendments would be most significant for the first Form N-4 registration statement that an insurance company would be required to prepare and file because the insurance company would need to familiarize itself with the new registration form and may need to configure its systems to efficiently gather the required information. In subsequent periods, we anticipate that insurance companies would incur significantly lower costs because much of the work involved in the initial registration statement preparation and filing is non-recurring and because of efficiencies realized from system configuration and reporting automation efforts accounted for in the initial filing period. The costs associated with preparing and filing a new registration statement (on Form N-4 as opposed to Forms S-1/S-3) would be ameliorated to the extent an insurance company currently has experience and systems in place to prepare and file registration statements on Form N-4 (*e.g.*, the insurance company currently offers variable annuities whose offerings are

registered on Form N-4). We estimate the aggregate additional annual internal time cost to be $16,133,834 and the aggregate annual external cost burden to be $2,914,740.[469]

Insurance companies would also incur compliance costs to tag many of the newly required Form N-4 disclosures (as well as those prospectus disclosures that Form N-4 currently requires to be tagged) in Inline XBRL. Various XBRL and Inline XBRL preparation solutions have been developed and used by operating companies and investment companies to fulfill their structuring requirements, and some evidence suggests that, for smaller operating companies, XBRL compliance costs have decreased over time.[470] We estimate the total aggregate additional annual internal time cost for XBRL compliance would be $308,560 and the aggregate annual external cost burden to be $63,000.[471] In addition, 22 of the 23 insurers that issue RILAs also offer variable products registered on Forms N-3, N-4, or N-6, all of which are currently structured, or otherwise have experience tagging registration statements.[472]

As such, to the extent these companies comply with Inline XBRL requirements internally rather than outsourcing to an external service provider, they may already be familiar with Inline XBRL software and may be able to leverage existing Inline XBRL preparation processes and/or

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469 *See infra* Table 13.

470 An AICPA survey of 1,032 public operating companies with $75 million or less in market capitalization in 2018 found an average cost of $5,850 per year, a median cost of $2,500 per year, and a maximum cost of $51,500 per year for fully outsourced XBRL creation and filing, representing a 45% decline in average cost and a 69% decline in median cost since 2014. *See* AICPA, *XBRL Costs for Small Companies Have Declined 45% since 2014* (2018), *available at* https://us.aicpa.org/content/dam/aicpa/interestareas/frc/accountingfinancialreporting/xbrl/downloadabledocuments/xbrl-costs-for-small-companies.pdf. Note that this survey was limited to small operating companies. Additionally, a NASDAQ survey of 151 listed issuers and other respondents in 2018 found an average XBRL compliance cost of $20,000 per quarter, a median XBRL compliance cost of $7,500 per quarter, and a maximum XBRL compliance cost of $350,000 per quarter in XBRL costs per quarter. *See* Letter from Nasdaq, Inc. (Mar. 21, 2019); Request for Comment on Earnings Releases and Quarterly Reports, Securities Act Release No. 10588 (Dec. 18, 2018) [83 FR 65601 (Dec. 21, 2018)].

471 *See infra* Table 16.

472 Based on analysis of Forms S-1, S-3, and POS AM filed by RILA issuers.

expertise in complying with the new tagging requirements. This would limit the compliance costs arising from the new tagging requirements for these issuers to only those costs related to selecting additional Inline XBRL tags for those new disclosures proposed to be tagged, and reviewing the tags selected for those disclosures. Accordingly, we do not anticipate that the costs associated with Form N-4 tagging would be significant enough to deter insurance companies from entering the market for RILAs. As such, we do not expect that the new and modified tagging requirements in this proposal would decrease competition in the market for RILAs.[473]

Option to Use a Summary Prospectus. Issuers will benefit from the option to use a summary prospectus to the extent that providing layered disclosure through a summary prospectus regime (including costs of producing and delivering initial summary and updating summary prospectuses and of making statutory prospectuses, and other documents available online) is less expensive than providing statutory prospectuses to new investors and updated statutory prospectuses to existing investors annually. Insurance companies choosing to provide summary prospectuses would bear a one-time cost of preparing both the initial summary prospectus and the updating summary prospectus, as well as costs associated with preparing updated versions the updating summary prospectus in the future on at least an annual basis. We estimate the average annual burden to prepare initial and updating summary prospectuses to be $5,000 per registration.[474]

Insurance companies that choose to provide summary prospectuses are required to make statutory prospectuses and other materials available online. We estimate the aggregate cost to comply with the proposed website posting requirements of the rule for documents relating to

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473 *See also infra* section III.D.

474 *See* Table 11, Rule 498A PRA Estimates.

RILAs to be $772 per registrant.[475] However, some of these costs may have already been incurred by issuers of "combination" contracts offering variable options as well as index-linked options.

Insurance companies that rely on rule 498A to use summary prospectuses for variable annuities are also required to include inter- and intra-document linking and special terms definitions. One linking requirement would allow the reader to move back and forth between a table of contents of the contract statutory prospectus or SAI, and the related sections of each document. Although prospectuses and SAIs are not required to have individual headings corresponding to the items in the registration forms, we assume that the sections of a prospectus or SAI would correspond with the item requirements of the forms. We estimate that Form N-4 filers would require 27 back-and-forth internal links. The other linking requirement would allow the reader to move back and forth between each section of the summary prospectus and any related section of the contract statutory prospectus and SAI that provides additional detail. This back-and-forth movement could occur either directly from the summary prospectus to the relevant section of the statutory prospectus or SAI, or indirectly by linking from the summary prospectus to a table of contents in the statutory prospectus or SAI. For our analysis, we assume direct links as those will tend to be more costly when compared with indirect linking through a table of contents.

An initial summary prospectus for a Form N-4 issuer includes eight sections. The Key Information Table has instructions stating that, wherever feasible, a registrant should provide cross-references or links to the location in the statutory prospectus where the subject matter is

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475 *See* Table 11, Rule 498A PRA Estimates.

described in greater detail. There are 12 sections of the Key Information Table. Therefore, we estimate that there would be 18 back-and-forth links between initial summary prospectuses and statutory prospectuses for a Form N-4 issuer.

An updating summary prospectus for a Form N-4 issuer includes three sections, one of which, the Key Information Table, includes 12 sections. One section is the "Updated Information About Your Contract" section. The number of links in this section would depend on the number of updates discussed. For example, assuming discussion of four updates, we estimate the number of back-and-forth links between a Form N-4 issuer's updating summary prospectus and statutory prospectus to be 16.

The proposed rule amendments would also require that RILA investors either be able to view the definition of each special term used in an online summary prospectus upon command (*e.g.*, by "hovering" the computer's pointer or mouse over the term), or to move directly back-and-forth between each special term and the corresponding entry in any glossary or list of definitions that the summary prospectus includes. We assume that RILA issuers could replicate links to a glossary or the computer code required to implement access to definitions by "hovering" over a term with little or no burden, but that there would be a burden associated with creating the requisite link or code for each special term. Accordingly, we estimate the cost to comply with the proposed requirement to include inter- and intra-document linking and special terms definitions as described above would include 6 burden hours and a cost of $800 annually, per registrant.[476]

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476 *See* VASP Adopting Release at n.1084.

Filing the Prospectus. As discussed in section II.E, RILA issuers follow different processes to file prospectuses than current Form N-4 filers. For example, a RILA issuer is required to file a prospectus only if the issuer makes substantive changes or additions to a previously-filed prospectus, whereas current Form N-4 filers are required to file every prospectus that varies from any previously-filed prospectus. Accordingly, under the proposed amendments, a RILA issuer would be required to file every prospectus relating to a RILA offering that varies in form from a previously filed prospectus before it is first used. The proposed requirement could increase the number of prospectuses required to be filed by RILAs which could, in turn, increase costs for issuers.[477] For each additional prospectus required to be filed by RILAs, we estimate an addition internal cost burden of $113,659.70 and an external cost burden of $24,000.[478]

Materially Misleading Statements in RILA Sales Literature. The proposal would amend rule 156 to make its provisions applicable to RILA sales literature. The cost of the proposed amendments would include the direct cost of analyzing advertising materials in light of the guidance rule 156 provides. This may require review and approval of advertisements beyond what occurs currently, particularly because determining whether a statement involving a material fact is misleading in RILA sales literature would depend on an evaluation of the context in which it is made. We expect some of these costs to be borne in the first year after the rule adoption. That is, these costs would be transition costs and not sustained beyond the first year. We estimate

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477 The potential increase in cost could be greater for Form S-3 filers than for Form S-1 filers. Form S-3 requires less information than Form S-1. Also, Form S-1 allows incorporation by reference only on a very limited basis. Form S-3 allows for forward incorporation by reference. Form S-3 filers may need to produce incrementally more information to file on Form N-4 than Form S-1 filers. Transitioning to Form N-4 could be more expensive for Form S-3 filers than for Form S-1 filers, as a result.

478 *See* Table 11, Rule 498A PRA Estimates. As discussed in footnote 477, these costs could be greater for Form S-3 filers than for Form S-1 filers. Also, we estimate an additional internal time cost of $2,436 for each additional prospectus required to be filed by separate account registrants.

that the transition costs associated with the proposed advertising rule amendments would be $5,715.[479] Also, ongoing sales literature activity may require internal review and approval of advertisements. We estimate that the costs associated with ongoing sales literature activity would be $1,905, annually.[480] These costs would be borne by issuers and third parties who prepare RILA advertisements.

b. Indirect Costs

Form N-4. While the prospectuses and other registration statement disclosure required by the proposal would likely facilitate investor evaluation and comparison of RILAs, investors could experience certain transition costs under the proposal, and some investors may experience other ongoing costs. Transition costs would include the costs of the inconvenience to some investors of adapting to the new materials and to the changes in the presentation of information. Investors would also bear a one-time cost of the inconvenience of adjusting to the changes in the disclosures they receive. These costs are likely to be relatively lower for investors with less experience investing in RILAs.

Option to Use a Summary Prospectus. While we expect that, should insurance companies opt to use summary prospectuses, the majority of investors would benefit from their disclosures, certain investors may incur costs. For example, although research indicates that investors generally prefer to receive summary disclosures there may be RILA investors who prefer to rely

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479 We estimate an initial burden of 15 hours, per advertisement, to review existing advertising materials at a blended cost of $381 ($5,715 = 15 x $381). See Tailored Shareholder Reports for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements adopting release at footnote 744.

480 We estimate an initial burden of 5 hours, per advertisement, to review existing advertising materials at a blended cost of $381 ($5,715 = 15 x $381). See Tailored Shareholder Reports for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements adopting release at footnote 745.

on statutory prospectuses when making investment decisions. While RILA statutory prospectuses would continue to be available online and in paper or electronic copy upon request, access to those statutory prospectuses would require investors to take additional steps, imposing some burden. For example, investors choosing to access the statutory prospectus online rather than requesting a paper copy would need to manually enter a hyperlink from a paper updating summary prospectus or click on a link to a website containing the statutory prospectus. To the extent that internet access and use among RILA investors is not universal, those investors without home internet access might experience a reduction in their ability to quickly and easily access statutory prospectus information.[481] Even for those investors with home internet access, there may be some resistance to taking the additional step of accessing the statutory prospectus online.

Use of Statutory Accounting Principles. The proposal would permit RILA issuers to provide financial statements on amended Form N-4 in the same way that insurance companies currently do on Form N-4. One consequence of this change would be that the financial statements filed in connection with a RILA registration statement could be prepared in SAP to the same extent as currently permitted for insurance companies' financial statements filed on that form. The proposed rule would create a choice for certain insurance companies. They may prepare their registration statements in SAP, or they may prepare their registration statements in

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[481] According to the most recent U.S. census data, approximately 85% of U.S. households had some form of broadband internet access in their home in 2018, and 92% had a computer (*e.g.*, desktop, laptop, tablet or smartphone). *See* Michael Martin, *Computer and Internet Usage in the United States: 2018*, U.S. CENSUS BUREAU (Apr. 21, 2021), *available at* https://www.census.gov/library/publications/2021/acs/acs-49.html; *see also* Pew Research Center, *Internet/Broadband Fact Sheet* (Apr. 7, 2021), *available* at https://www.pewresearch.org/internet/fact-sheet/internet-broadband/ ("Today, 93% of American adults use the internet." and "Today, roughly three-quarters of American adults have broadband internet service at home."); *see also* Ani Petrosyan, *Internet Usage in the United States - Statistics & Facts*, STATISTA (Aug. 31, 2023), *available at* https://www.statista.com/topics/2237/internet-usage-in-the-united-states/#topicOverview ("Today, over 90 percent of Americans have access to the internet").

GAAP. Those insurance companies that expect to benefit from preparing their registration statements in SAP (*e.g.*, through reduced costs) would choose SAP. Those insurance companies that do not expect to benefit from the option to prepare their registration statements in SAP would continue to prepare their registration statements in GAAP. Because the proposed rule would, for certain issuers, create the option, but not the obligation, to prepare their registration statements in SAP, we do not believe this provision of the proposed rule would create additional costs.

Filing and Prospectus Delivery Rules. As discussed in section II.E, when a RILA issuer seeks to amend a RILA registration statement on Form S-1, the issuer must file a post-effective amendment that is typically declared effective by Commission staff acting pursuant to delegated authority on such date as the Commission may determine. To the extent that investors previously benefited from the Commission staff's review of these filings before they become effective, allowing filings of RILA offerings to become automatically effective may eliminate such reviews and, as a result, possibly increase the costs to investors. However, issuers would still face liability under the Federal securities laws for registration statement disclosures (*e.g.*, sections 12 and 17 of the Securities Act and section 10(b) and rule 10b-5 under the Exchange Act), which may ameliorate the potential costs associated with reduced staff review. Moreover, rule 485 only permits updates to become immediately effective in limited, enumerated circumstances, in order to provide an opportunity for staff review for all other changes.

As discussed in section II.E.3, we understand that RILA issuers typically deliver prospectuses to accompany or precede other communications, such as annuity applications. It is possible that providing layered disclosure through a summary contract prospectus regime (including costs of delivering initial summary and updating summary prospectuses and making

statutory prospectuses and other documents available online) could result in reduced costs for issuers.[482]

Materially Misleading Statements in RILA Sales Literature. Issuers and third parties involved in preparing or disseminating investment company advertisements may incur costs to comply with the proposed advertising rule amendments. While reducing the potential for misleading or fraudulent statements in RILA sales literature would provide investors with protections and help ensure that investors receive the information necessary to make informed decisions about these products, investors could bear the costs of these amendments through increased expenses that funds would incur to implement the proposal. Alternatively, if the cost of compliance with these proposed amendments were significant, some RILAs might reduce advertising to lower the extra costs of compliance. If this were to occur, investors who would otherwise rely on advertisements to make investment decisions about RILAs or compare RILAs with other investment products might have less complete information for these purposes.

D. Effects on Efficiency, Competition, and Capital Formation

Efficiency. To investors, the costs of purchasing a RILA are more than just the dollar cost of the contract and include the value of an individual's time spent evaluating the contract and its various aspects. Further, for those investors who do not gain a full understanding of the contract, there could be a cost stemming from a potential mismatch between an investor's goals and the

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[482] See VASP Adopting Release. In the VASP Adopting Release we estimate that printing and mailing expenses are $0.18 less for initial and updating summary prospectuses than for statutory prospectuses. Because we understand RILA prospectuses to not be as long as variable annuity prospectuses, we would expect savings among RILA issuers to be less than the VASP Adopting Release savings, but we do not have a basis for believing savings for RILA issuers will be of an order of magnitude less than the VASP Adopting Release savings. We therefore believe savings for RILA issuers will be between approximately $.02 and $.18. We estimate the internal cost time of online posting of contract documents to be $772. *See infra*, Table 11.

purchased contract. Depending on the size of an individual's potential purchase, certain of these additional costs could be considerable in comparison to the monetary costs associated with contract purchase and could discourage investors from considering RILAs even in circumstances where investment in a RILA would be beneficial.

For their part, insurance companies only supply RILAs to the extent they expect the benefits derived from providing the contracts to be greater than the costs of supplying the contract. For issuers, costs include not only those costs associated with producing and servicing RILAs, but also those costs associated with meeting various statutory and regulatory obligations.

These costs borne by both insurance companies and individuals are examples of market "frictions." Market frictions have the effect of reducing the benefits from (*i.e.*, the efficiency of) contracting between market participants.[483] Rules that reduce costs for investors, issuers, or both, reduce market frictions and potentially enhance the benefits from contracting between market participants. By facilitating investor evaluation and comparison of RILAs as well as facilitating the comparison of RILAs to other annuity contracts, the proposed rule could reduce frictions for investors. Requiring insurance companies to use a single registration form and filing process for all RILAs as well as all variable annuity separate accounts that are structured as unit investment trusts, as well as allowing RILA issuers to provide financial statements on amended Form N-4 in the same way that insurance companies currently do on Form N-4, may also reduce certain compliance burdens for insurance companies. In addition, requiring RILA issuers to tag certain key information in Inline XBRL would enable investors, third-party information providers, Commission staff, and other data users to capture and analyze that information more quickly and

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[483] If market frictions are sufficiently large, market frictions could eliminate exchange altogether.

efficiently than is possible when the same information is provided solely in a static, text-based format.

These increases in efficiency could lead investors to save more appropriately to meet their retirement goals. For example, for existing RILA investors the proposal may increase the likelihood that investors choose to invest more or less money in RILAs in a manner that is consistent with their overall financial needs and objectives—a level that may be higher or lower than current levels. Similarly, the proposal may lead existing investors to choose to allocate their money into different investment options that the RILA offers, or different RILAs (or other insurance products like variable annuities) that best meet their needs. The proposal also may help promote investment in RILAs by investors who currently do not invest in RILAs, to the extent such investments are appropriate for them. Finally, access to clearer information about the contract provisions may reduce the chances that an investor makes mid-crediting period withdrawals or transfers or surrenders a RILA when the costs of doing so does not justify the benefits.

Competition. If the proposed rule increases efficiency of exchange in the RILA market, then we may observe a change in investment in RILAs. For example, if there are individuals who currently do not invest in RILAs (or invest less than they would have) because the costs other than the price of the contract are too high (including the effort to gain sufficient understanding of the product) or they are not aware of RILAs as an investment, then to the extent the proposed rule lowers those costs or makes investor more aware of RILAs, we would expect to observe more investors entering the RILA market. Conversely, there may be RILA investors who, because of the burden, choose not to read statutory prospectuses. To the extent those investors are more likely to read summary prospectuses, those investors may decide, as a result, that other

investments or products are better suited to their investment goals. This could result in fewer investments in RILAs. If there are insurance companies who limit their participation in the RILA market as a result of the requirement to register RILA offerings on Form S-1 or Form S-3 or because of the costs of current prospectus delivery requirements, those insurance companies may increase participation in the RILA market. To the extent that competition in a market is related to the size of the market, the net effect of these potential changes in investor demand for, and issuer supply of, RILAs could affect competition in the RILA market.

The proposed rule could also affect competition by requiring that information about RILAs be presented in a concise, user-friendly way, which could allow investors to compare information across products. Requiring RILA issuers to tag certain key information in Inline XBRL could further facilitate comparisons of information across registrants by making it easier for investors (directly or through third-party data aggregators) to extract and aggregate information through automated means for analysis and comparison, which could increase competition among RILA issuers for investor capital. For example, the proposed rule requires issuers to distill certain key product information into tables. The presentation of this information in a table facilitates evaluation among different RILAs as well as comparison to variable annuities. Greater comparison among different RILAs as well as comparison to variable annuities could lead to greater competition. Furthermore, by reducing the costs associated with aggregating data across RILAs, the proposed Inline XBRL requirement could reduce barriers to entry for third-party data aggregators and induce competition among firms that supply information about RILAs to investors, including other third-party aggregators and sales agents.

The effect on competition between insurance companies could be limited, however, to the extent RILA investors rely on an agent to help them select their RILA contract and the

investment options under the contract and do not have access to broad comparisons across different RILAs (or among different investment options that the RILA offers) at the time of sale.[484] Agents generally only provide their customers with a subset of all RILAs available in the general marketplace. Thus, while the product information in summary prospectuses would facilitate comparison across products offered by the agent, the effect would likely be limited to the agent's set of products rather than to the broader market.

Capital Formation. As discussed in connection with the potential effects of the proposed rule on competition, if the proposed rule increases the efficiency of exchange in the RILA market, then we may observe a change in investment in RILAs. As discussed in section III.B.3, unlike variable annuities that involve a direct investment of premiums into one or more mutual funds, which in turn invest in underlying securities, RILA premiums are not directly invested into the assets of the indexes that are associated with the index-linked options offered under the contract, but are typically invested into fixed-income securities such as corporate bonds. To the extent that an increase or decrease in the demand for RILAs is not driven by investors substituting either away from, or into, variable annuities or other investment vehicles as an alternative, we would not expect changing demand for RILAs to have any effect on the underlying securities. An increase or decrease in the demand for RILAs could, however, increase or decrease the demand for fixed-income securities such as corporate bonds. To the extent the proposed rule would cause investors to either substitute away from, or into, variable annuities or another investment that entail investment in underlying funds (which, in turn, invest in a

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484 We do not have data on the extent to which investors rely on agents when purchasing RILAs. In 2019, $95.5 billion of total variable annuity sales of $98.3 billion (97%) were through a distribution channel involving an agent. If investors rely on agents when purchasing RILAs to the same extent they do when purchasing variable annuities, then the vast majority of RILA investors rely on agents when purchasing RILAs.

portfolio of securities), there could be an effect on capital formation. If investors substitute away from variable annuities or other investment vehicles into RILAs, there could be a reduction in the demand for the underlying securities and, by extension, a reduction in capital formation. If investors substitute away from RILAs and into variable annuities or other investment vehicles, there could be an increase in the demand for the underlying securities. To the extent issuers invest RILA proceeds into fixed-income securities such as corporate bonds, there could be an increase in the demand for those securities.

The proposed Inline XBRL requirements could increase the efficiency of capital formation to the extent that making disclosures available in a structured format reduces some of the information barriers that make it costly for RILA issuers to find appropriate sources of new investors. Smaller issuers in particular may benefit more from enhanced exposure to investors. If tagging certain disclosures in a structured format increases the availability, or reduces the cost, of collecting and analyzing key information about RILAs, smaller RILA issuers may benefit from improved coverage by third-party information providers and data aggregators.

E. Reasonable Alternatives

1. Creating an Entirely New Registration Form for RILAs

The proposed rule would require the registration of RILA offerings on Form N-4. Most variable annuities use Form N-4, which has disclosure requirements tailored to these investments that provide investors with key information about a variable annuity's terms, benefits, and risks in a concise and reader-friendly presentation. Currently, insurance companies register RILA offerings on Forms S-1 or S-3, which allow registering general debt or equity offerings. Forms S-1 and S-3 require issuers to disclose not only information about the offering itself, but also extensive information about the registrant issuing the securities. In addition, registrants must include financial statements prepared in accordance with GAAP, unless an exemption has been

granted pursuant to 17 CFR 210.3-13 that permit insurance companies to substitute SAP financials in lieu of GAAP financials. Form N-4, on the other hand, allows insurance companies to file financial statements prepared in accordance with SAP if they do not otherwise prepare GAAP financial statements. As an alternative, we could have required insurance companies to register RILA offerings on an entirely new form.

Form N-4 was designed for investment companies, and RILA issuers are not investment companies. A new form specifically tailored to RILAs could be more beneficial than working to fit them into an existing framework that was designed with a different structure in mind.

A completely new registration form for RILA offerings could negatively affect investors' ability to compare different RILAs with variable annuities that register on Form N-4 (including "combination" contracts that offer index-linked options as well as variable options). Furthermore, given that we are proposing to amend Form N-4 to address those aspects specific to RILAs, but many of the current form requirements are relevant to the registration of RILA offerings, a completely new and separate form for RILAs would not offer much (if any) benefit to investors in terms of new information compared to the proposed amendments to Form N-4. Since most variable annuity issuers already use Form N-4 to register their securities, and many RILA contracts are offered as "combination" contracts, the amended Form N-4 would efficiently provide investors with product-specific information about these combination contracts. As a result, investors would be able to compare annuity products, and the investment options that these products offer, with less time and effort. To the extent that investors use less time and effort to compare annuity products and their underlying investment options, investors may be more likely to make decisions that align better with their investment goals.

We preliminarily believe that requiring RILA offerings to be registered on Form N-4 rather than on an entirely new form would also be more efficient for insurance companies since they would generally follow the same procedures they already use for the registration of variable annuities. Using Form N-4 to register variable annuities and RILA offerings would also be less costly for insurance companies than using Form N-4 for variable annuities and a completely new form for RILAs since registrants are already familiar with Form N-4. It also would be less costly because, if RILA offerings had to be registered on a form other than Form N-4, combination contracts offering variable options and index-linked options would have to use two separate registration forms.

Commission staff would also benefit from using Form N-4 for RILAs because the disclosure requirements for variable annuities and RILAs would be located in one form only, and registration statements for these products would be subject to the same filing and review processes. This would reduce the use of resources by Commission staff needed to review the registration statements of RILAs and variable annuities.

2. Alternatives to Specific Form N-4 Amendments

The Commission is proposing amendments to Form N-4 so that insurance companies can register RILA offerings using that form. While the substance of many of the requirements in Form N-4 would not change from the current version of the form, we are proposing to update some items to include disclosures specifically tailored to RILAs. In certain limited circumstances, we have changed the disclosure requirements provided on the form for all filers, including those registering variable annuities.

As an alternative, we could have proposed more or less tailoring the form for RILAs. A larger number of amendments tailored to RILAs than the number we propose would be more costly for insurance companies registering RILA offerings because insurance companies that

offer combination contracts (or that otherwise register variable annuities on Form N-4) would have to make more changes to their disclosure. For example, we could have required insurance companies to provide a diagram in the KIT to illustrate surrender charges and contract adjustments during different time periods of the contract, or illustrations showing how caps, floors, and/or buffers could affect an investor's returns across different market scenarios.

Also, we could require insurance companies to provide information related to the economic tradeoffs associated with index-linked options. For example, we could require the insurance company to compare a hypothetical investment in the index-linked option to the value, or cost, of a combination of (i) derivatives that would provide the index-linked option's investment exposure; (ii) a fixed-income component; and (iii) the standard insurance features offered with the index-linked option, similar to the analysis in the Moenig Paper and the analysis conducted by the staff in section III.B.3.[485] In such a comparison, we could either require that the insurance company should use the hypothetical investment discounted by the rate of interest the insurance company is crediting, or would credit, on fixed annuities with a term equal to the duration of the crediting periods of the index-linked option, or we could require the insurance company to use the value of a risk-free zero-coupon bond with a time to maturity equal to the crediting period of the index-linked option, consistent with our analysis in section III.B.3.[486] We could also consider requiring additional disclosure related to the setting of early withdrawal charges or penalties and their impact on such a comparison of hypothetical investments. For example, we could require the calculation of a disclosure similar to the analysis in the Moenig Paper and the analysis conducted by the staff in section III.B.3 to explicitly include the impact of

485 *See supra* section II.B.3.b.

486 *Id*.

early withdrawal charges or penalties on the liquidity of the investment. We could also require more prominent placement of these features on marketing or other materials, or we could require a comparison of these features to potential benefits of the RILA to clarify for investors possible trade-offs.

Conversely, a smaller number of amendments tailored to RILAs than the number we propose would be less costly for insurance companies. Since insurance companies already use Form N-4 to register variable annuities, and most RILA issuers offer variable annuities registered on Form N-4 (including, in many cases, combination contracts), we preliminarily believe that the costs of complying with the disclosure requirements of the amended form would not be substantial.

The amendments to Form N-4 that we propose would promote investor understanding of RILA contracts by presenting information in a clear and concise manner. Proposing a larger number of amendments tailored to RILAs may add too much, or less relevant, information, which may overwhelm investors who may not have the time or capacity to process all the information.[487] Proposing only a subset of amendments tailored to RILAs, as compared with the proposed approach, could result in less investor understanding relative to the understanding resulting from the proposed amendments.

3. Require the Use of Form N-4 for Registered MVAs

As discussed above, while we are not proposing to require insurance companies to register offerings of registered MVAs on Form N-4, one alternative would have been requiring

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[487] *See, e.g.*, Julie R. Agnew and Lisa R. Szykman (2005). Asset Allocation and Information Overload: The Influence of Information Display, Asset Choice, and Investor Experience, *Journal of Behavioral Finance*, 6(2), 57-70, and Alejandro Bernales, Marcela Valenzuela and Ilknur Zer (2023). Effects of Information Overload on Financial Markets: How Much Is Too Much? International Finance Discussion Papers 1372, Washington: Board of Governors of the Federal Reserve System.

insurance companies to register the offering of registered MVAs on Form N-4.[488] These offerings are currently registered on Forms S-1 or S-3 but differ from RILAs only with respect to the manner in which interest is calculated and credited.[489] As a result, many of the benefits and costs identified above regarding RILAs would also be true in applying the same registration and disclosure framework to offerings of registered MVAs, including potentially a change to the filing fee process to file on Form 24f-2 and requiring the issuers to follow rule 156. For example, as with RILAs, expanding the scope of Form N-4 to include registered MVAs would benefit investors by making it easier for them to compare registered MVAs, and also compare registered MVAs with other annuity product offerings registered using Form N-4.[490] In particular, because both RILAs and registered MVAs include contract adjustments, the inclusion of specified disclosures about contract adjustments would benefit investors since they would be able to better evaluate the costs of purchasing and owning annuity contracts, including registered MVAs. Requiring the registration of registered MVAs on Form N-4 also would entail efficiency benefits to insurance companies that offer combination contracts, for example ones that include both variable annuities registered on Form N-4 and registered MVAs, as the use of the same registration form for all of these products may reduce these companies' compliance burdens.

Conversely, including registered MVAs on Form N-4 would also entail similar costs to those outlined above for the proposed registration and disclosure approach for RILAs. These would include direct costs to the insurance company, for example filing fees, as well as outside

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488 *See supra* section II.H.

489 Based on internal estimates, there are 45 registered MVAs from 15 different insurance companies. 27 of these registered MVAs are in combination contracts whereas 18 are standalone. 27 of these registered MVAs use Form S-1 and 18 use Form S-3. Lastly, 26 of these registered MVAs use GAAP financials and 19 use SAP.

490 *See supra* section III.C.1.

legal and account fees. Direct costs also would include costs associated with filing the first Form N-4 registration statement in connection with the registration of a registered MVA offering, where the insurance company would be required to familiarize itself with the new registration form and may need to configure its systems to efficiently gather the required information. Further, investors would bear certain indirect costs, such as the cost of adapting to new materials and the changes in the presentation of information.

Ultimately, we determined not to propose to require insurance companies to register offerings of registered MVAs on Form N-4 at this time, but we request comment on this reasonable alternative.

4. Limiting Scope of Structured Data Requirements

The proposed rule would require many of the newly added disclosures on Form N-4 to be tagged in Inline XBRL, and also would require RILA issuers to tag those prospectus disclosures that Form N-4 currently requires to be tagged. Alternatively, the Commission could have limited the tagging requirement to only those disclosures being added to Items of Form N-4 that are already tagged in Inline XBRL.[491] Under this alternative, disclosures relating to: the overview of the contract; the description of the Insurance company, registered separate account, and investment options; charges; purchases and contract value; purchase of securities being offered; disagreements with and changes to accountants; information about contracts with index-linked options and fixed options subject to a contract adjustment; and fee representations and undertakings would not be tagged.

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491 *See supra* footnote 451.

Limiting the scope of tagging requirements in this manner would result in reduced compliance burdens for insurance companies, which would be required to apply fewer tags to their disclosures on Form N-4 filings. However, the alternative would also remove the informational benefits associated with making those disclosures available in a machine-readable manner. Furthermore, because Form N-4 filers already have Inline XBRL tagging obligations with respect to certain of the form's disclosure requirements, the burden reductions resulting from such an alternative would be limited.

F. Request for Comment

Throughout this release, we have discussed the anticipated benefits and costs of the proposed rule and its potential effect on efficiency, competition, and capital formation. While we do not have comprehensive information on all aspects of RILA registration and reporting, we are using the data currently available in considering the effects of the proposed rule. We request and encourage any interested person to submit comments regarding the proposed rule, our analysis of the potential effects of the rules and other matters that may have an effect on the proposed rules. We request that commenters identify sources of data and information with respect to annuity contracts in general, but also with respect to RILAs in particular, as well as provide data and information to assist us in analyzing the economic consequences of the proposed rules. We are also interested in comments on the qualitative benefits and costs we have identified and any benefits and costs we may not have discussed. We urge commenters to be as specific as possible.

Comments on the following questions are of particular interest.

153. What additional qualitative or quantitative information should be considered as part of the baseline for the economic analysis of these amendments?

154. Are the benefits and costs of proposed amendments accurately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other

costs or benefits should be taken into account? If possible, please offer ways of estimating these benefits and costs. What additional considerations can be used to estimate the benefits and costs of the proposed amendments?

155. To the extent commenters believe any specific additional data sources would help better quantify the benefits and costs of the proposal, we request that commenters provide this data. In particular, the following data could be particular informative: historical information about current limits on index gains associated with the index-linked options offered under a RILA, quantitative data about contract adjustments incurred by investors who make withdrawals from an index-linked option or from a RILA contract before the end of a specified period, and/or data regarding the frequency with which RILA contracts are annuitized.

156. Are the effects on competition, efficiency, and capital formation arising from the proposal accurately characterized? If not, why not?

157. Are there any other reasonable alternatives to the proposed new rule that should be considered? Are there any additional benefits or costs that should be associated with the reasonable alternatives considered?

158. We indicate that insurance companies benefit from the sale of RILAs in at least three ways. First, insurance companies can benefit from a favorable imbalance between the downside protections that a RILA contract offers, and the upside caps the contract offers. Second, insurance companies invest RILA proceeds into fixed-income securities such as corporate bonds, thereby earning a "credit risk premium." Finally, insurance companies can benefit when a RILA offers index-linked options whose index for measuring performance is a price-based index that

does not account for dividend payments. Are we correct in our characterization of how insurance companies benefit from the sale of RILAs? In what other ways, if any, do insurance companies benefit from the sale of RILAs?

159. We characterize RILAs as combining features of fixed-index annuities and variable annuities – limiting or reducing downside risk in return for an investor accepting capped upside performance. In exchange for giving up the complete protection of principal offered by fixed annuities, a RILA investor is afforded greater upside potential than that provided by fixed annuities, though typically less than the potential upside of a variable annuity. Is our characterization of RILAs, compared to other annuity products, correct? If not, how do RILAs compare to other annuity products?

160. In Section III.B.3, we analyze the imbalance between the downside protections that a RILA contract offers, and the upside limits the contract offers. Does our analysis reflect a risk-neutral valuation for a RILA with a cap and buffer or floor? What alternative considerations should we include in calculating such a valuation? Do the methodological assumptions (such as generating prices through the linear interpolation of implied volatilities) create significant bias or other problems for the analysis? How do RILAs set surrender charges or other early withdrawal charges or penalties, and should these charges or penalties be considered when performing this calculation since they reduce the liquidity of the investment? Should we require additional disclosure related to early withdrawal charges, fees, or penalties? For example, should we require more prominent placement of these features on marketing or other materials, or should we require a comparison of

these features to potential benefits of the RILA to clarify for investors possible trade-offs? Are there other data sources (*e.g.*, pricing vendors) that should be considered for these calculations? Are there certain time periods or types of contracts that we should consider when doing these or similar calculations? What considerations should be used in assessing whether the cost derived in our analysis is large or small? Also, are other measures related to the economic content of downside protections and upside limits that would be beneficial for investors?

161. We indicate that for shorter crediting periods and for common indexes such as the S&P 500, issuers are able to use exchange traded derivative securities to closely approximate the issuer's liabilities from a RILA contract at the end of each crediting period. Do issuers use exchange derivative securities to approximate the issuer's liabilities from a RILA contract? If not, how do issuers use the proceeds from RILA sales?

162. Under the proposed rule, to what extent would insurance companies choose to meet their disclosure obligation by providing investors with summary prospectuses while making statutory and other documents available on a website? As discussed above, we expect the vast majority of investors will have the option to use both summary prospectuses and statutory prospectuses in their decision-making, in whatever proportion investors think is best for their preferences. To what extent would investors in RILA contracts whose issuers elect to rely on rule 498A request to receive statutory prospectuses in paper or electronically, or seek access to statutory prospectuses online?

163. Would any positive or negative effect of the proposed rule on investors be disproportionately greater for certain investors than for others? If so, which investors would be disproportionately affected, to what extent, and how would such effects manifest? What, if any, additional measures could help mitigate any such disproportionate effects? Please provide supportive data to the extent available.

164. To what extent might reduced burdens (*e.g.*, using SAP accounting rather than GAAP accounting) borne by issuers be passed on to existing investors? Under what circumstances, and in what form, would insurance companies pass benefits through to existing investors?

165. To what extent would the proposed rule affect the ability of investors to understand the investment risks of RILAs and to efficiently allocate capital? Would investors be more likely to allocate additional capital to RILAs? What would be the effect on issuer competition for investor capital?

166. To what extent would investors realize benefits from Inline XBRL tagging requirements for certain newly added disclosures on Form N-4, as opposed to tagging requirements for only those disclosures within currently tagged Form N-4 Items? How would this approach affect costs for insurance companies? Would there be any cost saving?

167. To what extent would an increase or decrease in the demand for RILAs be driven by investors substituting either away from, or into, variable annuities or other investment vehicles? We assume that if investors do substitute away from, or into, variable annuities or other investment vehicles into RILAs, that the effect on

capital formation would be small. Is our assumption correct? If not, why would the effect on capital formation be larger than what we assumed?

IV. PAPERWORK REDUCTION ACT

We are proposing amendments to several rules and forms that would modify the registration, offering, and communications processes for RILAs under the Securities Act. We are also proposing amendments to Form N-4 and related rules that would apply to all issuers of that form.[492] The proposed amendments, if adopted, would implement the requirements relating to RILAs in the RILA Act.[493] The proposed amendments would have an impact on the current collections of information burdens under the Paperwork Reduction Act of 1995 ("PRA") of the following rules and forms: Rule 498A, Form N-4, Investment Company Interactive Data, and Form 24F-2. The titles for the existing collections of information are: (1) "Rule 498A Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts" (OMB Control No. 3235-0765), which we would retitle to "Rule 498A Summary Prospectus for Variable and Index-Linked Annuity and Variable Life Insurance Contracts;" (2) "Form N-4, Registration Statement of Separate Accounts Organized as Unit Investment Trust" (OMB Control No. 3235-0318), which we would retitle to "Form N-4, Registration Statement of Separate Accounts Organized as Unit Investment Trust or of Index-Linked Annuity Contracts;" (3) "Annual Notice of Securities

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492 We are proposing amendments rules 485 and 497 of Regulation C (OMB Control No. 3235-0074), which describes the procedures to be followed in preparing and filing registration statements with the Commission, and rule 405 of Regulation S-T (OMB Control No. 3235-0424), which specifies the requirements that govern the electronic submission of documents. The proposed amendments would require RILA issuers to tag specified information in registration statements filed on Form N-4 or post-effective amendments thereto, as well as in forms of prospectuses filed pursuant to rule 497(c) or 497(e) under the Securities Act that include information that varies from the registration statement using Inline XBRL These burdens are included in our estimates for the Investment Company Interactive Data collection of information discussed in section IV.D below.

493 *See* Pub. L. 117-328; 136 Stat. 4459 (Dec. 29, 2022).

Sold Pursuant to Rule 24f-2." (OMB Control No. 3235–0456), which we would retitle to "Annual Notice of Securities Sold Pursuant to 17 CFR 270.24f-2 or 230.456(e);" and (4) "Investment Company Interactive Data" (OMB Control No. 3235-0642).

The Commission is submitting these collections of information to OMB for review and approval in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The hours and costs associated with preparing and filing the forms constitute reporting and cost burdens imposed by each 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 OMB control number. We discuss below the collection of information burdens associated with proposed amendments to rule 498A and Investment Company Interactive Data, as well as Forms N-4 and 24F-2, which are filed with the Commission and are not kept confidential. A description of the proposed amendments, including the need for the information and its proposed use, as well as a description of the likely respondents, can be found in Section II above, and a discussion of the economic effects of the proposed amendments can be found in Section III above.

A. Rule 498A

We are proposing to amend rule 498A to permit RILA issuers, as well as issuers of "combination contracts" offering a combination of index-linked options and variable options, to use a summary prospectus to satisfy statutory prospectus delivery obligations. Consistent with current rule 498A, the proposed use of summary prospectuses for RILAs would be voluntary, but the rule's requirements would be mandatory for issuers that elect to send or give a summary prospectus in reliance upon proposed rule 498A. We are also proposing to make certain amendments to Form N-4 that would affect the variable annuity summary prospectuses currently provided to investors. The proposed amendments to rule 498A are part of a layered disclosure approach that is designed to provide investors with a summary prospectus to help them make

informed investment decisions regarding RILAs, as discussed in more detail above. These amendments would result in a change in our estimate of the burdens associated with this collection of information, specifically to account for these additional requirements for issuers that use rule 498A currently and to add RILAs to the estimates.

The respondents to these collections of information would be RILA issuers and registered variable annuity separate accounts. The information provided under rule 498A will not be kept confidential.

In our most recent Paperwork Reduction Act submission for Rule 498A, we estimated for rule 498A a total aggregate annual hour burden of 14,688 hours, and a total aggregate annual external cost burden of $11,559,420.[494] We estimate that 90 RILAs would be registered using Form N-4 if the proposal was adopted and that that there are 419 registrants on current Form N-4 that would be impacted by the proposed amendments.[495] The summary prospectus is voluntary, so the percentage of RILA issuers that will choose to utilize it is uncertain. Given this uncertainty, we have assumed that insurance companies will choose to use a summary prospectus for 90% of all RILAs, which is the same as our current estimate for variable annuity separate accounts. The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to rule 498A.

Table 11: Rule 498A PRA Estimates

	Internal initial burden hours	Internal annual burden hours	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED ESTIMATES					
Separate Account Registrants					

494 On Nov. 13, 2020, the Office of Management and Budget approved this collection of information estimate for rule 498A.

495 The RILA estimate is based on a review of RILA registration statements filed with the Commission as of May 2023 and the current Form N-4 registrants estimate is based on Form N-CEN reports through Apr. 15, 2023.

Proposed Amendments	9[1]	6[1]	$425 (compliance attorney)	$2,550	-
Number of registrants[3]		x 419		x 419	-
Total annual burden		2,514		$1,068,450	-
Use of summary prospectus		x 90%		x 90%	-
Total new annual burden for Reliance on Rule 498A		2,262.60		$961,605	-
RILA Registrants					
Preparation and filing of Initial Summary Prospectus/Updating Summary Prospectus	40	24.67[4]	$313 (blended rate)[5]	$7,709.38	$5,000[8]
Online Posting of Contract Documents	2	2.67[6]	$289 (webmaster)	$771.63	-
Total burden per registrant	-	27.34	-	8,481.01	$5,000
Number of registrants[7]	-	x 90	-	x 90	x 90
Total annual burden	-	2,460.60	-	$763,290.90	$405,000
Use of summary prospectus		x 90%		x 90%	x 90%
Total new annual burden for Reliance on Rule 498A		2,214.54		$686,961.81	$364,500
ESTIMATES FOR PRINTING AND MAILING BY RILA REGISTRANTS[9]					
Initial Summary Prospectus					$120,000
Updating Summary Prospectus					$1,048,000
Total annual burden					$1,168,000
Use of summary prospectus					x 90%
Total new annual burden for Reliance on Rule 498A					$1,051,200
Total Burdens					
	Responses	Internal Hour Estimate		Internal Hour Cost Estimate	External Cost Estimate
Current aggregate annual burden estimates	676	14,688		$3,900,193	$11,559,420
Aggregate proposed additional annual burden estimates	+83[10]	+4,477.14		+1,648,566.81	+$1,415,700
Revised aggregate annual burden estimates	=759	=19,165.14		=5,548,759.81	=$12,975,120

Notes:

1. Burden estimates also include the burden associated with the proposed amendments for separate account registrants that use a notice document as part of the modernized alternative disclosure framework in connection with discontinued variable annuity contracts. *See* VASP Adopting Release at section II.E. Internal annual burden hours represents initial burden estimates annualized over a three-year period plus three hours of on-going annual burden hours.

2. The Commission's estimates of the relevant wage rates are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013. The estimated wage figures are modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, overhead, and adjusted to account for the effects of inflation. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013 (as adjusted to account for inflation, the "SIFMA Wage Report").

3. Estimate is based on a review of N-CEN reports through Apr. 15, 2023. In its most recently approved PRA submission, the Commission estimated that 426 registrants on Form N-4 would be subject to the information collection burden under current rule 498A. For the estimated burden of the proposed amendments to rule 498A, we have taken into account updated data regarding the number of registrants on Form N-4.

4. Represents initial burden estimates annualized over a three-year period plus 11 hours of ongoing annual burden hours.

5. Represents a blended wage rate of a compliance attorney ($425 per hour) and an intermediate accountant ($200 per hour). $313 is based on the following calculation: ($425 + $200)/2 = $313 rounded to the nearest whole dollar.

6 Represents initial burden estimates annualized over a three-year period plus two hours of ongoing annual burden hours.

7. This estimate is based on the number of RILAs, as estimated through review of RILA registration statements filed with the Commission as of May 2023.

8. We estimate that each insurance company that chooses to rely on rule 498A with regards to a RILA will incur a one-time collective external cost burden of $10,000 per registration statement to prepare both a new initial summary prospectus and a new updating summary prospectus for offerings on Form N-4. We

also estimate an on-going collective burden of $2,500 per registration statement during each subsequent year to prepare updates to these materials. The three-year average cost of these estimates is $5,000.

9. Costs associated with printing and mailing for separate account registrants are already accounted for in the currently approved burdens for rule 498A. Estimates for RILA issuers printing and mailing costs are based on the currently approved burdens for printing and mailing costs under rule 498A.

10. The estimated number of new responses is based on the total of the number of RILA responses under the proposed amendments (90 responses) and the difference between the number of responses for registered separate accounts under the current aggregate annual burden estimate (426 responses) and the proposed additional annual burden estimates (419 responses). (90 RILA responses subtracted by 7 registered separate account responses).

B. Form N-4

Under the proposed amendments, RILA issuers would register offerings on Form N-4, as amended to address the features and risks of RILAs. We are also proposing other amendments to Form N-4 that would apply to all issuers that use that form. For example, we are proposing to switch the order of the Key Information Table and Overview of the Contract items, require issuers to present information in the KIT in a Q&A format, and to require more specific principal risk disclosures. These amendments would result in a change in our estimate of the burdens associated with this collection of information, specifically to account for these additional requirements for issuers that use Form N-4 currently and to add RILAs to the estimates.

Form N-4 generally imposes two types of reporting burdens on issuers that use the form: (1) the burden of preparing and filing the initial registration statement; and (2) the burden of preparing and filing post-effective amendments to a previously effective registration statement. In our most recent Paperwork Reduction Act submission for Form N-4, we estimated for Form N-4 a total aggregate annual hour burden of 292,487 hours, and a total aggregate annual external cost burden of $33,348,866.[496] Compliance with the disclosure requirements of Form N-4 is mandatory, and the responses to the disclosure requirements will not be kept confidential. The respondents to these collections of information would be RILA issuers and registered variable annuity separate accounts. The purpose of the information collection requirements on Form N-4

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496 On Oct. 26, 2021, the Office of Management and Budget approved without change this burden estimate.

are to meet the filing and disclosure requirements of the Securities Act and Investment Company Act, as applicable, and to provide investors with information necessary to evaluate an investment in an offering of securities registered on the form.

We estimate that 90 RILA respondents and 419 separate account registrants would be subject to collection of information requirements under the proposed amendments to Form N-4.[497]. The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N-4.

Table 12: Form N-4 PRA Estimates For Initial Filings

	Internal initial burden hours	Internal annual burden hours	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED ESTIMATES[3]					
Separate Account Registrants					
Proposed amendments	12	14[1]	$406 (blended rate for compliance attorney and senior programmer)[3]	$5,684	-
Estimated number of annual responses[4]		x 42		x 42	-
Total new annual burden		588		$238,728	-
RILA Issuers					
Proposed amendments to Form N-4	300	390.89[5]	$406 (blended rate for compliance attorney and senior programmer)[3]	$158,701.34	$40,000[8]
Website availability requirement[6]	-	0.5	$286 (webmaster)	$143	-
Estimated number of annual responses[7]		x 20		x 20	x 20
Total new annual burden		7,827.80		$3,176,886.80	$800,000
Total Burdens					
	Responses	Internal Hour Estimate		Internal Hour Cost Estimate	External Cost Estimate
Current aggregate annual burden estimates	30	8,427		$2,494,716	$754,740
Aggregate proposed additional annual burden estimates	+32[9]	+8,416.80		+$3,416,614.80	+$800,000
Revised aggregate annual burden estimates	=62	=16,843.80		=$5,911,330.80	=$1,554,740

497 For RILA registrants, this estimate is based on a review of RILA registration statements filed with the Commission as of May 2023. For separate account registrants, this amount is based on Form N-CEN reports through Apr. 15, 2023.

Notes:

1. This estimate includes the initial burden estimates annualized over a three-year period, plus 10 hours of ongoing annual burden hours.

2. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report. The estimated wage figures are modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, overhead, and adjusted to account for the effects of inflation.

3. The $406 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($425) and a senior programmer ($386). $406 is based on the following calculation: ($425 + $386)/2 = $406 rounded to the nearest whole dollar.

4. The estimate of the annual number of registration statements filed on Form N-4 is based on the average annual number of filings received by the Commission over the past three years (Jan. 1, 2020 to Dec. 31, 2022). In its most recently approved PRA submission, the Commission estimated that separate accounts will make approximately 30 initial registration statement filings per year. For the estimated burden of the proposed amendments to Form N-4, we have taken into account updated data regarding the number of initial filings on Form N-4.

5. The proposed estimate includes the initial burden estimates annualized over a three-year period, plus 290.89 hours of ongoing annual burden hours. The ongoing annual burden is estimated to be equal to the currently approved ongoing annual burden for initial filings on Form N-4 plus 10 hours of ongoing annual burden hours.

6. The proposed amendments would require RILA issuers to separately to include information about current contract limits on gains on their websites. *See* Item 17 of proposed Form N-4.

7. This estimate is based on a review of Morningstar data regarding the number of new RILA product launches that occurred over the prior three calendar years (2020 – 2022), rounded to the nearest ten. Current RILA registration statements would make their first filing on proposed Form N-4 as a post-effective amendment. See *supra* footnote 202 and accompanying text.

8. We estimate that the external cost to prepare and file an initial registration statement on Form N-4 is $40,000 per filing.

9. The estimated number of new responses is based on the total of the number of RILA responses under the proposed amendments (20 responses) and the difference between the number of responses for registered separate accounts under the current aggregate annual burden estimate (30 responses) and the proposed additional annual burden estimates (42 responses). (20 RILA responses plus 12 registered separate account responses).

Table 13: Form N-4 PRA Estimates For Post-Effective Amendment Filings

	Internal initial burden hours	Internal annual burden hours	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED ESTIMATES[3]					
Separate Account Registrants					
Proposed amendments	12	6[1]	$406 (blended rate for compliance attorney and senior programmer)[3]	$2,436	-
Estimated number of annual responses[4]		x1,016		x1,016	-
Total new annual burden		6,096		$2,474,976	-
RILA Issuers					
Proposed amendments to Form N-4	210	279.95[5]	$406 (blended rate for compliance attorney and senior programmer)[3]	$113,659.70	$24,000[8]
Website availability requirement[6]	-	0.5	$286 (webmaster)	$143	-
Estimated number of annual responses[7]		x90		x90	x90
Total new annual burden		25,240.50		10,242,243	$2,160,000
Total Burdens					
	Responses	Internal Hour Estimate		Internal Hour Cost Estimate	External Cost Estimate
Current aggregate annual burden estimates	1,366	+284,060		$84,100,454	+$32,594,126
Aggregate proposed additional annual burden estimates	-260[9]	+31,336.50	+	+$12,717,219	+$2,160,000
Revised aggregate annual burden estimates	=1,106	=315,369.50		=96,817,673	=$34,754,126

Notes:

1. This estimate includes the initial burden estimates annualized over a three-year period, plus two hours of on-going annual burden hours.

2. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report. The estimated wage figures are modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, overhead, and adjusted to account for the effects of inflation.

3. The $406 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($425) and a senior programmer ($386). $406 is based on the following calculation: ($425 + $386)/2 = $406 rounded to the nearest whole dollar.

4. The estimate of the annual number of post-effective amendments to registration statements on Form N-4 is based on the average annual number of filings received by the Commission over the past three years (Jan. 1, 2020 to Dec. 31, 2022). In its most recently approved PRA submission, the Commission estimated that separate accounts will make approximately 1,366 post-effective amendment filings per year on Form N-4. For the estimated burden of the proposed amendments to Form N-4, we have taken into account updated data regarding the number of post-effective amendment filings on Form N-4..

5. The proposed estimate includes the initial burden estimates annualized over a three-year period, plus 207.95 hours of ongoing annual burden hours. The ongoing annual burden is estimated to be equal to the currently approved ongoing annual burden for initial filings on Form N-4 plus an addition 2 hours of ongoing annual burden hours.

6. The proposed amendments would require RILA issuers to separately to include information about current contract limits on gains on their websites. *See* Item 17 of proposed Form N-4.

7. This estimate is based on a review of RILA registration statements filed with the Commission as of May 2023.

8. We estimate that the external cost to prepare and file a post-effective registration statement on Form N-4 is approximately $24,000 per filing.

9. The estimated number of new responses is based on the total of the number of RILA responses under the proposed amendments (90 responses) and the difference between the number of responses for registered separate accounts under the current aggregate annual burden estimate (1,366 responses) and the proposed additional annual burden estimates (1,016 responses). (90 RILA responses subtracted by 350 registered separate account responses).

Table 14: Total Burden Estimates For Form N-4

	Responses	Internal annual burden hours[1]	Internal time costs	Annual external cost burden
TOTAL BURDEN ESTIMATES INCLUDING AMENDMENTS				
Current aggregate annual burden estimates	1,366	292,487	$86,595,170	$33,348,866
Aggregate proposed additional annual burden estimates	-228	+39,753.30+	+$16,133,833.80	+$2,914,740
Revised aggregate annual burden hours	=1,168	=332,240.30	=$102,729,004	=$36,263,606

Notes:

1. This estimate includes the initial burden estimates annualized over a three-year period.

C. Form 24F-2

Under the proposed amendments, insurance companies would be required to pay applicable securities registration fees relating to RILAs in arrears on Form 24F-2. Consistent with the other elements of this proposal, these proposed amendments are designed to require insurance companies to use the same framework to pay securities registration fees for RILAs that they do for variable annuities. Form 24F-2 is the annual notice of securities sold by certain funds that accompanies the payment of registration fees with respect to the securities sold during the

fiscal year, net of securities redeemed or repurchased during the year. Compliance with Form 24F-2 is mandatory. Responses to this form are not kept confidential.

In our most recent Paperwork Reduction Act submission for Form 24F-2, we estimated for Form 24F-2 a total aggregate annual hour burden of 27,176 hours, and a total aggregate annual external cost burden of $0.[498] The likely respondents to the proposed amendments would include RILA issuers and current Form 24F-2 filers, which open-end investment companies, unit investment trusts, registered closed-end investment companies that make periodic repurchase offers under 17 CFR 270.23c-3, and face-amount certificate companies. We estimate that 90 RILA respondents would be subject to these proposed amendments and would file one Form 24F-2 filing each per year.[499] The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form 24F-2.

Table 15: Form 24F-2 PRA Estimates

	Internal initial burden hours	Internal annual burden hours	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED ESTIMATES					
Clerical work to file Form 24f-2	3	3[1]	$82 (compliance clerk)	$246	$0
Submission in a structured data format	3	3[1]	$316 (programmer)	$948	$0
Total annual burden per response		6	-	$1,194	
Number of annual responses[3]		x 90	-	x 90	X 90
Total new annual burden		540	-	$107,460	$0
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS					
	Responses	Internal annual burden hours		Internal time costs	Annual external cost burden
Current aggregate annual burden	6,794	27,176	-	$4,633,508	$0
Aggregate proposed additional annual burden estimates	+90	+540		+$107,460	+$0
Revised aggregate burden estimates	=6,884	=27,716	-	=$4,140,968	=$0

Notes:

498 On May 14, 2021, the Office of Management and Budget approved this burden estimate.

499 This estimate is based on a review of RILA registration statements filed with the Commission as of May 2023. We do not believe that the proposed amendments to Form 24F-2 will affect the estimated burdens associated with current Form 24F-2 filers. We have not amended the currently approved burdens for current Form 24F-2 filers with more recent data for the purposes of this PRA estimate.

1. The proposed estimate includes the initial burden estimates annualized over a three-year period, plus 2 hours of ongoing annual burden hours.

2. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report. The estimated wage figures are modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, overhead, and adjusted to account for the effects of inflation.

3. This estimate is based on a review of RILA registration statements filed with the Commission as of May 2023.

D. Investment Company Interactive Data

The Investment Company Interactive Data collection of information references current requirements for certain registered investment companies and BDCs to submit to the Commission in Inline XBRL certain information provided in response to specified form and rule requirements included in their registration statements and Exchange Act reports. We are proposing amendments to Form N-4, as well as rule 405 of Regulation S-T, that would require certain new structured data reporting requirements for RILA issuers.[500] The proposed amendments would require RILA issuers to tag specified information in registration statements filed on Form N-4 or post-effective amendments thereto, as well as in forms of prospectuses filed pursuant to rule 497(c) or 497(e) under the Securities Act that include information that varies from the registration statement using Inline XBRL.[501] The purpose of the information collection is to make information regarding RILAs easier for investors to analyze and to help automate regulatory filings and business information processing, and to improve consistency across all types of investment products offered on Form N-4 with respect to the accessibility of information they provide to the market.

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500 The Investment Company Interactive Data collection of information do not impose any separate burden aside from that described in our discussion of the burden estimates for this collection of information.

501 *See supra* section II.B.9.

Insurance companies that use Form N-4 to register variable annuities are currently required to tag certain registration statement disclosure items using Inline XBRL.[502] For the insurance companies that would now be registering RILAs on Form N-4, our proposed data tagging requirements would represent new burdens. Nevertheless, RILA issuers generally do have prior experience submitting filings to the Commission in Inline XBRL. The vast majority of insurance companies that currently register RILAs on Forms S-1 and S-3 also separately file Form N-4 to register variable annuities and variable life insurance products or currently tag their RILA registration statements and are thus familiar with the current Form N-4 tagging requirements.[503] In addition, insurance companies that register RILAs on Forms S-1 and S-3 that file GAAP financial statements must tag them using Inline XBRL.[504] Given this prior experience, we do not expect the proposed tagging requirements to be as burdensome to many RILA issuers as it would be for issuers that would be going through the Inline XBRL tagging and submission process for the first time.

In our most recent Paperwork Reduction Act submission for the Investment Company Interactive Data collection of information, we estimated a total annual hour burden of 323,724 hours, and a total annual external cost burden of $16,041,450.[505] Compliance with the interactive data requirements is mandatory, and the responses will not be confidential.

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502 *See* General Instruction C.3(h) of current Form N-4. As discussed above, some of the proposed items would also require certain variable annuity issuers to provide a few additional disclosures, which though relatively minor, would also have to tagged.

503 Based on analysis of Forms S-1, S-3, and POS AM filed by RILA issuers, 22 of the 23 insurance companies that issue RILAs also offer variable products registered on Forms N-3, N-4, or N-6, all of which are currently structured, or otherwise have experience tagging registration statements.

504 *See* Inline XBRL Filing of Tagged Data, Securities Act Release No. 10514 (June 28, 2018) [83 FR 40846 (Aug. 16, 2018)].

505 This estimate is based on the last time the PRA renewal for the Investment Company Interactive Data information collection was approved in 2023. *See* ICR Reference No. 202212-3235-007, *available at* https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202212-3235-007.

The table below summarizes our PRA estimates for the burdens associated with the proposed tagging requirements that would apply to RILAs that file with the Commission on Form N-4.

Table 16: Investment Company Interactive Data

	Internal initial burden hours	Internal annual burden hours[1]	Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED BURDENS					
Proposed disclosures for current N-4 filers[3]	1 hour	1 hour[4]	$406 (blended rate for compliance attorney and senior programmer)	$406	**$50[5]**
Number of current N-4 filers[6]		× 400		× 400	**×400**
Total new burden estimates for current N-4 filers		400 hours		$162,400	**$20,000**
Proposed Form N-4 disclosures for RILAs[7]	9 hours	4 hours[8]	$406 (blended rate for compliance attorney and senior programmer)	$1,624	**$700[9]**
Number of RILAs[10]		× 90		× 90	x 90
Total new burden estimates for RILAs		360 hours		$146,160	$63,000
Total new aggregate annual burden		760 hours[11]		$308,560[12]	$63,000[13]
TOTAL PROPOSED ESTIMATED BURDENS INCLUDING AMENDMENTS					
	Responses	**Internal Hour Estimate**		**Internal Hour Cost Estimate**	**External Cost Estimate**
Current aggregate annual burden estimates	**14,702**	323,724 hours		$27,066,240	$16,041,450
Proposed additional annual burdens	**+90**	+ 760 hours		+ $308,560	+ $63,000
Revised aggregate annual burden estimates	**14,792**	324,484 hours		$27,374,800	$16,124,450

Notes:

1. Includes initial burden estimates annualized over a 3-year period.

2. The PRA estimates assume that the types of professionals that will be involved in complying with the new interactive data requirements. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report. The $406 wage rate reflects current estimates of the blended hourly rate for an in-house compliance attorney ($425) and a senior programmer ($386). $406 is based on the following calculation: ($425 + $386)/2 = $406. This estimate represents the average burden for a filer on Form N-4 that is currently subject to interactive data requirements.

3. Estimated incremental burden for a variable annuity Form N-4 filer that is subject to the form's current interactive data requirements.

4. Includes initial burden estimates annualized over a three-year period, plus 0.67 hour of ongoing annual burden hours. The estimate of 1 hour is based on the following calculation: ((1 initial hour /3) + 0.67 hour of additional ongoing burden hours) = 1 hour.

5. Estimated incremental external cost for Form N-4 variable annuity registrants that already submit certain information using Inline XBRL.

6. Based on Form N-CEN filing data for 2022, we estimate that 400 variable annuity registrants file on Form N-4.

7. Estimated average burden for a RILA that files on Form N-4 that is currently subject to interactive data requirements on other Commission forms.

8. Includes initial burden estimates annualized over a three-year period, plus 1 hour of ongoing annual burdens. The estimate of 4 hours is based on the following calculation: ((9 initial hours /3) + 1 hour of additional ongoing burden hours) = 4 hours.

9. We estimate an incremental external cost for RILAs that would be newly filing on Form N-4 of $700 to reflect one-time compliance and initial set-up costs. Because RILAs are currently subject to Inline XBRL tagging requirements on other forms, we do not estimate any burdens related to one time-costs associated with becoming familiar with structured data requirements (*e.g.*, the acquisition of new software or the services of consultants).

10. Estimated number of RILAs that currently file on Forms S-1 and S-3.

11. 760 hours = (400 variable annuity registrants x 1 hour = 400) + (90 RILAs x 4 hours = 360).

12. $308,560 internal time cost = (400 variable annuity registrants x $406 = $162,400) + (90 RILAs x $1,624 = $146,160).

13. $63,000 annual external cost = (400 variable annuity registrants x $50 = $20,000) + (90 RILAs x $700 = $63,000).

E. Request for Comment

We request comment on whether our estimates are reasonable. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to: (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (3) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) determine whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology. Persons wishing to submit comments on the collection of information requirements of the proposed amendments should direct them to the OMB Desk Officer for the Securities and Exchange Commission, MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov, and should send a copy to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090, with reference to File No. S7-16-23. OMB is required to make a decision

concerning the collections of information between 30 and 60 days after publication of this release; therefore a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7-16-23, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

V. REGULATORY FLEXIBILITY CERTIFICATION

Section 3(a) of the Regulatory Flexibility Act of 1980 ("Regulatory Flexibility Act")[506] requires the Commission, when issuing a rulemaking proposal, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule and form amendments on small entities unless we certify that the rule and form amendments, if adopted, would not have a significant economic impact on a substantial number of small entities.[507] Pursuant to 5 U.S.C. 605(b), we hereby certify that the proposed amendments to Forms N-4 and 24F-2, rules 313 and 405 of Regulation S-T, and rules 156, 172, 405, 415, 424, 456, 457, 485, 497, and 498A under the Securities Act, would not, if adopted, have a significant economic impact on a substantial number of small entities.

We are proposing amendments to Form N-4 pursuant to the authority set forth in the Securities Act, particularly sections 6, 7, 8, 10, 19, and 28 thereof [15 U.S.C. 77f, 77g, 77h, 77j, 77s, and 77z-3], the Exchange Act, particularly sections 3, 4, 10, 12, 13, 14, 15, 17, 23, 35A, and 36 thereof [15 U.S.C. 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78q, 78w, 78ll, and 78mm]; the Investment Company Act, particularly sections 8, 30, and 38 thereof [15 U.S.C. 80a-8, 80a-29,

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506 5 U.S.C. 603(a).

507 5 U.S.C. 605(b).

and 80a-37], and the RILA Act, particularly section 101 thereof [Pub. L. No. 117-328, div. AA, title I, 136 Stat. 4459 (2022)]. Form-N-4 is the registration form currently used by most variable annuity separate accounts. These proposed amendments would implement the requirements relating to RILAs contained in the RILA Act by allowing Form N-4 to also be used for the registration of RILAs.

The proposed amendments would add to Form N-4 new disclosure requirements that specifically address the features and risks of RILAs. Specifically, the proposal would amend the contents of Form N-4, including the form's general instructions, requirements for front and back cover pages, the key information table, principal disclosures regarding RILA investment options, and contract adjustment and fee disclosures. These amendments would apply only to insurance companies registering RILAs. We are also proposing applying the form's existing disclosure requirements to RILAs where appropriate. For example, we are proposing to permit insurance companies to provide financial statements on amended Form N-4 regarding RILAs in the same way that that they do under the current Form N-4 for variable annuities, including permitting the use of SAP to the same extent as variable annuities.

In addition to adding RILAs to Form N-4, we are proposing amendments to the form that would be applicable to all issuers, which are designed to improve disclosures based upon our experience in administering the form and feedback received in investor testing. For example, we are proposing to switch the order of the key information table and overview of the contract items in the prospectus to require more specific principal risk disclosures. All Form N-4 filers would be subject to these proposed amendments.

To facilitate to the inclusion of RILAs on Form N-4, we are proposing amending Form 24F-2, rules 313 and 405 of Regulation S-T, and rules 156, 172, 405, 415, 424, 456, 457, 485,

497, and 498A, pursuant to authority set forth in the Securities Act, particularly sections 6, 7, 8, 10, and 19(a), and 28 thereof [15 U.S.C. 77e, 77f, 77g, 77h, 77j, and 77s, and 77z-3(a)], the Exchange Act, particularly sections 3, 4, 10, 12, 13, 14, 15, 17, 23, 35A, and 36 thereof [15 U.S.C. 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78q, 78w, 78ll, and 78mm]; the Investment Company Act, particularly sections 8, 30, and 38 thereof [15 U.S.C. 80a-8, 80a-29, and 80a-37], and the RILA Act, particularly section 101 thereof [Pub. L. No. 117-328, div. AA, title I, 136 Stat. 4459 (2022)]. For example, the proposed amendment to rule 498A would permit RILA issuers to use a summary prospectus to satisfy statutory prospectus delivery obligations, and the proposed amendments to rules 485 and 497 would make those rules applicable to RILA issuers when amending RILA registration statements on Form N-4 or when filing prospectuses and prospectus supplements with the Commission.[508] The proposed amendments to Form 24F-2, Rule 313 of Reg S-T, and rules 456 and 457 would require insurance companies to pay securities registration fees relating to RILA offerings according to the same method used for variable annuities. Because we propose subjecting RILA offerings to an investor communication framework similar to the framework applicable to variable annuity offerings, the proposed amendments to rule 172 would exclude RILA offerings from that rule's provisions. The proposed amendment of rule 405 of Reg S-T would require inline XBRL tagging of RILA-specific disclosures, while the proposed amendment of rule 405 would add a new defined term for RILAs to facilitate their registration on Form N-4 and to simplify references to RILAs in our proposed rule amendments. The proposed amendments to rule 156 would require RILA issuers to comply with the rule's guidance as to when sales literature is materially misleading under the Federal securities laws.

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508 Relatedly, we propose amending rule 424 to specify that RILA issuers must use rule 497 rather than rule 424 when filing prospectuses and prospectus supplements, and making similar amendments to rule 415 to exempt RILA offerings from its provisions, consistent with the framework applied to existing N-4 issuers.

For purposes of the Securities Act and the Regulatory Flexibility Act, generally, an issuer, other than an investment company, will be considered a small entity if it has net assets of $5 million or less as of the end of its most recent fiscal year, and the issuer's offering does not exceed $5 million.[509] RILA issuers are not investment companies and based on a review of EDGAR filings of existing RILA issuers, we do not expect any RILA issuers will be treated as small entities. The analysis is different for existing N-4 filers (*i.e.,* variable annuity issuers), as the insurance company separate accounts registering variable annuities are deemed to be investment companies. Generally, for purposes of the Investment Company Act and the Regulatory Flexibility Act, an investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of $50 million or less as of the end of its most recent fiscal year.[510] Because State law generally treats separate account assets as the property of the sponsoring insurance company, rule 0-10 aggregates each separate account's assets with the assets of the sponsoring insurance company, together with assets held in other sponsored separate accounts.[511] As a result, the Commission expects few, if any, separate account to be treated as small entities.

For this reason, we believe that the proposed amendments would not, if adopted, have a significant economic impact on a substantial number of small entities.

The Commission encourages written comments on the certification. We solicit comment as to whether the proposed form and rule amendments could have an effect on small entities that

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509 17 CFR 230.157 (defining "small business" or "small organization" under the Securities Act for purposes of the Regulatory Flexibility Act); 15 U.S.C 77c(b)(1) (defining "small entity" to mean "small business," "small organization," or "small governmental jurisdiction").

510 17 CFR 270.0-10(a).

511 17 CFR 270.0-10(b).

has not been considered. We ask that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VI. CONSIDERATION OF IMPACT ON THE ECONOMY

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), the Commission must advise OMB whether a proposed regulation constitutes a 184 "major" rule. Under SBREFA, a rule is considered "major" where, if adopted, it results in or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment, or innovation.

We request comment on whether our proposal would be a "major rule" for purposes of SBREFA. We solicit comment and empirical data on:

- The potential effect on the U.S. economy on an annual basis;
- Any potential increase in costs or prices for consumers or individual industries; and
- Any potential effect on competition, investment, or innovation.

Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

STATUTORY AUTHORITY

The amendments contained in this release are being proposed under the authority set forth in the Securities Act, particularly sections 6, 7, 8, 10, 19, and 28 thereof [15 U.S.C. 77a *et seq.*]; the Exchange Act, particularly sections 3, 4, 10, 12, 13, 14, 15, 17, 23, 35A, and 36 thereof [15 U.S.C. 78a *et seq.*]; the Investment Company Act, particularly, Sections 8, 30, and 38

thereof, and the RILA Act, particularly section 101 thereof [Pub. L. No. 117–328, div. AA, title I, 136 Stat. 4459 (2022)].

List of Subjects

17 CFR Part 230

Advertising, Confidential business information, Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

TEXT OF RULE AND FORM AMENDMENTS

For reasons set forth in the preamble, we are proposing to amend title 17, chapter II of the *Code of Federal Regulations* as follows:

PART 230 – GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78o-7 note, 78t, 78w, 78ll(d), 78mm, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, and Pub. L. 112-106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, and 85, as amended (15 U.S.C. 77f, 77h, 77j, 77s).

Sec. 230.457 also issued under secs. 6 and 7, 15 U.S.C. 77f and 77g.

* * * * *

2. Revise §230.156 to read as follows:

§ 230.156 Investment company and registered index-linked annuity sales literature.

(a) Under the Federal securities laws, including section 17(a) of the Securities Act of 1933 (15 U.S.C. 77q(a)) and section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b)) and § 240.10b-5 of this chapter (Rule 10b-5) thereunder, it is unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, to use sales literature which is materially misleading in connection with the offer or sale of registered index-linked annuity (as defined in § 230.405 (Rule 405)) securities or securities issued by an investment company. Under these provisions, sales literature is materially misleading if it:

(1) Contains an untrue statement of a material fact; or

(2) Omits to state a material fact necessary in order to make a statement made, in the light of the circumstances of its use, not misleading.

(b) Whether or not a particular description, representation, illustration, or other statement involving a material fact is misleading depends on evaluation of the context in which it is made. In considering whether a particular statement involving a material fact is or might be misleading, weight should be given to all pertinent factors, including, but not limited to, those listed below.

(1) A statement could be misleading because of:

(i) Other statements being made in connection with the offer of sale or sale of the securities in question;

(ii) The absence of explanations, qualifications, limitations or other statements necessary or appropriate to make such statement not misleading; or

(iii) General economic or financial conditions or circumstances.

(2) Representations about past or future investment performance could be misleading because of statements or omissions made involving a material fact, including situations where:

(i) Portrayals of past income, gain, or growth of assets convey an impression of the net investment results achieved by an actual or hypothetical investment which would not be justified under the circumstances, including portrayals that omit explanations, qualifications, limitations, or other statements necessary or appropriate to make the portrayals not misleading; and

(ii) Representations, whether express or implied, about future investment performance, including:

(A) Representations, as to security of capital, possible future gains or income, or expenses associated with an investment;

(B) Representations implying that future gains or income may be inferred from or predicted based on past investment performance; or

(C) Portrayals of past performance, made in a manner which would imply that gains or income realized in the past would be repeated in the future.

(3) A statement involving a material fact about the characteristics or attributes of an investment company or registered index-linked annuity could be misleading because of:

(i) Statements about possible benefits connected with or resulting from services to be provided or methods of operation which do not give equal prominence to discussion of any risks or limitations associated therewith;

(ii) Exaggerated or unsubstantiated claims about management skill or techniques, characteristics of the investment company or registered index-linked annuity or an investment in securities issued by such company, services, security of investment or funds, effects of government supervision, or other attributes; and

(iii) Unwarranted or incompletely explained comparisons to other investment vehicles or to indexes.

(4) Representations about the fees or expenses associated with an investment in the fund or registered index-linked annuity could be misleading because of statements or omissions made involving a material fact, including situations where portrayals of the fees and expenses associated with an investment in the fund or registered index-linked annuity omit explanations, qualifications, limitations, or other statements necessary or appropriate to make the portrayals not misleading.

(c) For purposes of this section, the term *sales literature* shall be deemed to include any communication (whether in writing, by radio, or by television) used by any person to offer to sell or induce the sale of securities of any investment company or registered index-linked annuity. Communications between issuers, underwriters and dealers are included in this definition of sales literature if such communications, or the information contained therein, can be reasonably expected to be communicated to prospective investors in the offer or sale of securities or are designed to be employed in either written or oral form in the offer or sale of securities.

(d) Nothing in this section may be construed to prevent a business development company or a registered closed-end investment company from qualifying for an exemption under § 230.168 or § 230.169.

3. Amend §230.172 by revising paragraph (d) to read as follows:

§ 230.172 Delivery of prospectuses.

* * * * *

(d) *Exclusions.* This section shall not apply to any:

(1) Offering of any investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company;

(2) A business combination transaction as defined in § 230.165(f)(1);

(3) Offering registered on Form S-8 (§ 239.16b of this chapter); or

(4) Offering of any registered index-linked annuity (as defined in §230.405 (Rule 405)) securities.

4. Amend §230.405 by adding in alphabetical order definitions for "Form available solely to investment companies registered under the Investment Company Act of 1940" and "Registered index-linked annuity" to read as follows:

§ 230.405 Definitions of terms.

* * * * *

Form available solely to investment companies registered under the Investment Company Act of 1940. A form available solely to investment companies registered under the Investment Company Act of 1940 includes the form used to register the offering of securities of a registered index-linked annuity for purposes of the Securities Act of 1933.

* * * * *

Registered index-linked annuity. The term *registered index-linked annuity* means an annuity or an option available under an annuity:

(1) That is deemed a security;

(2) That is offered or sold in a registered offering;

(3) That is issued by an insurance company that is the subject to the supervision of either the insurance commissioner or bank commissioner of any State or any agency or officer performing like functions as such commissioner;

(4) That is not issued by an investment company; and

(5) Whose value, either during the accumulation period or after annuitization or both, will earn positive or negative interest based, in part, on the performance of any index, rate, or benchmark.

* * * * *

5. Amend §230.415 by revising paragraph (b) to read as follows:

§ 230.415 Delayed or continuous offering and sale of securities.

* * * * *

(b) This section shall not apply to any registration statement pertaining to a registered index-linked annuity (as defined in §230.405 (Rule 405)), securities issued by a face-amount certificate company, or redeemable securities issued by an open-end management company or unit investment trust under the Investment Company Act of 1940 or any registration statement filed by any foreign government or political subdivision thereof.

6. Amend §230.424 by revising paragraph (f) to read as follows:

§ 230.424 Filing of prospectuses, number of copies.

* * * * *

(f) This section shall not apply with respect to prospectuses of an investment company registered under the Investment Company Act of 1940 (other than a registered closed-end investment company) or prospectuses that pertain to a registered index-linked annuity (as defined in §230.405 (Rule 405)). References to "form of prospectus" in paragraphs (a), (b), and (c) of this section shall be deemed also to refer to the form of Statement of Additional Information.

* * * * *

7. Amend §230.456 by adding paragraph (e) to read as follows:

§ 230.456 Date of filing; timing of fee payment.

* * * * *

(e)(1) Notwithstanding paragraph (a) of this section, where a registration statement relates to an offering of registered index-linked annuity (as defined in §230.405 (Rule 405)) securities, an issuer shall be deemed to register an offering of an indeterminate amount of such securities and shall, not later than 90 days after the end of any fiscal year during which it has publicly offered such securities, pay a registration fee to the Commission calculated in accordance with § 230.457(u) (Rule 457(u)) and file Form 24F-2 (referenced in 17 CFR 274.24) with the Commission.

Instruction 1 to paragraph (e)(1): To determine the date on which the registration fee must be paid, the first day of the 90-day period is the first calendar day of the fiscal year following the fiscal year for which the registration fee is to be paid. If the last day of the 90-day period falls on a Saturday, Sunday, or Federal holiday, the registration fee is due on the first business day thereafter.

(2) When registering an offering of an indeterminate amount of registered index-linked annuity securities pursuant to paragraph (e)(1) of this section, the securities sold will be considered registered, for purposes of section 6(a) of the Act, if the registration fee has been paid

and the issuer has filed a Form 24F-2 filing pursuant to paragraph (e)(1) of this section not later than the end of the 90-day period.

(3) A registration statement filed in accordance with the registration fee payment provisions of paragraph (e)(1) of this section will be considered filed as to the securities identified in the registration statement for purposes of this section and section 5 of the Act when it is received by the Commission, if it complies with all other requirements under the Act, including this part.

(4) For purposes of this section, if an issuer ceases operations, the date the issuer ceases operations will be deemed to be the end of its fiscal year. In the case of a liquidation, merger, or sale of all or substantially all of the assets ("merger") of the issuer, the issuer will be deemed to have ceased operations for the purposes of this section on the date the merger is consummated; provided, however, that in the case of a merger of an issuer or a series of an issuer ("Predecessor") with another issuer or a series of an issuer ("Successor"), the Predecessor will not be deemed to have ceased operations and the Successor will assume the obligations, fees, and redemption credits of the Predecessor incurred pursuant to this section if the Successor:

(i) Had no assets or liabilities, other than nominal assets or liabilities, and no operating history immediately prior to the merger;

(ii) Acquired substantially all of the assets and assumed substantially all of the liabilities and obligations of the Predecessor; and

(iii) The merger is not designed to result in the Predecessor merging with, or substantially all of its assets being acquired by, an issuer (or a series of an issuer) that would not meet the conditions of paragraph (e)(4)(i) of this section.

(5) An issuer paying the fee required by paragraph (e)(1) of this section or any portion thereof more than 90 days after the end of the fiscal year of the issuer shall pay to the Commission interest on unpaid amounts, calculated based on the interest rate in effect at the time of the interest payment by reference to the "current value of funds rate" on the Treasury Department's Bureau of Fiscal Service internet site at https://fiscal.treasury.gov/, or by calling (202) 874-6995, and using the following formula: I = (X) (Y) (Z/365), where: I = Amount of interest due; X = Amount of registration fee due; Y = Applicable interest rate, expressed as a fraction; Z = Number of days by which the registration fee payment is late. The payment of interest pursuant to this paragraph (e)(5) shall not preclude the Commission from bringing an action to enforce the requirements of this paragraph (e).

(6) An immaterial or unintentional failure to comply with a requirement of this paragraph (e) will not result in a violation of section 6(a) of the Act (15 U.S.C. 77f(a)), so long as:

(i) A good faith and reasonable effort was made to comply with the requirement; and

(ii) In the case of a late payment of a registration fee, the issuer pays the registration fee and any interest due thereon as soon as practicable after discovery of the failure to pay the registration fee.

8. Amend §230.457 by revising paragraph (u) to read as follows:

§ 230.457 Computation of fee.

* * * * *

(u) Where an issuer elects or is required to register an offering of an indeterminate amount of exchange-traded vehicle securities in accordance with § 230.456(d) (Rule 456(d)) or registered index-linked annuity securities (as defined in §230.405 (Rule 405)) in accordance with § 230.456(e) (Rule 456(e)), the registration fee is to be calculated in the following manner:

(1) Determine the aggregate sale price of such securities sold during the fiscal year.

(2) Determine the sum of:

(i) The aggregate redemption or repurchase price of such securities redeemed or repurchased during the fiscal year; and

(ii) The aggregate redemption or repurchase price of such securities redeemed or repurchased during a prior fiscal year that were not used previously to reduce registration fees payable to the Commission, if the prior fiscal year ended no earlier than August 1, 2021 in the case of exchange traded vehicle securities, or [EFFECTIVE DATE OF THE FINAL RULE] in the case of registered index-linked annuity securities.

(3) Subtract the amount in paragraph (u)(2) of this section from the amount in paragraph (u)(1) of this section. If the resulting amount is positive, the amount is the net sales amount. If the resulting amount is negative, it is the amount of redemption credits available for use in future years to offset sales.

(4) The registration fee is calculated by multiplying the net sales amount by the fee payment rate in effect on the date of the fee payment. If the issuer determines that it had net redemptions or repurchases for the fiscal year, no registration fee is due.

9. Amend §230.485 by revising the section heading and paragraphs (a)(1) and (b) introductory text to read as follows:

§ 230.485 Effective date of post-effective amendments filed by certain registered investment companies or issuers offering registered index-linked annuities.

(a) * * *

(1) Except as otherwise provided in this section, a post-effective amendment to a registration statement filed by a registered open-end management investment company, unit investment trust or, separate account as defined in section 2(a)(37) of the Investment Company

Act of 1940 [15 U.S.C. 80a-2(a)(37)] or to register an offering of a registered index-linked annuity securities (as defined in §230.405 (Rule 405)) shall become effective on the sixtieth day after the filing thereof, or a later date designated by the registrant on the facing sheet of the amendment, which date shall be no later than eighty days after the date on which the amendment is filed.

* * * * *

(b) *Immediate effectiveness.* Except as otherwise provided in this section, a post-effective amendment to a registration statement filed by a registered open-end management investment company, unit investment trust or separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a-2(a)(37)] or to register an offering of a registered index-linked annuity securities shall become effective on the date upon which it is filed with the Commission, or a later date designated by the registrant on the facing sheet of the amendment, which date shall be not later than thirty days after the date on which the amendment is filed, except that a post-effective amendment including a designation of a new effective date pursuant to paragraph (b)(1)(iii) of this section shall become effective on the new effective date designated therein, Provided, that the following conditions are met:

* * * * *

10. Amend §230.497 by revising the section heading and paragraphs (c) and (e) to read as follows:

§ 230.497 Filing of investment company or registered index-linked annuity prospectuses—number of copies

* * * * *

(c) For investment companies filing on §§239.15A and 274.11A of this chapter (Form N-1A), §§239.17a and 274.11b of this chapter (Form N-3), §§239.17b and 274.11c of this chapter (Form N-4), or §§239.17c and 274.11d of this chapter (Form N-6), or an offering of registered index-linked annuities (as defined in Rule 405 (§230.405)) being filed on Form N-4, within five days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, 10 copies of each form of prospectus and form of Statement of Additional Information used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used. Investment companies filing on Forms N-1A, N-3, N-4, or N-6 and issuers of registered index-linked annuities filing on Form N-4 must, if applicable pursuant to General Instruction C.3.(g) of Form N-1A, General Instruction C.3.(h) of Form N-3, General Instruction C.3.(h) of Form N-4, or General Instruction C.3.(h) of Form N-6, submit an Interactive Data File (as defined in §232.11 of this chapter).

* * * * *

(e) For investment companies filing on §§239.15A and 274.11A of this chapter (Form N-1A), §§239.17a and 274.11b of this chapter (Form N-3), §§239.17b and 274.11c of this chapter (Form N-4), or §§239.17c and 274.11d of this chapter (Form N-6), or an offering of registered index-linked annuities being filed on Form N-4, after the effective date of a registration statement, no prospectus that purports to comply with Section 10 of the Act (15 U.S.C. 77j) or Statement of Additional Information that varies from any form of prospectus or form of Statement of Additional Information filed pursuant to paragraph (c) of this section shall be used until five copies thereof have been filed with, or mailed for filing to the Commission. Investment companies filing on Forms N-1A, N-3, N-4, or N-6 and issuers of registered index-linked

annuities filing on Form N-4 must, if applicable pursuant to General Instruction C.3.(g) of Form N-1A, General Instruction C.3.(h) of Form N-3, General Instruction C.3.(h) of Form N-4, or General Instruction C.3.(h) of Form N-6, submit an Interactive Data File (as defined in §232.11 of this chapter).

* * * * *

11. Revise §230.498A to read as follows:

§ 230.498A Summary Prospectuses for separate accounts offering variable annuity and variable life insurance contracts, and contracts offering registered index-linked options.

(a) *Definitions.* For purposes of this section:

Class means a class of a Contract that varies principally with respect to distribution-related fees and expenses.

Contract means a Variable Annuity Contract, a Variable Life Insurance Contract, or a RILA Contract as defined in this section, respectively, as well as any Variable Annuity Contract or RILA Contract that offers a combination of Index-Linked Options, Variable Options, and/or Fixed Options.

Fixed Option means an Investment Option under a Contract pursuant to which the value of the Contract (for a Form N-3 or Form N-4 Registrant, either during an accumulation period or after annuitization, or both) will earn interest at a rate specified by the Company, subject to a minimum guaranteed rate under the Contract.

Index-Linked Option means an Investment Option offered under a Contract, pursuant to which the value of the Contract, either during an accumulation period or after annuitization, or both, will earn positive or negative interest based, in part, on the performance of a specified index, rate, or benchmark (such as a registered exchange-traded fund that tracks an index).

Initial Summary Prospectus means the initial summary prospectus described in paragraph (b) of this section.

Insurance Company means the insurance company issuing the Contract, which company is subject to State supervision. The Insurance Company may also be the depositor or sponsor of any Registered Separate Account in which the Contract participates.

Investment Option means a Fixed Option, an Index-Linked Option, and/or a Variable Option, as applicable.

Portfolio Company means any company in which a Registrant on Form N-4 or Form N-6 invests and which may be selected as a Variable Option by the investor.

Portfolio Company Prospectus means the Statutory Prospectus of a Portfolio Company and a summary prospectus of a Portfolio Company permitted by § 230.498.

Registered Separate Account means a separate account (as defined in section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) that has an effective registration statement on §§ 239.17a and 274.11b of this chapter (Form N-3), §§ 239.17b and 274.11c of this chapter (Form N-4), or §§ 239.17c and 274.11d of this chapter (Form N-6) and that has a current prospectus that satisfies the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)).

Registrant means, as applicable, a Registered Separate Account or the Insurance Company.

RILA Contract means any accumulation contract or annuity contract, any portion thereof, or any unit of interest or participation therein, issued by an Insurance Company, that offers Index-Linked Options.

Statement of Additional Information means the statement of additional information required by Part B of Form N-1A, Form N-3, Form N-4, or Form N-6.

Statutory Prospectus means a prospectus that satisfies the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)).

Summary Prospectus refers to both the Initial Summary Prospectus and the Updating Summary Prospectus.

Updating Summary Prospectus means the updating summary prospectus described in paragraph (c) of this section.

Variable Annuity Contract means any accumulation contract or annuity contract, any portion thereof, or any unit of interest or participation therein, issued by an Insurance Company, 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 a Portfolio Company.

Variable Life Insurance Contract means a life insurance contract, issued by an Insurance Company, that provides for death benefits and cash values that may vary with the investment performance of any separate account.

Variable Option means:

(1) In the context of a Registrant on Form N-4 or Form N-6, an Investment Option under any Contract pursuant to which the value of the Contract (for a Form N-4 Registrant, either during an accumulation period or after annuitization, or both) varies according to the investment experience of a Portfolio Company;

(2) In the context of a Registrant on Form N-3, any portfolio of investments in which a Registrant on Form N-3 invests and which may be selected as an option by the investor.

(b) *General Requirements for Initial Summary Prospectus.* An Initial Summary Prospectus that complies with this paragraph (b) will be deemed to be a prospectus that is authorized under section 10(b) of the Act (15 U.S.C. 77j(b)) and section 24(g) of the Investment

Company Act (15 U.S.C. 80a-24(g)) for the purposes of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)).

(1) *Scope of Initial Summary Prospectus.* An Initial Summary Prospectus may only describe a single Contract (but may describe more than one Class of the Contract) currently offered by the Registrant under the Statutory Prospectus to which the Initial Summary Prospectus relates.

(2) *Cover Page or Beginning of Initial Summary Prospectus.* Include on the front cover page or the beginning of the Initial Summary Prospectus:

(i) The Insurance Company's name;

(ii) The name of the Contract, and the Class or Classes if any, to which the Initial Summary Prospectus relates;

(iii) A statement identifying the document as a "Summary Prospectus for New Investors";

(iv) The approximate date of the first use of the Initial Summary Prospectus;

(v) The following legend, which for Initial Summary Prospectuses of Contracts registered on Form N-4 would be included along with the statements described in Item 1(a)(6) through (8) of Form N-4:

This Summary Prospectus summarizes key features of the [Contract].

Before you invest, you should also review the prospectus for the [Contract], which contains more information about the [Contract's] features, benefits, and risks. You can find this document and other information about the [Contract] online at [_____]. You can also obtain this information at no cost by calling [_____] or by sending an email request to [_____].

You may cancel your [Contract] within 10 days of receiving it without paying fees or penalties. In some states, this cancellation period may be longer. Upon cancellation, you will

receive either a full refund of the amount you paid with your application or your total contract value. You should review the prospectus, or consult with your investment professional, for additional information about the specific cancellation terms that apply.

Additional information about certain investment products, including [variable annuities/registered index-linked annuities/variable life insurance contracts], has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

(A) A Registrant may modify the legend so long as the modified legend contains comparable information.

(B) The legend must provide a website address, other than the address of the Commission's electronic filing system; toll-free telephone number; and email address that investors can use to obtain the Statutory Prospectus and other materials, request other information about the Contract, and make investor inquiries. The website address must be specific enough to lead investors directly to the Statutory Prospectus and other materials that are required to be accessible under paragraph (h)(1) of this section, rather than to the home page or other section of the website on which the materials are posted. The website could be a central site with prominent links to each document. The legend may indicate, if applicable, that the Statutory Prospectus and other information are available from a financial intermediary (such as a broker-dealer) through which the Contract may be purchased or sold. If a Registered Separate Account that has an effective registration statement on Form N-3 relies on § 270.30e-3 of this chapter to transmit a report, the legend must also include the website address required by § 270.30e-3(c)(1)(iii) of this chapter if different from the website address required by this paragraph (b)(2)(v)(B).

(C) The paragraph of the legend regarding cancellation of the Contract may be omitted if not applicable. If this paragraph is included in the legend, the paragraph must be presented in a manner reasonably calculated to draw investor attention to that paragraph.

(D) The legend may include instructions describing how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.

(3) *Back Cover Page or Last Page of Initial Summary Prospectus.*

(i) If a Registrant incorporates any information by reference into the Summary Prospectus, include a legend identifying the type of document (*e.g.*, Statutory Prospectus) from which the information is incorporated and the date of the document. If a Registrant incorporates by reference a part of a document, the legend must clearly identify the part by page, paragraph, caption, or otherwise. If information is incorporated from a source other than the Statutory Prospectus, the legend must explain that the incorporated information may be obtained, free of charge, in the same manner as the Statutory Prospectus.

(ii) Include on the bottom of the back cover page or the last page of the Initial Summary Prospectus the EDGAR contract identifier for the contract in type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).

(4) *Table of Contents.* An Initial Summary Prospectus may include a table of contents meeting the requirements of § 230.481(c).

(5) *Contents of Initial Summary Prospectus.* An Initial Summary Prospectus must contain the information required by this paragraph (b)(5) with respect to the applicable registration form, and only the information required by this paragraph (b)(5), in the order provided in paragraphs (b)(5)(i) through (ix) of this section, except that, for an Initial Summary Prospectus related to a

Contract registered on Form N-4, provide the information provided in paragraph (b)(5)(ii) before the information provided by paragraph (b)(5)(i).

(i) Under the heading "Important Information You Should Consider About the [Contract]," the information required by Item 2 of Form N-3, Item 3 of Form N-4, or Item 2 of Form N-6.

(ii) Under the heading "Overview of the [Contract]," the information required by Item 3 of Form N-3, Item 2 of Form N-4, or Item 3 of Form N-6.

(iii) Under the heading "Standard Death Benefits," the information required by Item 10(a) of Form N-6.

(iv) Under the heading "Benefits Available Under the [Contract]," the information required by Item 11(a) of Form N-3 or Item 10(a) of Form N-4. Under the heading "Other Benefits Available Under the [Contract]," the information required by Item 11(a) of Form N-6.

(v) Under the heading "Buying the [Contract]," the information required by Item 12(a) of Form N-3, Item 11(a) of Form N-4, or Item 9(a) through (c) of Form N-6.

(vi) Under the heading "How Your [Contract] Can Lapse," the information required by Item 14(a) through (c) of Form N-6.

(vii) Under the heading "Making Withdrawals: Accessing the Money in Your [Contract]," the information required by Item 13(a) of Form N-3, Item 12(a) of Form N-4, or Item 12(a) of Form N-6.

(viii) Under the heading "Additional Information About Fees," the information required by Item 4 of Form N-3, Item 4 of Form N-4, or Item 4 of Form N-6.

(ix) Under the heading "Appendix: [Portfolio Companies][Investment Options/Portfolio Companies] Available Under the Contract," include as an appendix the information required by

Item 18 of Form N-3, Item 17 of Form N-4, or Item 18 of Form N-6. Alternatively, an Initial Summary Prospectus for a Contract registered on Form N-3 may include the information required by Item 19 of Form N-3, under the heading "Additional Information About Investment Options Available Under the Contract."

(c) *General Requirements for Updating Summary Prospectus.* An Updating Summary Prospectus that complies with this paragraph (c) will be deemed to be a prospectus that is authorized under section 10(b) of the Act (15 U.S.C. 77j(b)) and section 24(g) of the Investment Company Act (15 U.S.C. 80a-24(g)) for the purposes of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)).

(1) *Use of Updating Summary Prospectus.* A Registrant may only use an Updating Summary Prospectus if the Registrant uses an Initial Summary Prospectus for each currently

offered Contract described under the Statutory Prospectus to which the Updating Summary Prospectus relates.

(2) *Scope of Updating Summary Prospectus.* An Updating Summary Prospectus may describe one or more Contracts (and more than one Class) described under the Statutory Prospectus to which the Updating Summary Prospectus relates.

(3) *Cover Page or Beginning of Updating Summary Prospectus.* Include on the front cover page or at the beginning of the Updating Summary Prospectus:

(i) The Insurance Company's name;

(ii) The name of the Contract(s) and the Class or Classes, if any, to which the Updating Summary Prospectus relates;

(iii) A statement identifying the document as an "Updating Summary Prospectus";

(iv) The approximate date of the first use of the Updating Summary Prospectus; and

(v) The following legend, which must meet the requirements of paragraphs (b)(2)(v)(A), (B), and (D) of this section, as applicable, and for Updating Summary Prospectuses of Contracts registered on Form N-4 would be included along with the statements described in Item 1(a)(6) through (8) of Form N-4:

The prospectus for the [Contract] contains more information about the [Contract], including its features, benefits, and risks. You can find the current prospectus and other

information about the [Contract] online at [_____]. You can also obtain this information at no cost by calling [_____] or by sending an email request to [_____].

Additional information about certain investment products, including [variable annuities/registered index-linked annuities/variable life insurance contracts], has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

(4) *Back Cover Page or Last Page of Updating Summary Prospectus.* Include on the bottom of the back cover page or the last page of the Updating Summary Prospectus:

(i) The legend required by paragraph (b)(3)(i) of this section; and

(ii) The EDGAR contract identifier(s) for each contract in type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).

(5) *Table of Contents.* An Updating Summary Prospectus may include a table of contents meeting the requirements of § 230.481(c).

(6) *Contents of Updating Summary Prospectus.* An Updating Summary Prospectus must contain the information required by this paragraph (c)(6) with respect to the applicable registration form, in the order provided in paragraphs (c)(6)(i) through (iv) of this section.

(i) If any changes have been made with respect to the Contract after the date of the most recent Updating Summary Prospectus or Statutory Prospectus that was sent or given to investors with respect to the availability of Investment Options (for Registrants on Form N-3) or Portfolio Companies (for Registrants on Forms N-4 and N-6) under the Contract (including, for RILA Contracts, a change to any of the features of the Index-Linked Options disclosed in the table that Item 17(b) of Form N-4 requires), or the disclosure that the Registrant included in response to Item 2 (Key Information), Item 3 (Overview of the Contract), Item 4 (Fee Table), Item 11 (Benefits Available Under the Contract), Item 12 (Purchases and Contract Value), or Item 13

(Surrenders and Withdrawals) of Form N-3; Item 2 (Overview of the Contract), Item 3 (Key Information), Item 4 (Fee Table), Item 10 (Benefits Available Under the Contract), Item 11 (Purchases and Contract Value), or Item 12 (Surrenders and Withdrawals) of Form N-4; and Item 2 (Key Information), Item 3 (Overview of the Contract), Item 4 (Fee Table), Item 9 (Premiums), Item 10 (Standard Death Benefits), Item 11 (Other Benefits Available Under the Contract), Item 12 (Surrenders and Withdrawals), or Item 14 (Lapse and Reinstatement) of Form N-6, include the following as applicable, under the heading "Updated Information About Your [Contract]":

(A) The following legend: "The information in this Updating Summary Prospectus is a summary of certain [Contract] features that have changed since the Updating Summary Prospectus dated [date]. This may not reflect all of the changes that have occurred since you entered into your [Contract]."

(B) As applicable, provide a concise description of each change specified in paragraph (c)(6)(i) of this section. Provide enough detail to allow investors to understand the change and how it will affect investors, including indicating whether the change only applies to certain Contracts described in the Updating Summary Prospectus.

(ii) In addition to the changes specified in paragraph (c)(6)(i) of this section, a Registrant may provide a concise description of any other information relevant to the Contract within the time period that paragraph (c)(6)(i) of this section specifies, under the heading "Updated Information About Your [Contract]." Any additional information included pursuant to this

paragraph (c)(6)(ii) should not, by its nature, quantity, or manner of presentation, obscure or impede understanding of the information that paragraph (c)(6)(i) of this section requires.

(iii) Under the heading "Important Information You Should Consider About the [Contract]," provide the information required by Item 2 of Form N-3, Item 3 of Form N-4, or Item 2 of Form N-6.

(iv) Under the heading "Appendix: [Portfolio Companies/Investment Options/Portfolio Companies] Available Under the [Contract]," include as an appendix the information required by Item 18 of Form N-3, Item 17 of Form N-4, or Item 18 of Form N-6. Alternatively, an Updating Summary Prospectus for a Contract registered on Form N-3 may include, under the heading "Additional Information About [Investment Options] Available Under the [Contract]," the information required by Item 19 of Form N–3.

(d) *Incorporation by Reference into a Summary Prospectus.*

(1) Except as provided by paragraph (d)(2) of this section, information may not be incorporated by reference into a Summary Prospectus. Information that is incorporated by reference into a Summary Prospectus in accordance with paragraph (d)(2) of this section need not be sent or given with the Summary Prospectus.

(2) A Registrant may incorporate by reference into a Summary Prospectus any or all of the information contained in the Registrant's Statutory Prospectus and Statement of Additional Information, and any information from the Registrant's reports under § 270.30e-1 of this chapter that the Registrant has incorporated by reference into the Registrant's Statutory Prospectus, provided that:

(i) The conditions of paragraphs (b)(2)(v)(B), (c)(3)(v), and (h) of this section are met;

(ii) A Registrant may not incorporate by reference into a Summary Prospectus information that paragraphs (b) and (c) of this section require to be included in an Initial Summary Prospectus or Updating Summary Prospectus, respectively; and

(iii) Information that is permitted to be incorporated by reference into the Summary Prospectus may be incorporated by reference into the Summary Prospectus only by reference to the specific document that contains the information, not by reference to another document that incorporates such information by reference.

(3) For purposes of § 230.159, information is conveyed to a person not later than the time that a Summary Prospectus is received by the person if the information is incorporated by reference into the Summary Prospectus in accordance with paragraph (d)(2) of this section.

(e) *Terms used in the Summary Prospectus*. Define special terms used in the Initial Summary Prospectus and Updating Summary Prospectus using any presentation style that clearly conveys their meaning to investors, such as the use of a glossary or list of definitions.

(f) *Transfer of the Contract Security.* Any obligation under section 5(b)(2) of the Act (15 U.S.C. 77e(b)(2)) to have a Statutory Prospectus precede or accompany the carrying or delivery of a Contract security in an offering registered on Form N-3, Form N-4, or Form N-6 is satisfied if:

(1) A Summary Prospectus is sent or given no later than the time of the carrying or delivery of the Contract security (an Initial Summary Prospectus in the case of a purchase of a new Contract, or an Updating Summary Prospectus in the case of additional purchase payments in an existing Contract);

(2) The Summary Prospectus is not bound together with any materials except Portfolio Company Prospectuses for Portfolio Companies available as Variable Options under the Contract, provided that:

(i) All of the Portfolio Companies are available as investment options to the person to whom such documents are sent or given; and

(ii) A table of contents identifying each Portfolio Company Prospectus that is bound together, and the page number on which each document is found, is included at the beginning or immediately following a cover page of the bound materials.

(3) The Summary Prospectus that is sent or given satisfies the requirements of paragraph (b) or (c) of this section, as applicable, at the time of the carrying or delivery of the Contract security; and

(4) The conditions set forth in paragraph (h) of this section are satisfied.

(g) *Sending Communications*. A communication relating to an offering registered on Form N-3, Form N-4, or Form N-6 sent or given after the effective date of a Contract's registration statement (other than a prospectus permitted or required under section 10 of the Act) shall not be deemed a prospectus under section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)) if:

(1) It is proved that prior to or at the same time with such communication a Summary Prospectus was sent or given to the person to whom the communication was made;

(2) The Summary Prospectus is not bound together with any materials, except as permitted by paragraph (f)(2) of this section;

(3) The Summary Prospectus that was sent or given satisfies the requirements of paragraph (b) or (c) of this section, as applicable, at the time of such communication; and

(4) The conditions set forth in paragraph (h) of this section are satisfied.

(h) *Availability of the Statutory Prospectus and Certain Other Documents*.

(1) The current Initial Summary Prospectus, Updating Summary Prospectus, Statutory Prospectus, Statement of Additional Information, and in the case of a Registrant on Form N-3, the Registrant's most recent annual and semi-annual reports to shareholders under § 270.30e-1 of this chapter, are publicly accessible, free of charge, at the website address specified on the cover page or beginning of the Summary Prospectuses, on or before the time that the Summary Prospectuses are sent or given and current versions of those documents remain on the website through the date that is at least 90 days after:

(i) In the case of reliance on paragraph (f) of this section, the date that the Contract security is carried or delivered; or

(ii) In the case of reliance on paragraph (g) of this section, the date that the communication is sent or given.

(2) The materials that are accessible in accordance with paragraph (h)(1) of this section must be presented on the website in a format, or formats, that:

(i) Are human-readable and capable of being printed on paper in human-readable format;

(ii) Permit persons accessing the Statutory Prospectus or Statement of Additional Information for the Contract to move directly back and forth between each section heading in a table of contents of such document and the section of the document referenced in that section heading; provided that, in the case of the Statutory Prospectus, the table of contents is either required by § 230.481(c) or contains the same section headings as the table of contents required by § 230.481(c); and

(iii) Permit persons accessing a Summary Prospectus to move directly back and forth between:

(A) Each section of the Summary Prospectus and any section of the Statutory Prospectus and Contract Statement of Additional Information that provides additional detail concerning that section of the Summary Prospectus; or

(B) Links located at both the beginning and end of the Summary Prospectus, or that remain continuously visible to persons accessing the Summary Prospectus, and tables of contents of both the Statutory Prospectus and the Contract Statement of Additional Information that meet the requirements of paragraph (h)(2)(ii) of this section.

(iv) Permit persons accessing the Summary Prospectus to view the definition of each special term used in the Summary Prospectus (as required by paragraph (e) of this section) upon command (*e.g.*, by moving or "hovering" the computer's pointer or mouse over the term, or selecting the term on a mobile device); or permits persons accessing
the Contract Summary Prospectus to move directly back and forth between each special term and the corresponding entry in any glossary or list of definitions in
the Contract Summary Prospectus (as described in paragraph (e) of this section).

(3) Persons accessing the materials specified in paragraph (h)(1) of this section must be able to permanently retain, free of charge, an electronic version of such materials in a format, or formats, that meet each of the requirements of paragraphs (h)(2)(i) and (ii) of this section.

(4) The conditions set forth in paragraphs (h)(1) through (3) of this section shall be deemed to be met, notwithstanding the fact that the materials specified in paragraph (h)(1) of this section are not available for a time in the manner required by paragraphs (h)(1) through (3) of this section, provided that:

(i) The Registrant has reasonable procedures in place to ensure that the specified materials are available in the manner required by paragraphs (h)(1) through (3) of this section; and

(ii) The Registrant takes prompt action to ensure that the specified documents become available in the manner required by paragraphs (h) through (3) of this section, as soon as practicable following the earlier of the time at which it knows or reasonably should have known that the documents are not available in the manner required by paragraphs (h)(1) through (3) of this section.

(i) *Other Requirements*

(1) *Delivery upon request*. If paragraph (f) or (g) of this section is relied on with respect to a Contract, the Registrant (or a financial intermediary through which the Contract may be purchased) must send, at no cost to the requestor and by U.S. first class mail or other reasonably prompt means, a paper copy of the Contract Statutory Prospectus, Contract Statement of Additional Information, and in the case of a Registrant on Form N-3, the Registrant's most recent annual and semi-annual reports to shareholders under § 270.30e-1 of this chapter, to any person requesting such a copy within three business days after receiving a request for a paper copy. If paragraph (f) or (g) of this section is relied on with respect to a Contract, the Registrant (or a financial intermediary through which Contract may be purchased) must send, at no cost to the requestor, and by email, an electronic copy of any of the documents listed in this paragraph (i)(1) to any person requesting a copy of such document within three business days after receiving a request for an electronic copy. The requirement to send an electronic copy of a document may be satisfied by sending a direct link to the online document; provided that a current version of the document is directly accessible through the link from the time that the email is sent through the

date that is six months after the date that the email is sent and the email explains both how long the link will remain useable and that, if the recipient desires to retain a copy of the document, he or she should access and save the document.

(2) *Greater prominence*. If paragraph (f) or (g) of this section is relied on with respect to a Contract, the Summary Prospectus shall be given greater prominence than any materials that accompany the Summary Prospectus.

(3) *Convenient for reading and printing*. If paragraph (f) or (g) of this section is relied on with respect to a Contract:

(i) The materials that are accessible in accordance with paragraph (h)(1) of this section must be presented on the website in a format, or formats, that are convenient for both reading online and printing on paper; and

(ii) Persons accessing the materials that are accessible in accordance with paragraph (h)(1) of this section must be able to permanently retain, free of charge, an electronic version of such materials in a format, or formats, that are convenient for both reading online and printing on paper.

(4) *Website addresses*. If paragraph (f) or (g) of this section is relied on with respect to a Contract, any website address that is included in an electronic version of the Summary Prospectus must include an active hyperlink or provide another means of facilitating access through equivalent methods or technologies that lead directly to the relevant website address. This paragraph (i)(4) does not apply to electronic versions of a Summary Prospectus that are filed on the EDGAR system.

(5) *Compliance with this paragraph (i) not a condition to reliance on paragraph (f) or (g) of this section*. Compliance with this paragraph (i) is not a condition to the ability to rely on

paragraph (f) or (g) of this section with respect to a Contract, and failure to comply with this paragraph (i) does not negate the ability to rely on paragraph (f) or (g) of this section.

(j) *Portfolio Company Prospectuses* –

(1) *Transfer of the Portfolio Company security*. Any obligation under section 5(b)(2) of the Act to have a Statutory Prospectus precede or accompany the carrying or delivery of a Portfolio Company security is satisfied if, and information contained in the documents referenced in paragraph (j)(1)(ii) of this section is conveyed for purposes of § 230.159 when:

(i) An Initial Summary Prospectus is used for each currently offered Contract described under the related registration statement;

(ii) A summary prospectus is used for the Portfolio Company (if the Portfolio Company is registered on Form N-1A); and

(iii) The current summary prospectus, Statutory Prospectus, Statement of Additional Information, and most recent annual and semi-annual reports to shareholders under § 270.30e-1 of this chapter for the Portfolio Company are publicly accessible, free of charge, at the same website address referenced in paragraph (h)(1) of this section, and are accessible under the conditions set forth in paragraphs (h)(1), (h)(2)(i) and (ii), and (h)(3) and (4) of this section, with respect to the availability of documents relating to the Contract.

(2) *Communications*. Any communication relating to a Portfolio Company (other than a prospectus permitted or required under section 10 of the Act) shall not be deemed a prospectus under section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)) if the conditions set forth in paragraph (j)(1) of this section are satisfied.

(3) *Other requirements*. The materials referenced in paragraph (j)(1)(iii) of this section must be delivered upon request, presented, and able to be retained under the conditions set forth

in paragraphs (i)(1) and (3) of this section. Compliance with this paragraph (j)(3) is not a condition to the ability to rely on paragraph (j)(1) or (2) of this section, and failure to comply with this paragraph (j)(3) does not negate the ability to rely on paragraph (j)(1) or (2) of this section.

PART 232— REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

12. The general authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, 80b-4, 80b-6a, 80b-11, 7201 et seq.; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

13. Amend §232.313 by revising paragraphs (a) and (b) to read as follows:

§ 232.313 Identification of investment company type and series and/or class (or contract).

(a) Registered investment companies, business development companies, and offerings of registered index-linked annuities must indicate their investment company type, based on whether the registrant's last effective registration statement or amendment (other than a merger/proxy filing on Form N-14 (§ 239.23 of this chapter) was filed on Form N-1 (§§ 239.15 and 274.11 of this chapter), Form N-1A (§§ 239.15A and 274.11A of this chapter), Form N-2 (§§ 239.14 and 274.11a-1 of this chapter), Form N-3 (§§ 239.17A and 274.11b of this chapter), Form N-4 (§§ 239.17b and 274.11c of this chapter), Form N-5 (§§ 239.24 and 274.5 of this chapter), Form N-6 (§§ 239.17c and 274.11d of this chapter), Form S-1 (§ 239.11 of this chapter), Form S-3 (§ 239.13 of this chapter), or Form S-6 (§ 239.16 of this chapter) in those EDGAR submissions identified in the EDGAR Filer Manual.

(b) Registered investment companies or offerings of registered index-linked annuities whose last effective registration statement or amendment (other than a merger/proxy filing on Form N-14 (§ 239.23 of this chapter) was filed on Form N-1A (§§ 239.15A and 274.11A of this chapter), Form N-3 (§§ 239.17A and 274.11b of this chapter), Form N-4 (§§ 239.17b and 274.11c of this chapter), or Form N-6 (§§ 239.17c and 274.11d of this chapter) must, under the procedures set forth in the EDGAR Filer Manual:

(1) Provide electronically, and keep current, information concerning their existing and new series and/or classes (or contracts, in the case of separate accounts), including series and/or class (contract) name and ticker symbol, if any, and be issued series and/or class (or contract) identification numbers;

(2) Deactivate for EDGAR purposes any series and/or class (or contract, in the case of separate accounts) that are no longer offered, go out of existence, or deregister following the last filing for that series and/or class (or contract, in the case of separate accounts), but the registrant must not deactivate the last remaining series unless the registrant deregisters; and

(3) For those EDGAR submissions identified in the EDGAR Filer Manual, include all series and/or class (or contract) identifiers of each series and/or class (or contract) on behalf of which the filing is made.

* * * * *

14. Amend §232.405 by revising paragraphs (a)(3)(i) introductory text, (a)(3)(ii), (b)(1) introductory text, (b)(2) introductory text, (b)(2)(iii), and the final sentence of Note 1 to the section to read as follows:

§ 232.405 Interactive Data File Submissions.

* * * * *

(a) * * *

(3) * * *

(i) If the electronic filer is not a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a registered index-linked annuity issuer as defined in Rule 405 under the Securities Act (17 CFR 232.405), a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4), or a clearing agency that provides a central matching service, and is not within one of the categories specified in paragraph (f)(1)(i) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to:

* * * * *

(ii) If the electronic filer is a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account (as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a registered index-linked annuity issuer as defined in Rule 405 under the Securities Act (17 CFR 232.405), a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4), or a clearing agency that provides a central matching service, and is not within one of the categories specified in paragraph (f)(1)(ii) of this section, as partly embedded into a filing with the

remainder simultaneously submitted as an exhibit to a filing that contains the disclosure this section requires to be tagged; and

* * * * *

(b) * * *

(1) If the electronic filer is not a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a separate account (as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, a registered index-linked annuity issuer as defined in Rule 405 under the Securities Act (17 CFR 232.405), a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4), or a clearing agency that provides a central matching service, an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from all of the following categories:

* * * * *

(2) If the electronic filer is an open-end management investment company registered under the Investment Company Act of 1940, a separate account (as defined in Section 2(a)(14) of the Securities Act) registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), a registered index-linked annuity issuer as defined in Rule 405 under the Securities Act (17 CFR 232.405), a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4), or a clearing agency that provides a central matching service, an Interactive Data File must consist of only a complete set of information for all periods required

to be presented in the corresponding data in the Related Official Filing, no more and no less, from the information set forth in:

* * * * *

(iii) Items 2(b)(2), 2(d), 3, 4, 5, 6(a) (instruction), 6(c)(1), 6(d), 7(e), 10, 17, 26(c), and 31A of §§ 239.17b and 274.11c of this chapter (Form N-4);

* * * * *

Note 1 to § 232.405: * * * For an issuer that is a management investment company or separate account registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq*.), a registered index-linked annuity issuer as defined in Rule 405 under the Securities Act (17 CFR 232.405), a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), or a unit investment trust as defined in Section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4), General Instruction C.3.(g) of Form N-1A, General Instruction I of Form N-2, General Instruction C.3.(h) of Form N-3, General Instruction C.3.(h) of Form N-4, General Instruction C.3.(h) of Form N-6, General Instruction 2.(l) of Form N-8B-2 (§ 274.12 of this chapter), General Instruction 5 of Form S-6, and General Instruction C.4 of Form N-CSR, as applicable, specifies the circumstances under which an Interactive Data File must be submitted.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

15. The general authority citation for part 239 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78*l,* 78m,78n, 78*o*(d), 78*o*-7 note, 78u-5, 78w(a), 78*ll,*78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, 80a-37; and sec. 71003 and sec. 84001, Pub. L. 114-94, 129 Stat. 1321, unless otherwise noted.

* * * * *

16. Revise Form N-4 (referenced in §§ 239.17b and 274.11c).

Note: Form N-4 is attached as Appendix A to this document. Form N-4 does not appear in the Code of Federal Regulations.

17. Amend Form N-6 (referenced in §§ 239.17c and 274.11d) by revising Instruction 3 to Item 30.

Note: Form N-6 is attached as Appendix B to this document. Form N-6 will not appear in the Code of Federal Regulations.

18. Add § 239.66 to read as follows:

§ 239.66 Form 24F–2, annual filing of securities sold pursuant to registration of certain investment company securities and registered index-linked annuities.

Form 24F–2 shall be used as the annual report filed by face amount certificate companies, open-end management companies, unit investment trusts, and registered index-linked annuities pursuant to §§ 230.456, § 230.457, or 270.24f-2 of this chapter for reporting securities sold during the fiscal year.

19. Revise Form 24F-2 (referenced in §§ 239.66 and 274.24).

Note: Form 24F-2 is attached as Appendix C to this document. Form 24F-2 will not appear in the Code of Federal Regulations.

PART 274 — FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

20. The authority citation for part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78*o*(d), 80a-8, 80a-24, 80a-26, 80a-29, and 80a-37, unless otherwise noted.

* * * * *

21. Revise § 274.24 to read as follows:

§ 274.24 Form 24F-2, annual filing of securities sold pursuant to registration of certain investment company securities and registered index-linked annuities.

Form 24F-2 shall be used as the annual report filed by face amount certificate companies, open-end management companies, unit investment trusts, and registered index-linked annuities pursuant to §§ 230.456, 230.457, or 270.24f–2 of this chapter for reporting securities sold during the fiscal year.

By the Commission.

Dated: September 29, 2023.

Vanessa Countryman

Secretary.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A—Form N-4

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM N-4

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.)

_____

(Exact Name of Registered Separate Account)

_____

(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) of rule 485 under the Securities Act.

If appropriate, check the following box:

- ☐ This post-effective amendment designates a new effective date for a previously filed post-effective amendment.

Check each box that appropriately characterizes the Registrant:

- ☐ New Registrant (as applicable, a Registered Separate Account or Insurance Company that has not filed a Securities Act registration statement or amendment thereto within 3 years preceding this filing)
- ☐ Emerging Growth Company (as defined by Rule 12b-2 under the Securities Exchange Act of 1934 ("Exchange Act"))
- ☐ If an Emerging Growth Company, indicate by check mark if the Registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of Securities Act.
- ☐ Relying on Rule 12h-7 under the Exchange Act

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" only where securities are being registered under the Securities Act of 1933.

Form N-4 is to be used by (1) separate accounts that are unit investment trusts that offer variable annuity contracts to register under the Investment Company Act of 1940 and to offer their securities under the Securities Act of 1933, (2) insurance companies to register index-linked annuity contracts under the Securities Act of 1933, and (3) insurance companies to register annuity contracts that have any combination of these options under the applicable statutes. The Commission has designed Form N-4 to provide investors with information that will assist them in making a decision about investing in these contracts. The Commission also may use the information provided on Form N-4 in its regulatory, disclosure review, inspection, and policy making roles.

A Registrant is required to disclose the information specified by Form N-4, and the Commission will make this information public. A Registrant is not required to respond to the collection of information contained in Form N-4 unless the Form displays a currently valid Office of Management and Budget ("OMB") control number. Please direct comments concerning the accuracy of the information collection burden estimate and any suggestions for reducing the burden to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549. The OMB has reviewed this collection of information under the clearance requirements of 44 U.S.C. § 3507.

CONTENTS OF FORM N-4

GENERAL INSTRUCTIONS

A. Definitions

References to sections and rules in this Form N-4 are to the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq*.] (the "Investment Company Act"), unless otherwise indicated. Terms used in this Form N-4 have the same meaning as in the Investment Company Act or the related rules, unless otherwise indicated. As used in this Form N-4, the terms set out below have the following meanings:

"Class" means a class of a Contract that varies principally with respect to distribution-related fees and expenses.

"Contract" means any accumulation contract or annuity contract, any portion thereof, or any unit of interest or participation therein issued by an Insurance Company that offers Index-Linked Options, and/or Variable Options, and/or Fixed Options, as applicable, pursuant to the registration statement prepared on this Form.

"Contract Adjustment" means a positive or negative adjustment made to the value of the Contract by the Insurance Company if amounts are withdrawn from an Index-Linked Option or from the Contract before the end of a specified period. This adjustment may be based on calculations using a predetermined formula, or a change in interest rates, or some other factor or benchmark.

"Crediting Period" means the period of time over which an Index's performance is measured, subject to applicable limits on Index gains and losses, to determine the amount of positive or negative interest that will be credited to an Index-Linked Option at the end of the period.

"Fixed Option" means an Investment Option under the Contract pursuant to which the value of the Contract, either during an accumulation period or after annuitization, or both, will earn interest at a rate specified by the Insurance Company, subject to a minimum guaranteed rate under the Contract.

"Index" or "Indexes" means any index, rate, or benchmark (such as a registered exchange-traded fund that tracks an index) used in the calculation of positive or negative interest credited to an Index-Linked Option.

"Index-Linked Option" means an Investment Option offered under any Contract, pursuant to which the value of the Contract, either during an accumulation period or after annuitization, or both, will earn positive or negative interest based, in part, on the performance of a specified Index.

"Insurance Company" means the insurance company issuing the Contract, which company is subject to state supervision. The Insurance Company may be the depositor or sponsor of any Registered Separate Account in which the Contract participates. If there is more than one Insurance Company, the information called for in this Form about the Insurance Company shall be provided for each Insurance Company.

"Investment Option" means a Fixed Option, an Index-Linked Option, and/or a Variable Option, as applicable.

"Platform Charge" means any fee charged by the Insurance Company to make a Portfolio Company available in connection with a Variable Option under the Contract, and that varies solely on the basis of the Portfolio Company selected.

"Portfolio Company" means any investment company in which the Registered Separate Account invests and which may be selected by the investor in connection with a Variable Option.

"Registered Separate Account" means a separate account (as defined in section 2(a)(37) of the

Investment Company Act [15 U.S.C. 80a-2(a)(37)]) in which the Contract participates with respect to Variable Options offered under the Contract.

"Registrant" means, as applicable, a Registered Separate Account or the Insurance Company.

"SAI" means the Statement of Additional Information required by Part B of this Form.

"Securities Act" means the Securities Act of 1933 [15 U.S.C. 77a *et seq*.].

"Securities Exchange Act" means the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq*.].

"Statutory Prospectus" means a prospectus that satisfies the requirements of section 10(a) of the Securities Act [15 U.S.C. 77j(a)].

"Summary Prospectus" has the meaning provided by paragraph (a)(11) of rule 498A under the Securities Act [17 CFR 230.498A(a)(11)].

"Variable Option" means an Investment Option under any Contract 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 a Portfolio Company.

B. Filing and Use of Form N-4

1. What is Form N-4 used for?

Form N-4 is used by all separate accounts organized as unit investment trusts and offering Contracts with Variable Options and all Insurance Companies that offer Contracts with Variable Options and/or Index-Linked Options to file:

(a) An initial registration statement under the Investment Company Act and any amendments to the registration statement;

(b) An initial registration statement required under the Securities Act and any amendments to the registration statement, including amendments required by section 10(a)(3) of the Securities Act [15 U.S.C. 77j(a)(3)]; or

(c) Any combination of the filings in paragraph (a) or (b).

2. What is included in the registration statement?

(a) For registration statements or amendments filed under both the Investment Company Act and the Securities Act or only under the Securities Act, include the facing sheet of the Form, Parts A, B, and C, and the required signatures.

(b) For registration statements or amendments filed only under the Investment Company Act, include the facing sheet of the Form, responses to all Items of Parts A (except Items 1, 4, 5, 9, and 16), B, and C (except Items 27(c), (k), (l), and (m)), and the required signatures.

3. What are the fees for Form N-4?

No registration fees are required for a filing on Form N-4 to register as an investment company under the Investment Company Act or to register securities under the Securities Act. If a filing on Form N-4 is made to register securities under the Securities Act and securities are sold to the public, registration fees must be paid on an ongoing basis after the end of the Registrant's fiscal year. *See* section 24(f) [15 U.S.C. 80a-24(f)] and rules 24f-2 [17 CFR 270.24f-2], 456 [17 CFR 230.456], and 457 [17 CFR 230.457].

4. What rules apply to the filing of a registration statement on Form N-4?

(a) For registration statements and amendments filed under both the Investment Company Act and the Securities Act or under only the Securities Act, the general rules under the Securities Act, particularly the rules regarding the filing of registration statements in Regulation C [17 CFR 230.400 – 230.498A], apply to the filing of registration statements on Form N-4. Specific requirements concerning investment companies and registered index-linked annuities appear in rules 480 - 488 and 495 - 498A of Regulation C.

(b) For registration statements and amendments filed only under the Investment Company Act, the general rules under the Investment Company Act, particularly the provisions in rules 8b-1 – 8b-31 [17 CFR 270.8b-1 to 8b-31], apply to the filing of registration statements on Form N-4.

(c) The plain English requirements of rule 421(d) under the Securities Act [17 CFR 230.421(d)] apply to prospectus disclosure in Part A of Form N-4.

(d) Regulation S-T [17 CFR 232.10 – 232.501] applies to all filings on the Commission's Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR").

C. Preparation of the Registration Statement

1. Administration of the Form N-4 Requirements

(a) The requirements of Form N-4 are intended to promote effective communication between the Registrant and prospective investors. A Registrant's prospectus should clearly disclose the fundamental features and risks of the Contracts, using concise, straightforward, and easy to understand language. A Registrant should use document design techniques that promote effective communication.

(b) The prospectus disclosure requirements in Form N-4 are intended to elicit information for an average or typical investor who may not be sophisticated in legal or financial matters. The prospectus should help investors to evaluate the risks of an investment and to decide whether to invest in a Contract by providing a balanced disclosure of positive and negative factors. Disclosure in the prospectus should be designed to assist an investor in comparing and contrasting a Contract with other Contracts.

(c) Responses to the Items in Form N-4 should be as simple and direct as reasonably possible and should include only as much information as is necessary to enable an average or typical investor to understand the particular characteristics of the Contracts. The prospectus should avoid including lengthy legal and technical discussions and simply restating legal or regulatory requirements to which Contracts generally are subject. Brevity is especially important in describing the practices or aspects of the Registrant's operations that do not differ materially from those of other separate accounts or insurance companies. Avoid excessive detail, technical or legal terminology, and complex language, including the use of formulas as the primary means of communicating certain terms or features of the Contract. Also avoid lengthy sentences and paragraphs that may make the prospectus difficult for investors to understand and detract from its usefulness.

(d) The requirements for prospectuses included in registration statements on Form N-4 will be administered by the Commission in a way that will allow variances in disclosure or presentation if appropriate for the circumstances involved while remaining consistent with the objectives of Form N-4.

2. Form N-4 is divided into three parts:

(a) *Part A*. Part A includes the information required in a Registrant's prospectus under section 10(a) of the Securities Act. The purpose of the prospectus is to provide essential information about the Registrant and the Contracts in a way that will help investors to make informed decisions about whether to purchase the securities described in the prospectus. In responding to the Items in Part A, avoid cross-references to the SAI unless otherwise prescribed by the Form. Cross-references within the prospectus are most useful when their use assists investors in understanding the information presented and does not add complexity to the prospectus.

(b) *Part B.* Part B includes the information required in a Registrant's SAI. The purpose of the SAI is to provide additional information about the Registrant and the Contracts that the Commission has concluded is not necessary or appropriate in the public interest or for the protection of investors to be in the prospectus, but that some investors may find useful. Part B affords the Registrant an opportunity to expand discussions of the matters described in the prospectus by including additional information that the Registrant believes may be of interest to some investors. The Registrant should not duplicate in the SAI information that is provided in the prospectus, unless necessary to make the SAI comprehensible as a document independent of the prospectus.

(c) *Part C.* Part C includes other information required in a Registrant's registration statement.

3. Additional Matters

(a) *Organization of Information.* Organize the information in the prospectus and SAI to make it easy for investors to understand. Notwithstanding rule 421(a) under the Securities Act [17 CFR 230.421(a)] regarding the order of information required in a prospectus, disclose the information required by Item 2 (Overview of the Contract), Item 3 (Key Information), and Item 4 (Fee Table) in numerical order at the front of the prospectus. Do not precede Items 2, 3, and 4 with any other Item except the Cover Page (Item 1), a glossary, if any (General Instruction C.3.(d)), or a table of contents meeting the requirements of rule 481(c) under the Securities Act [17 CFR 230.481(c)].

(b) *Other Information.* A Registrant may include, except in response to Items 2 and 3, information in the prospectus or the SAI that is not otherwise required so long as 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 the information that is required to be included. For example, Registrants are free to include in the prospectus financial statements required to be in the SAI, and may include in the SAI financial statements that may be placed in Part C. However, information regarding non-principal risks that is not otherwise required to be in the prospectus must be disclosed in the SAI and not the prospectus, in accordance with Items 5 and 20.

(c) *Presentation of Information.* To aid investor comprehension, Registrants are encouraged to use, as appropriate, question-and-answer formats, tables, side-by-side comparisons, captions, bullet points, numeric examples, illustrations or similar presentation methods. For example, such presentation methods would be appropriate when presenting disclosure for similar Contract features, prospectuses describing multiple Contracts, or the operation of optional benefits or annuitization.

(d) *Use of Terms.*

(i) *Definitions*. Define the special terms used in the prospectus (*e.g.*, accumulation unit, participant, Crediting Period, etc.) in any presentation that clearly conveys meaning to investors. If the Registrant elects to include a glossary or list of definitions, only special

terms used throughout the prospectus must be defined or listed. If a special term is used in only one section of the prospectus, it may be defined there (and need not be included in any glossary or list of definitions that the Registrant includes).

(ii) *Alternate Terminology*. A Registrant may use alternate terminology other than that used in the form so long as the terminology used by the Registrant clearly conveys the meaning of, or provides comparable information as, the terminology included in the form.

(e) *Use of Form N-4 to Register Multiple Contracts*

(i) A single prospectus may describe multiple Contracts that are essentially identical. Whether the prospectus describes Contracts that are "essentially identical" will depend on the facts and circumstances. For example, a Contract that does not offer optional benefits would not be essentially identical to one that does for a charge. Similarly, group and individual Contracts would not be essentially identical. However, Contracts that vary only due to state regulatory requirements would be essentially identical.

(A) Paragraph (a) of General Instruction C.3 requires Registrants to disclose the information required by Items 2, 3, and 4 in numerical order at the front of the prospectus and generally not to precede the Items with other information. As a general matter, Registrants providing disclosure in a single prospectus for more than one Contract, may depart from the requirement of paragraph (a) as necessary to present the required information clearly and effectively (although the order of information required by each Item must remain the same). For example, the prospectus may present all of the Item 2 information for the Contracts, followed by all of the Item 3 information for several Contracts (*e.g.*, by providing several Key Information Tables sequentially or by providing a single Key Information Table containing separate disclosures for each Contract to the extent that such disclosures would vary by Contract), and followed by all of the Item 4 information for the Contracts. Alternatively, the prospectus may present Items 2, 3, and 4 for each of several Contracts sequentially. Other presentations also would be acceptable if they are consistent with the Form's intent to disclose the information required by Items 2, 3, and 4 in a standard order at the beginning of the prospectus. Registrants that present Items 2, 3, and 4 for each of several Contracts sequentially or that utilize another presentation should consider whether investors might benefit from a brief explanation about how the information in the prospectus is presented, such as headings for each contract in the prospectus' table of contents and/or a brief narrative at the beginning of the prospectus explaining the presentation. Registrants are encouraged to present information in a manner that limits repetition.

(B) The Registrant should generally include appropriate titles, headings, or any other information to promote clarity and facilitate understanding regarding which disclosures apply to which Contract, if such disclosures would vary based on the Contract.

(ii) Multiple prospectuses may be combined in a single registration statement on Form N-4 when the prospectuses describe Contracts that are substantially similar. For example, a Registrant could determine it is appropriate to include multiple prospectuses in a registration statement in the following situations: (i) the prospectuses describe the same Contract that is sold through different distribution channels; (ii) the prospectuses describe Contracts that differ only with respect to Portfolio Companies offered; or (iii) the

prospectuses describe both the original and a modified version of the same Contract (where the "modified" version differs in the features or options that the Registrant offers under that Contract).

(f) *Dates.* Rule 423 under the Securities Act [17 CFR 230.423] applies to the dates of the prospectus and the SAI. The SAI should be made available at the same time that the prospectus becomes available for purposes of rules 430 and 460 under the Securities Act [17 CFR 230.430 and 230.460].

(g) *Sales Literature.* A Registrant may include sales literature in the prospectus so long as the amount of this information does not add substantial length to the prospectus and its placement does not obscure essential disclosure.

(h) Interactive Data File

(i) An Interactive Data File (see rule 232.11 of Regulation S-T [17 CFR 232.11]) is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S-T [17 CFR 232.405] for any registration statement or post-effective amendment thereto on Form N-4 that includes or amends information provided in response to Items 2(b)(2), 2(d), 3, 4, 5, 6(a) (instruction), 6(c)(1), 6(d), 6(e), 7(e), 10, 17, 26(c), or 31A with regard to Contracts that are being sold to new investors.

(A) Except as required by paragraph (h)(i)(B), the Interactive Data File must be submitted as an amendment to the registration statement to which the Interactive Data File relates. The amendment must be submitted on or before the date the registration statement or post-effective amendment that contains the related information becomes effective.

(B) In the case of a post-effective amendment to a registration statement filed pursuant to paragraphs (b)(1)(i), (ii), (v), (vi), or (vii) of rule 485 under the Securities Act [17 CFR 230.485(b)], the Interactive Data File must be submitted either with the filing, or as an amendment to the registration statement to which the Interactive Data Filing relates that is submitted on or before the date the post-effective amendment that contains the related information becomes effective.

(ii) An Interactive Data File is required to be submitted to the Commission in the manner provided by rule 405 of Regulation S-T for any form of prospectus filed pursuant to paragraphs (c) or (e) of rule 497 under the Securities Act [17 CFR 230.497(c) or (e)] that includes information provided in response to Items 2(b)(2), 2(d), 3, 4, 5, 6(a) (instruction), 6(c)(1), 6(d), 6(e), 7(e), 10, 17, 26(c), or 31A that varies from the registration statement with regard to Contracts that are being sold to new investors. The Interactive Data File must be submitted with the filing made pursuant to rule 497.

(iii) The Interactive Data File must be submitted in accordance with the specifications in the EDGAR Filer Manual, and in such a manner that will permit the information for each Contract, and, for any information that does not relate to all of the Classes in a filing, each Class of the Contract to be separately identified.

(i) *Website Addresses.* Any website address included in an electronic version of the Statutory Prospectus must include an active hyperlink or other means of facilitating access that leads directly to the relevant website address. This requirement does not apply to an electronic Statutory Prospectus filed on the EDGAR system.

D. Incorporation by Reference

1. General Requirements

All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: rule 411 under the Securities Act [17 CFR 230.411] (general rules on incorporation by reference in a prospectus); rule 303 of Regulation S-T [17 CFR 232.303] (specific requirements for electronically filed documents); and rule 0-4 under the Investment Company Act [17 CFR 270.0-4] (additional rule on incorporation by reference for investment companies). In general, a Registrant may incorporate by reference, in the answer to any item of Form N-4 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.

2. Specific Rules for Incorporation by Reference in Form N-4:

(a) A Registrant may not incorporate by reference into a prospectus information that Part A of this Form requires to be included in a prospectus, except as specifically permitted by Part A of the Form.

(b) A Registrant may incorporate by reference any or all of the SAI into the prospectus (but not to provide any information required by Part A to be included in the prospectus) without delivering the SAI with the prospectus.

(c) A Registrant may incorporate by reference into the SAI or its response to Part C information that Parts B and C require to be included in the Registrant's registration statement.

PART A - INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Front and Back Cover Pages

(a) *Front Cover Page*. Include the following information on the outside front cover page of the prospectus:

(1) The Registered Separate Account's name.

(2) The Insurance Company's name.

(3) The types of Contracts offered by the prospectus (*e.g.*, group, individual, single premium immediate, flexible premium deferred).

(4) The name of the Contract and the Class or Classes, if any, to which the Contract relates.

(5) The types of Investment Options offered under the Contract, and a cross-reference to the prospectus appendix providing additional information about each option.

(6) A statement that the Contract is a complex investment and involves risks, including potential loss of principal. For Contracts with Index-Linked Options, prominently state that the Insurance Company limits the amount an investor can earn on an Index-Linked Option, the potential for investment loss could be significantly greater than the potential for investment gain, and an investor could lose a significant amount of money if the Index declines in value. Prominently disclose as a percentage the maximum amount of loss from negative Index performance that an investor could experience after taking into account the minimum guaranteed limit on Index loss provided under the Contract.

(7) A statement that the Contract is not a short-term investment and is not appropriate for an investor who needs ready access to cash. Briefly state that withdrawals could result in surrender charges, negative Contract Adjustments, taxes, and tax penalties, as applicable. Prominently state as a percentage the maximum potential loss resulting from a negative Contract Adjustment, if applicable.

(8) A statement that the Insurance Company's obligations under the Contract are subject to its financial strength and claims-paying ability.

(9) The date of the prospectus.

(10) The statement required by rule 481(b)(1) under the Securities Act [17 CFR 230.481(b)(1)].

(11) The statement that additional information about certain investment products, including [type of Contract], has been prepared by the Securities and Exchange Commission's staff and is available at Investor.gov.

(12) If applicable, the legend: "If you are a new investor in the Contract, you may cancel your Contract within 10 days of receiving it without paying fees or penalties[, although we will apply the Contract Adjustment]. In some states, this cancellation period may be longer. Upon cancellation, you will receive either a full refund of the amount you paid with your application or your total Contract value. You should review this prospectus, or consult with your investment professional, for additional information about the specific cancellation terms that apply."

Instruction. A Registrant may include on the front cover page any additional information, subject to the requirements of General Instruction C.3.(b) and (c).

(b) *Back Cover Page*. Include the following information on the outside back cover page of the prospectus:

(1) A statement that the SAI includes additional information about the Registrant. Explain that the SAI is available, without charge, upon request, and explain how investors may make inquiries about their Contracts. Provide a toll-free (or collect) telephone number for investors to call to request the SAI, to request other information about the Contracts, and to make investor inquiries.

Instructions.

1. A Registrant may indicate, if applicable, that the SAI and other information are available on its website and/or by email request.

2. A Registrant may indicate, if applicable, that the SAI and other information are available from an insurance agent or financial intermediary (such as a broker-dealer or bank) through which the Contracts may be purchased or sold.

3. When a Registrant (or an insurance agent or financial intermediary through which Contracts may be purchased or sold) receives a request for the SAI, the Registrant (or insurance agent or financial intermediary) must send the SAI within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

(2) A statement whether and from where information is incorporated by reference into the prospectus as permitted by General Instruction D. Unless the information is delivered with the prospectus, explain that the Registrant will provide the information without charge, upon request (referring to the telephone number provided in response to paragraph (b)(1)).

Instruction. The Registrant may combine the information about incorporation by reference with the statements required under paragraph (b)(1).

(3) A statement that reports and other information about the Registered Separate Account are available on the Commission's website at http://www.sec.gov, and that copies of this information may be obtained, upon payment of a duplicating fee, by electronic request at the following email address: publicinfo@sec.gov.

(4) The EDGAR contract identifier for the Contract on the bottom of the back cover page in type size smaller than that generally used in the prospectus (*e.g.*, 8-point modern type).

Item 2. Overview of the Contract

Provide a concise description of the Contract including the following information:

(a) *Purpose.* Briefly describe the purpose(s) of the Contract (*e.g.*, to help the investor accumulate assets through an investment portfolio, to provide or supplement the investor's retirement income, to provide death and/or other benefits). State for whom the Contract may be appropriate (*e.g.*, by discussing a representative investor's time horizon, liquidity needs, and financial goals).

(b) *Phases of Contract*. Briefly describe the accumulation (savings) phase and annuity (income) phase of the Contract.

(1) This discussion should include a brief overview of the Investment Options available under the Contract.

Instructions.

1. Prominently disclose that additional information about each Investment Option is provided in an appendix to the prospectus and provide a cross-reference to the appendix.

2. A detailed explanation of the Registered Separate Account, Portfolio Companies, Indexes, and Investment Options is not necessary and should be avoided.

(2) With respect to any Index-Linked Option currently offered under the Contract, include the following information.

(i) State that the Insurance Company will credit positive or negative interest at the end of a Crediting Period to amounts allocated to an Index-Linked Option based, in part, on the performance of the Index.

(ii) Disclose that an investor could lose a significant amount of money if the Index declines in value.

Instruction. Prominently state as a percentage the maximum amount of loss an investor could experience from negative Index performance, after taking into account the minimum guaranteed limit on Index loss provided under the Contract.

(iii) Briefly explain that the Insurance Company limits the negative Index return used in calculating interest credited to an Index-Linked Option at the end of its Crediting Period. Briefly describe the manner(s) in which the Insurance Company limits negative returns through the use of a floor, buffer, or some other rate or measure. Provide an example of how such rate could operate to limit a negative Index return (*e.g.*, "if the Index return is -25% and the buffer rate is -10%, we will credit -15% (the amount that exceeds the buffer rate) at the end of the Crediting Period, meaning your Contract value will decrease by 15%"). Disclose the minimum limit on Index losses guaranteed for the life of the Contract for any Index-Linked Option.

(iv) Briefly explain that the Insurance Company limits the positive Index return used in calculating interest credited to an Index-Linked Option at the end of its Crediting Period. Briefly describe the manner(s) in which the Insurance Company limits positive returns through the use of a cap, participation rate, or some other rate or measure. Provide an example of how such rate could operate to limit a positive Index return (*e.g.*, "if the Index return is 12% and the cap rate is 4%, we will credit 4% in interest at the end of the Crediting Period, meaning your Contract value will increase by 4%"). Disclose the minimum limit on Index gains guaranteed for the life of the Contract for any Index-Linked Option.

(3) State, if applicable, that if an investor annuitizes, the investor will receive a stream of income payments, however (i) the investor will be unable to make withdrawals, and (ii) death benefits and living benefits will terminate.

(c) *Contract Features*. Summarize the Contract's primary features, including death benefits, withdrawal options, loan provisions, and Contract benefits. If applicable, state that the investor will incur an additional fee for selecting a particular benefit.

(d) *Contract Adjustment*. If applicable, state that an investor could lose a significant amount of money due to the Contract Adjustment if amounts are removed from an Index-Linked Option or from the Contract prior to the end of a specified period. Briefly describe the transactions subject to the Contract Adjustment.

Instruction. Prominently state as a percentage the maximum amount of loss an investor could experience from a negative Contract Adjustment. State that this loss could be greater due to surrender charges and tax consequences.

Item 3. Key Information

Include the following information:

Important Information You Should Consider About the [Contract]

FEES AND EXPENSES	
Are There Charges for Early Withdrawals?	
Are There Transaction Charges?	
Are There Ongoing Fees and Expenses?	
RISKS	
Is There a Risk of Loss From Poor Performance?	
Is this a Short-Term Investment?	
What are the Risks Associated with the Investment Options?	
Is There Any Chance the Insurance Company Won't Pay Amounts Due to Me Under the Contract?	
RESTRICTIONS	
Are There Restrictions on the Investment Options?	
Are there any Restrictions on Contract Benefits?	
TAXES	
What are the Contract's Tax Implications?	

CONFLICTS OF INTEREST	
How are Investment Professionals Compensated?	
Should I Exchange My Contract?	

Instructions.

1. *General.*

   (a) Disclose the required information in the tabular presentation(s) reflected herein, in the order specified. A Registrant may exclude any disclosures that are not applicable, or modify any of the statements required to be included, so long as the modified statement contains comparable information. Notwithstanding this instruction and General Instruction C.3.(d)(ii), the title, headings, and sub-headings for this tabular presentation may not be modified or substituted with alternate terminology unless otherwise provided.

   (b) Provide cross-references to the location in the Statutory Prospectus where the subject matter is described in greater detail. Cross-references in electronic versions of the Summary Prospectus and/or Statutory Prospectus should link directly to the location in the Statutory Prospectus where the subject matter is discussed in greater detail, or should provide a means of facilitating access to that information through equivalent methods or technologies. The cross-reference should be adjacent to the relevant disclosure, either within the table row, or presented in an additional table column.

   (c) All disclosures provided in response to this Item should be short and succinct, consistent with the limitations of a tabular presentation.

   (d) All disclosures provided in this tabular presentation also must be presented in a question and answer format. Unless the context otherwise requires, when answering a question presented on a given row of the table, begin the response with "Yes" or "No" in bold text.

2. *Fees and Expenses.*

   (a) *Are There Charges for Early Withdrawals?* Include a statement that if the investor withdraws money from the Contract within [x] years following the investor's last purchase payment, the investor will be assessed a surrender charge. Include in this statement the maximum surrender charge (as a percentage of [purchase payment or amount surrendered]), and the maximum number of years that a surrender charge may be assessed since the last purchase payment under the Contract. Provide an example of the maximum surrender charge an investor could pay (in dollars) under the Contract assuming a $100,000 investment (*e.g.*, "[i]f you make an early withdrawal, you could pay a surrender charge of up to $9,000 on a $100,000 investment. This loss will be greater if there is a negative Contract Adjustment, taxes, or tax penalties.").

   If applicable, include a statement that if all or a portion of account value is removed from an Index-Linked Option or from the Contract before the expiration of a specified period, the Insurance Company will apply a Contract Adjustment, which may be negative. Include in this statement the maximum potential loss (as a percentage of the investment) resulting from a negative adjustment (*e.g.*, "[y]ou could lose up to XX% of your investment due to the contract

adjustment"). Provide an example of the maximum negative adjustment that could be applied (in dollars) assuming a $100,000 investment (*e.g.*, "[i]f you allocate $100,000 to an investment option with a 3-year Crediting Period and later withdraw the entire amount before the 3 years have ended, you could lose up to $90,000 of your investment. This loss will be greater if you also have to pay a surrender charge, taxes, and tax penalties."). Provide a brief narrative description of the Contract transactions subject to the Contract Adjustment (*e.g.*, withdrawals, surrender, annuitization, etc.).

(b) *Are There Transaction Charges?* State that in addition to surrender charges and Contract Adjustments (if applicable), the investor may also be charged for other transactions, and provide a brief narrative description of the types of such charges (*e.g.*, front-end loads, charges for transferring cash value between Investment Options, charges for wire transfers, etc.).

(c) *Are There Ongoing Fees and Expenses?*

Include the following information, in the order specified:

(i) *Minimum and Maximum Annual Fee Table.*

(A) The legend: "The table below describes the fees and expenses that you may pay *each year*, depending on the Investment Options and optional benefits you choose. Please refer to your Contract specifications page for information about the specific fees you will pay each year based on the options you have elected."

(B) Provide Minimum and Maximum Annual Fees in substantially the following tabular format, in the order specified.

Annual Fee	Minimum	Maximum
Base Contract (varies by Contract Class)	[ ]%	[ ]%
Portfolio Company fees and expenses	[ ]%	[ ]%
Optional benefits available for an additional charge (for a single optional benefit, if elected)	[ ]%	[ ]%

(C) Explain, in a parenthetical or footnote to the table or each caption, the basis for each percentage (*e.g.*, % of separate account value or benefit base, or % of net asset value).

(D) Calculate Base Contract fees by dividing the total amount of Base Contract fees (including dollar-based Contract expenses) collected during the year that are attributable to the Contract by the total average net assets that are attributable to the Contract.

(E) If the Insurance Company offers multiple Portfolio Companies under the Contract, it should disclose the minimum and maximum "Annual Portfolio Company Expenses" calculated in accordance with Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A] (before expense reimbursements or fee waiver arrangements). If the Insurance Company charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the Insurance Company should include the maximum Platform Charge associated with each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses.

(F) The Minimum Annual Fee means the lowest current fee for each annual fee category (*i.e.*, the least expensive Contract Class, the lowest Portfolio Company Total Annual Operating Expenses, and the least expensive optional benefit available for an additional charge). The Maximum Annual Fee means the highest current fee for each annual fee category (*i.e.*, the most expensive Contract Class, the highest Portfolio Company Total Annual Operating Expenses, and the most expensive optional benefit available for an additional charge).

(G) For Contracts that offer Index-Linked Options and impose ongoing fees and expenses on the Index-Linked Options, Variable Options, and/or Fixed Options, precede the table with a prominent statement explaining that: (1) there is an implicit ongoing fee on Index-Linked Options by the Insurance Company limiting, through the use of a cap, participation rate, or some other rate or measure, the amount an investor can earn on an Index-Linked Option; (2) imposing this limit helps the Insurance Company make a profit on the Index-Linked Option; and (3) in return for accepting this limit on Index gains, an investor will receive some protection from Index losses.

(ii) *Lowest and Highest Annual Cost Table.*

(A) The legend: "Because your Contract is customizable, the choices you make affect how much you will pay. To help you understand the cost of owning your Contract, the following table shows the lowest and highest cost you could pay *each year*, based on current charges. This estimate assumes that you do not take withdrawals from the Contract, **which could add surrender charges and negative Contract Adjustments that substantially increase costs**."

(B) Provide Lowest and Highest Annual Costs in substantially the following tabular format, in the order specified.

Lowest Annual Cost: **$[ ]**	**Highest Annual Cost:** **$[ ]**
Assumes: • Investment of $100,000 • 5% annual appreciation • Least expensive combination of Contract Classes and Portfolio Company fees and expenses • No optional benefits • No sales charges • No additional purchase payments, transfers or withdrawals	Assumes: • Investment of $100,000 • 5% annual appreciation • Most expensive combination of Contract Classes, optional benefits, and Portfolio Company fees and expenses • No sales charges • No additional purchase payments, transfers or withdrawals

(C) Calculate the Lowest and Highest Annual Cost estimates in the following manner:

a. Calculate the dollar amount of fees that would be assessed based on the assumptions described in the table above for each of the first 10 Contract years.

b. Total each year's fees (discounted to the present value using a 5% annual discount rate) and divide by 10 to calculate the estimated dollar amounts that are required to be set forth in the table above.

c. Sales loads, other than ongoing sales charges, should be excluded from the Lowest and Highest Annual Cost estimates.

d. Amounts of any bonus payment should be excluded from the Lowest and Highest Annual Cost estimates.

e. Unless otherwise provided, the least and most expensive combination of Contract Classes, Portfolio Company fees and expenses, and optional benefits should be based on the disclosures provided in the Example in Item 4. If a different combination of Contract Classes, Annual Portfolio Company Expenses, and/or optional benefits would result in different Minimum or Maximum fees in different years, use the least expensive and most expensive combination of Contract Classes, Annual Portfolio Company Expenses, and optional benefits each year.

(iii) For Contracts that offer Index-Linked Options and that do not impose any ongoing fees and expenses under the Contract, prominently state, in lieu of the disclosure required by Instructions 2(c)(i) and (ii), that (1) there is an implicit ongoing fee on Index-Linked Options by the Insurance Company limiting, through the use of a cap, participation rate, or some other rate or measure, the amount an investor can earn on an Index-Linked Option; (2) imposing this limit helps the Insurance Company make a profit on the Index-Linked Options; and (3) in return for accepting this limit on Index gains, an investor will receive some protection from Index losses.

3. *Risks.*

(a) *Is There a Risk of Loss From Poor Performance?* State that an investor can lose money by investing in the Contract. For a Contract with Index-Linked Options, prominently state as a percentage the maximum amount of loss an investor could experience from negative Index performance, after taking into account the minimum guaranteed limit on Index loss provided under the Contract.

(b) *Is This a Short-Term Investment*? State that a Contract is not a short-term investment and is not appropriate for an investor who needs ready access to cash, accompanied by a brief explanation. State that amounts withdrawn from the Contract may result in surrender charges, taxes, and tax penalties. If applicable, state that amounts removed from an Index-Linked Option or from the Contract before the end of a specified period may also result in a negative Contract Adjustment and loss of positive Index performance.

For Index-Linked Options, state that Contract value will be reallocated at the end of the Crediting Period according to the investor's instructions, and disclose the default reallocation in the absence of such instructions.

(c) *What are the Risks Associated with the Investment Options?* State that an investment in the Contract is subject to the risk of poor investment performance and can vary depending on the performance of the Investment Options available under the Contract (*e.g.*, Portfolio Companies, if a Variable Option, or the Index, if an Index-Linked Option), that each Investment Option (including any Fixed Option) will have its own unique risks, and that the investor should review the available Investment Options before making an investment decision. For Index-

Linked Options, also state that:

(A) The cap, participation rate, or some other rate or measure, as applicable, will limit positive Index returns (*e.g.*, limited upside). Provide an example for each type of limit imposed under the Contract (*e.g.*, "if the Index return is 12% and the cap rate is 4%, we will credit 4% in interest at the end of the Crediting Period"), and prominently state that this may result in the investor earning less than the Index return; and

(B) The floor, buffer, or some other rate or measure, as applicable, will limit negative Index returns (e.g., limited protection in the case of market decline). Provide an example for each type of limit imposed under the Contract (e.g., "if the Index return is -25% and the buffer rate is -10%, we will credit -15% (the amount that exceeds the buffer rate) at the end of the Crediting Period"), and prominently state that even after limiting a negative Index return, the investor could still lose up to XX% of their investment.

(d) *Is There Any Chance the Insurance Company Won't Pay Amounts Due to Me Under the Contract?* State that an investment in the Contract is subject to the risks related to the Insurance Company, including that any obligations (including under any Fixed Options and Index-Linked Options), guarantees, or benefits are subject to the claims-paying ability of the Insurance Company. Further state that more information about the Insurance Company, including if applicable its financial strength ratings, is available upon request, and indicate how such requests can be made (*e.g.*, via toll-free telephone number).

Instruction. A Registrant may include the Insurance Company's financial strength rating(s) and omit the portion of the disclosures regarding the availability of the Insurance Company's financial strength ratings specified by the last sentence of Instruction 3.(d).

4. *Restrictions.*

(a) *Are There Limits on the Investment Options?* State whether there are any restrictions that may limit the Investment Options that an investor may choose, as well as any limitations on the transfer of Contract value among Investment Options. State any reservation of rights by the Insurance Company or the Registered Separate Account under the Contract, including if applicable, the right to remove or substitute Portfolio Companies, add or remove Index-Linked Options and change the features of an Index-Linked Option from one Crediting Period to the next, including the Index and the current limits on Index gains and losses (subject to contractual minimum guarantees), substitute the Index of an Index-Linked Option during its Crediting Period, and stop accepting additional purchase payments.

(b) *Are There Any Restrictions on Contract Benefits?* State whether there are any restrictions or limitations relating to benefits offered under the Contract (*e.g.,* death benefits, living benefits, Contract loans, performance "locks" relating to the Contract Adjustment, etc.), and/or whether a benefit may be modified or terminated by the Insurance Company. If applicable, state that withdrawals that exceed limits specified by the terms of a Contract benefit may affect the availability of the benefit by reducing the benefit by an amount greater than the value withdrawn, and/or could terminate the benefit.

5. *Taxes—What are the Contract's Tax Implications?* State that an investor should consult with a tax professional to determine the tax implications of an investment in and purchase payments received under the Contract, and that there is no additional tax benefit to the investor if the Contract is purchased through a tax-qualified plan or individual retirement account (IRA). Explain that withdrawals will be subject to ordinary income tax and may be subject to tax penalties.

6. *Conflicts of Interest.*

   (a) *How Are Investment Professionals Compensated?* State that some investment professionals may receive compensation for selling the Contract to investors, and briefly describe the basis upon which such compensation is typically paid (*e.g.*, commissions, revenue sharing, compensation from affiliates and third parties). State that these investment professionals may have a financial incentive to offer or recommend the Contract over another investment.

   (b) *Should I Exchange my Contract?* State that some investment professionals may have a financial incentive to offer an investor a new contract in place of the one the investor already owns, and that an investor should only exchange their contract if the investor determines, after comparing the features, fees, and risks of both contracts, and any fees or penalties to terminate the existing contract, that it is preferable for the investor to purchase the new contract rather than continue to own the existing contract.

   Instruction. A Registrant may omit these line-items if neither the Registrant nor any of its related companies pay financial intermediaries for the sale of the Contract or related services.

Item 4. Fee Table

Include the following information:

The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering or making withdrawals from an Investment Option or from the Contract. Please refer to your Contract specifications page for information about the specific fees you will pay each year based on the options you have elected.

The first table describes the fees and expenses that you will pay at the time that you buy the Contract, surrender or make withdrawals from an Investment Option or from the Contract, or transfer Contract value between Investment Options. State premium taxes may also be deducted.

Transaction Expenses

Sales Load Imposed on Purchases (as a percentage of purchase payments)	__%
Deferred Sales Load (or Surrender Charge) (as a percentage of purchase payments or amount surrendered, as applicable)	__%
Transfer Fee	__%
Contract Adjustment Maximum Potential Loss (as a percentage of Contract value at the start of the Crediting Period or amount withdrawn, as applicable)	__%

The next table describes the fees and expenses that you will pay *each year* during the time that you own the Contract (not including Portfolio Company fees and expenses).

If you choose to purchase an optional benefit, you will pay additional charges, as shown below.

Annual Contract Expenses

Administrative Expenses	$__

Annual Contract Expenses

Base Contract Expenses (as a percentage of average account value or Contract value)	__%
Optional Benefit Expenses (as a percentage of benefit base or other (*e.g.*, average account value))	__%

In addition to the fees described above, we limit the amount you can earn on an Index-Linked Option. Imposing this limit helps us make a profit on the Index-Linked Option. In return for accepting this limit on Index gains, you will receive some protection from Index losses.

The next item shows the minimum and maximum total operating expenses charged by the Portfolio Companies that you may pay periodically during the time that you own the Contract. Expenses shown may change over time and may be higher or lower in the future. These amounts also include applicable Platform Charges if you choose to invest in certain Portfolio Companies. A complete list of Portfolio Companies available under the Contract, including their annual expenses, may be found at the back of this document.

Annual Portfolio Company Expenses	*Minimum*	*Maximum*
(expenses that are deducted from Portfolio Company assets, including management fees, distribution and/or service (12b-1) fees, and other expenses)	__%	__%

Example

This Example is intended to help you compare the cost of investing in the Variable Options with the cost of investing in other annuity contracts that offer variable options. These costs include transaction expenses, annual Contract expenses, and Annual Portfolio Company Expenses.

The Example assumes all Contract value is allocated to the Variable Options. The Example does not reflect the Contract Adjustment. Your costs could differ from those shown below if you invest in Index-Linked Options or Fixed Options.

The Example assumes that you invest $100,000 in the Variable Options for the time periods indicated. The Example also assumes that your investment has a 5% return each year and assumes the most expensive combination of Annual Portfolio Company Expenses and optional benefits available for an additional charge. Although your actual costs may be higher or lower, based on these assumptions, your costs would be:

	1 year	3 years	5 years	10 years
If you surrender your Contract at the end of the applicable time period:	$___	$___	$___	$___
If you annuitize at the end of the applicable	1 year	3 years	5 years	10 years

	1 year	3 years	5 years	10 years
If you surrender your Contract at the end of the applicable time period:	$___	$___	$___	$___
time period:	$___	$___	$___	$___
If you do *not* surrender your Contract:	1 year	3 years	5 years	10 years
	$___	$___	$___	$___

Instructions

1. Include the narrative explanations in the order indicated. A Registrant may modify a narrative explanation if the explanation contains comparable information to that shown, and may omit a narrative explanation that is not applicable under the Contract.

2. Assume that the 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 a brief narrative and provide a cross-reference to those portions of the prospectus describing these fees.

3. A Registrant may omit captions if the Registrant does not charge or reserve the right to charge the fees or expenses covered by the captions.

4. Round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.

5. In the Transaction Expenses and Annual Contract Expenses tables, the Registrant must disclose the maximum guaranteed charge, unless a specific instruction directs otherwise. If a fee other than a Contract Adjustment is calculated based on a benchmark (*e.g.*, a fee that varies according to volatility levels or Treasury yields), the Registrant must also disclose the maximum guaranteed charge as a single number. The Registrant may disclose the current charge, in addition to the maximum charge, if the disclosure of the current charge is no more prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge. In addition, the Registrant may include in a footnote to the table a tabular, narrative, or other presentation providing further detail regarding variations in the charge. For example, if deferred sales charges decline over time, the Registrant may include in a footnote a presentation regarding the scheduled reductions in the deferred sales charges.

6. Provide a separate fee table (or separate column within the table) for each Contract offered by the prospectus that has different fees.

7. For a Contract with more than one Class, provide a separate response for each Class.

Transaction Expenses

8. “Sales Load Imposed on Purchases” 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.

9. "Deferred Sales Load" includes the maximum contingent deferred sales load (or surrender charge), expressed as a percentage of the original purchase price or amount surrendered, and may include a tabular presentation, within the larger table, of the range of contingent deferred sales loads over time.

10. "Transfer Fee" includes the maximum fee charged for any exchange or transfer of Contract value between Investment Options or from the Registered Separate Account to another investment company or from the Registered Separate Account to the insurance company's general account. The Registrant may include a tabular presentation of the range of transfer 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 transfer fee.

11. "Contract Adjustment Maximum Potential Loss" includes the maximum negative Contract Adjustment that may be imposed, expressed as a percentage of Contract value at the start of the Crediting Period or of the amount withdrawn, as applicable. The Registrant should list in a footnote the Contract transactions subject to a Contract Adjustment.

12. 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 Expenses

13. Administrative Expenses include any Contract, account, or similar fee imposed on a dollar basis and charged on any recurring basis (*e.g.*, $50 per year).

14. Base Contract Expenses include mortality and expense risk fees and account fees and expenses. Account fees and expenses include all fees and expenses charged to any Investment Option (except sales loads, mortality and expense risk fees, and optional benefits expenses) that are deducted on a percentage basis.

15. Optional Benefits Expenses include any optional features (*e.g.*, enhanced death benefits and living benefits) offered under the Contract for an additional charge.

16. If the Registrant (or any other party pursuant to an agreement with the Registrant) imposes any other recurring charge (other than Annual Portfolio Company Expenses), add another caption describing it and list the (maximum) amount or basis on which the charge is deducted.

Annual Portfolio Company Expenses

17. If a Registrant offers multiple Portfolio Companies, it should disclose the minimum and maximum "Annual Portfolio Company Expenses" for any Portfolio Company calculated in accordance with Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A (before expense reimbursements or fee waiver arrangements). If the Insurance Company charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the Registrant should include the maximum Platform Charge associated with each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses.

18. A Registrant may also reflect, in an additional line-item to the range of Annual Portfolio Company Expenses, minimum and maximum Annual Portfolio Company Expenses calculated in accordance

with Item 3 of Form N-1A that include expense reimbursements or fee waiver arrangements that are in place and reflected in the Portfolio Company's registration statement pursuant to Item 3 of Form N-1A. If the Registrant provides this disclosure, also disclose the period for which the expense reimbursements or fee waiver arrangement is expected to continue, and, if applicable, that it can be terminated at any time at the option of a Portfolio Company. If the Registrant charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, the Registrant should include the current Platform Charge associated with each Portfolio Company when calculating minimum and maximum Annual Portfolio Company Expenses that include expense reimbursements or fee waiver arrangements.

Example

19. For purposes of the Example(s) in the table, provide the following for each Variable Option Contract Class:

    (a) Assume that the percentage amounts listed under "Annual Contract Expenses" remain the same in each year of the 1-, 3-, 5-, and 10-year periods;

    (b) The most expensive combination of Contract features must be shown first. Additional expense presentations are permitted, but not required;

    (c) Assume the maximum sales load that may be deducted from purchase payments is deducted;

    (d) For any breakpoint in any fee, assume that the amount of Variable Option (and Portfolio Company) assets remains constant as of the level at the end of the most recently completed fiscal year;

    (e) Assume no exchanges or other transactions;

    (f) Reflect any Contract expenses by dividing the total amount of Contract expenses (including dollar-based Contract expenses) collected during the year that are attributable to the Contract by the total average net assets that are attributable to the Contract. Add the resulting percentage to Base Contract expenses and assume that it remains the same in each year of the 1-, 3-, 5-, and 10-year periods;

    (g) Reflect any deferred sales load (or surrender charge) by assuming a complete surrender on the last day of the year;

    (h) Provide the information required in the second section of the Example only if Variable Option fees upon annuitization are different from those charged upon surrender; and

    (i) Provide the information required in the third section of the Example only if a sales load or other fee is charged upon a complete surrender.

Item 5. Principal Risks of Investing in the Contract

Summarize the principal risks of purchasing a Contract, including as applicable:

(a) *Investment Option Risk.* Explain the principal risks of investing in an Investment Option, including the risks of poor investment performance and, for Index-Linked Options, the maximum potential loss from negative Index performance over the Crediting Period, as a percentage.

(b) *Early Withdrawal Risk.* State that Contracts are unsuitable as short-term savings vehicles. Explain the limitations on access to cash value through withdrawals, including, as applicable, surrender charges, negative Contract Adjustments, loss of interest, and the possibility of adverse tax

consequences. State the maximum potential loss resulting from a negative Contract Adjustment, as a percentage.

(c) *Index-Linked Option Risk*. In addition to the potential loss from negative Index performance, describe the principal risks of investing in any Index-Linked Option offered under the Contract. State that an investor is not invested in the Index or in the securities tracked by the Index.

Instructions. Include in this discussion:

(1) The principal risks relating to, as applicable, limiting positive Index returns, the possibility of losses despite limits on negative Index returns, interest crediting methodologies, the impact of Contract fees on the amount of interest credited, and the reallocation of Contract value at the end of an Index-Linked Option's Crediting Period,

(2) The principal risks associated with the Index, including, as applicable, risks relating to type (*e.g.*, market risk, small-cap risk, foreign securities risk, emerging market risk, etc.), the exclusion of dividends from Index return, and market volatility. Specify which risks relate to each Index offered under the Contract. Describe the principal risks related to the possible substitution of the Index before the end of an Index-Linked Option's Crediting Period.

(d) *Contract Benefits Risk.* Describe the principal risks associated with any benefits under the Contract, including the impact of excess withdrawals, if applicable.

(e) *Insurance Company Risk.* Explain the principal risks associated with the Insurance Company's ability to meet its guarantees under the Contract, including risks relating to its financial strength and claims-paying ability.

(f) *Contract Changes Risk.* Describe the principal risks relating to any material reservation of rights under the Contract, including if applicable, the right to remove or substitute Portfolio Companies, add or remove Index-Linked Options and change the features of an Index-Linked Option from one Crediting Period to the next, stop accepting additional purchase payments, and impose investment restrictions or limitations on transfers.

Item 6. Description of Insurance Company, Registered Separate Account, and Investment Options

Concisely discuss the organization and operation or proposed operation of the Insurance Company, Registered Separate Account, Variable Options, Index-Linked Options, and Fixed Options. Include the information specified below, as applicable.

(a) *Insurance Company*. Provide the name and address of the Insurance Company. State that the Insurance Company is obligated to pay all amounts promised to investors under the Contracts, subject to its financial strength and claims-paying ability.

Instruction. If applicable, indicate that the Insurance Company is relying on the exemption provided by rule 12h-7 under the Securities Exchange Act (17 CFR 240.12h-7).

(b) *Registered Separate Account*. Briefly describe the Registered Separate Account. Include a statement indicating that:

(1) income, gains, and losses credited to, or charged against, the separate account reflect the separate account's own investment experience and not the investment experience of the Insurance Company's other assets; and

(2) the assets of the separate account may not be used to pay any liabilities of the Insurance Company other than those arising from the Contracts.

(c) *Variable Options.* Briefly describe the Variable Options currently offered under the Contract, including statements indicating that:

(1) Contract value allocated to a Variable Option will vary based on the investment experience of the corresponding Portfolio Company in which the Variable Option invests. There is a risk of loss of the entire amount invested.

(2) Information regarding each Portfolio Company, including (i) its name, (ii) its type (*e.g.*, money market fund, bond fund, balanced fund, etc.) or a brief statement concerning its investment objectives, (iii) its investment adviser and any sub-investment adviser, (iv) current expenses, and (v) performance is available in an appendix to the prospectus, and provide cross-references. State that each Portfolio Company has issued a prospectus that contains more detailed information about the Portfolio Company, and provide instructions regarding how investors may obtain paper or electronic copies.

(3) Concisely discuss the rights of investors to instruct the Insurance Company on the voting of shares of the Portfolio Companies, including the manner in which votes will be allocated.

(d) *Index-Linked Options.*

(1) Describe the Index-Linked Options currently offered under the Contract, including statements indicating that:

(i) The Insurance Company will credit positive or negative interest at the end of a Crediting Period to amounts allocated to an Index-Linked Option based, in part, on the performance of the Index. An investment in an Index-Linked Option is not an investment in the Index or in any Index fund.

(ii) The potential for investment loss could be significantly greater than the potential for investment gain. An investor could lose a significant amount of money if the Index declines in value.

Instruction. Prominently state as a percentage the maximum amount of loss an investor could experience from negative Index performance, after taking into account the minimum guaranteed limit on Index loss provided under the Contract.

(iii) An investor could lose a significant amount of money due to the Contract Adjustment if amounts are removed from an Index-Linked Option prior to the end of its Crediting Period.

Instruction. Prominently state as a percentage the maximum amount of loss an investor could experience from a negative Contract Adjustment. State that this loss could be greater due to surrender charges and tax consequences.

(iv) The Insurance Company can add or remove Index-Linked Options and change the features of an Index-Linked Option from one Crediting Period to the next, including the Index and the current limits on Index gains and losses, subject to contractual minimum guarantees.

(v) Information regarding the features of each currently offered Index-Linked Option, including (i) its name, (ii) its type (*e.g.*, market Index, exchange-traded fund, etc.), or a brief statement describing the assets that the Index seeks to track (*e.g.*, U.S. large-cap equities), (iii) its Crediting Period, (iv) its Index crediting methodology, (v) its limit on Index loss, and (vi) its guaranteed minimum limit on Index gain, is available in an appendix to the prospectus, and provide cross-references.

Instruction. This statement may be modified to conform to the table provided in response to Item 17(b).

(2) Describe how interest is calculated and credited for each Index-Linked Option.

(i) *Limits on Index Losses*

(A) State that the Insurance Company will limit the negative Index return used in calculating interest credited to an Index-Linked Option at the end of its Crediting Period. Describe the manner(s) in which the Insurance Company will limit negative returns through the use of a floor, buffer, or some other rate or measure. Provide an example of how such rate could operate to limit a negative Index return (*e.g.*, "if the Index return is -25% and the buffer rate is -10%, we will credit -15% (the amount that exceeds the buffer rate) at the end of the Crediting Period, meaning your Contract value will decrease by 15%").

(B) Disclose the current limit on Index losses for each Index-Linked Option, and the minimum limit guaranteed for the life of the Contract for any Index-Linked Option. State that the current limit on Index losses will not change during an Index-Linked Option's Crediting Period.

(C) Describe the factors the Insurance Company considers in determining the current rate for an Index-Linked Option, and how that choice may impact other features of the option set by the Insurance Company. Explain what an investor should consider regarding limits on Index losses before selecting an Index-Linked Option for investment.

(ii) *Limits on Index Gains.*

(A) State that the Insurance Company will limit the positive Index return used in calculating interest credited to an Index-Linked Option at the end of its Crediting Period. Describe the manner(s) in which the Insurance Company will limit positive returns through the use of a cap, participation rate, or some other rate or measure. Provide an example of how such rate could operate to limit a positive Index return (*e.g.*, "if the Index return is 12% and the cap rate is 4%, we will credit 4% in interest at the end of the Crediting Period, meaning your Contract value will increase by 4%").

(B) Disclose the current limit on Index gains for each Index-Linked Option, and the minimum limit guaranteed for the life of the Contract for any Index-Linked Option. State that the current limit on Index gains will not change during an Index-Linked Option's Crediting Period.

(C) Describe the factors the Insurance Company considers in determining the current rate for an Index-Linked Option, and how that choice may impact other features of the option set by the Insurance Company. Explain what an investor should consider regarding limits on Index gains before selecting an Index-Linked Option for investment.

(iii) *Crediting Period.*

(A) Generally describe the Index-Linked Option Crediting Periods available under the Contract (*e.g.*, 1, 3, and 6 years) and the factors an investor should consider regarding different Crediting Period lengths before selecting an Index-Linked Option for investment.

(B) Prominently state that amounts must remain in an Index-Linked Option until the end of its Crediting Period to be credited with all or partial interest, as applicable, and to avoid a possible Contract Adjustment in addition to potential surrender charges and tax consequences. Describe the transactions subject to a Contract Adjustment. Provide cross-references to related disclosure in the prospectus.

(iv) *Methodology and Examples.*

(A) For each Index crediting methodology, describe how interest is calculated and credited at the end of a Crediting Period based on the interest crediting formula or performance measure (*e.g.* point-to-point, step-up calculations, enhanced performance).

(B) For each Index, provide a bar chart showing the annual return for each of the last 10 calendar years (or for the life of the Index if less than 10 years). Provide a hypothetical example alongside each Index return that reflects the return after applying a 5% cap and a -10% buffer.

Include the following legend before the bar chart, in the format specified:

The bar chart shown below provides the Index's annual returns for the last 10 calendar years (or for the life of the Index if less than 10 years), as well as the Index returns after applying a hypothetical 5% cap and a hypothetical -10% buffer. The chart illustrates the variability of the returns from year to year and shows how hypothetical limits on Index gains and losses may affect these returns. Past performance is not necessarily an indication of future performance.

The performance below is NOT the performance of *any* Index-Linked Option. Your performance under the Contract will differ, perhaps significantly. The performance below may reflect a different return calculation, time period, and limit on Index gains and losses than the Index-Linked Options, and does not reflect Contract fees and charges, including surrender charges and the Contract Adjustment, which reduce performance.

Instructions.

1. Include only one legend if bar charts for multiple Indexes are presented.

2. Provide the corresponding numerical return adjacent to each bar.

3. If the Contract does not offer any Index-Linked Option that uses a cap in its Index crediting methodology, the Company may reflect the rate or measure used to limit Index gains under the Contract assuming a hypothetical percentage comparable to a 5% cap. If the Contract does not offer any Index-Linked Option that uses a buffer in its Index crediting methodology, the Company may reflect the rate or measure used to limit Index losses under the Contract assuming a hypothetical percentage comparable to a -10% buffer.

4. If applicable, disclose in a footnote to the table that the Index return does not reflect the dividends paid on the assets comprising the Index.

5. If applicable, disclose in a footnote to the table that the Index provider deducts fees and costs when calculating the Index return.

6. Do not include additional performance presentations or historical Index performance that precedes the inception of the Index.

(C) Provide a numerical example to illustrate the mechanics of each type of Index crediting methodology in a clear, concise, and understandable manner.

Include the following legend, in the format specified:

The following examples illustrate how we calculate and credit interest under each Index crediting methodology assuming hypothetical Index returns and hypothetical limits on Index gains and losses. The examples assume no withdrawals.

Instructions.

1. Assume hypothetical returns and limits that are reasonable based on current and anticipated market conditions and Contract sales.

2. Include in the example a positive Index return above the limit on Index gains and a negative Index return below the limit on Index losses.

3. Reflect any charges subtracted from interest credited or deducted from Contract value in the Index-Linked Options.

4. Additional examples, charts, graphs, or other presentations may be included if clear, concise, and understandable.

(v) *Indexes.*

(A) For each Index, briefly describe the types of investments that compose the Index. Direct the investor to additional information about the Index.

Instructions.

1. Where there is more than one version of an Index (for example a total return version, price return version), it should be clear which Index relates to the Index-Linked Option.

2. If the Index is an exchange-traded fund ("ETF"), clarify whether the Index performance is based on the ETF's Net Asset Value or closing value. Also clarify if the performance is based on the share price of the ETF and the impact of using share price as opposed to total return.

3. If applicable, state that the Index does not reflect dividends paid on the securities comprising the Index, or that the Index deducts fees and costs when calculating Index performance, which will reduce Index performance.

(B) State that the Insurance Company reserves the right to substitute an Index prior to the end of a Crediting Period. Explain: (a) all circumstances that could necessitate a substitution; (b) how the Insurance Company would choose a replacement Index; (c) when and how investors will be notified of any such change; (d) how Index return will be calculated at the end of the Crediting Period; and (e) what would happen if a suitable replacement Index were not found, including whether the Index-Linked Option will be discontinued prior to the end of the Crediting Period.

(vi) *Maturity.* State whether investors will receive advance notice of a maturing Index-Linked Option. Disclose how an investor may provide instructions on reallocating Contract value at the end of the Crediting Period, and any automatic default reallocation in the absence of such instructions.

Instruction. Explain how investors will be informed of Index-Linked Options available for allocation at the end of a Crediting Period, including any changes to currently offered Index-Linked Options, and the discontinuance or addition of Index-Linked Options.

(vii) *Other Material Features.* Describe any other material aspect of the Index-Linked Options, including limitations on transfers to or from the Index-Linked Options, rate holds, "bail-out" provisions, start dates, and holding accounts. If applicable, briefly describe how charges may impact Index-Linked Option value.

(e) *Fixed Options.*

(1) Describe the Fixed Options currently offered under the Contract. State that information regarding the features of each currently offered Fixed Option, including (i) its name, (ii) its term, and (iii) its minimum guaranteed interest rate, is available in an appendix to the prospectus, and provide cross-references.

Instruction. This statement may be modified to conform to the table provided in response to Item 17(c).

(2) Describe how interest is calculated and when it is credited for each Fixed Option. Disclose the length of the term and the minimum guaranteed interest rate.

Instruction. Disclose the minimum guaranteed interest rate as a numeric rate, rather than referring to any minimums permitted under state law.

(i) Maturity. If applicable, state whether investors will receive advance notice of a maturing Fixed Option. Disclose how an investor may provide instructions on reallocating Contract value at the end of the term, and any automatic default reallocation in the absence of such instructions.

Instruction. Explain how investors will be informed of Fixed Options available for allocation at the end of a term, including any changes to currently offered Fixed Options, and the discontinuance or addition of Fixed Options.

(ii) *Other Material Features.* Describe any other material aspect of the Fixed Options, including limitations on transfers to or from the Fixed Options, rate holds, start dates, and holding accounts.

Item 7. Charges

(a) *Description*. Briefly describe all current charges deducted from purchase payments, Contract value, or Investment Option assets, or any other source (*e.g.*, sales loads, premium taxes and other taxes, administrative and transaction charges, risk charges, Contract loan charges, and optional benefit charges). Indicate whether each charge will be deducted from purchase payments, Contract value, or Investment Option assets, the proceeds of withdrawals or surrenders, or some other source. When possible, specify the amount of any charge as a percentage or dollar figure (*e.g.*, 0.95% of average daily net assets or $5 per exchange). For recurring charges, specify the frequency of the deduction (*e.g.*, daily, monthly, annually). Identify the person who receives the amount deducted, briefly explain what is provided in consideration for the charges, and explain the extent to which any charge can be

modified. Where it is possible to identify what is provided in consideration for a particular charge (*e.g.*, use of sales load to pay distribution costs), explain what is provided in consideration for that charge separately.

Instructions.

1. Describe the sales loads applicable to the Contract and how sales loads are charged and calculated, including the factors affecting the computation of the amount of the sales load. If the Contract has a front-end sales load, describe the sales load as a percentage of the applicable measure of purchase payments and as a percentage of the net amount invested for each breakpoint. For Contracts with a deferred sales load, describe the sales load as a percentage of the applicable measure of purchase payments (or other basis) that the deferred sales load may represent. Percentages should be shown in a table. Identify any events on which a deferred sales load is deducted (*e.g.*, surrender or withdrawal). The description of any deferred sales load should include how the deduction will be allocated among Investment Options and when, if ever, the sales load will be waived (*e.g.*, if the Contract provides a free withdrawal amount).

2. Unless set forth in response to Instruction 1, 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 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).

3. If proceeds from 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 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 Base Contract Expenses.

4. If the Contract's charge for premium or other taxes varies according to jurisdiction, identification of the range of current premium or other taxes is sufficient.

(b) *Commissions Paid to Dealers*. State the commissions paid to dealers as a percentage of purchase payments.

(c) *Portfolio Company Charges.* State that charges are deducted from and expenses paid out of the assets of the Portfolio Companies that are described in the prospectuses for those companies.

(d) *Operating Expenses.* Describe any type of operating expenses for which the Registered Separate Account is responsible. If organizational expenses of the Registered Separate Account are to be paid out of its assets, explain how the expenses will be amortized and the period over which the amortization will occur.

(e) *Contract Adjustment.* Describe any Contract Adjustment under the Contract.

Instructions.

1. State the maximum potential loss, as a percentage, that could result from a negative Contract Adjustment.
2. Define the period during which the Contract Adjustment applies.
3. Describe all transactions subject to the Contract Adjustment. For example, as applicable, state whether an adjustment will be applied if amounts are transferred or withdrawn from an Index-Linked Option or from the Contract due to a partial withdrawal, surrender, election of an annuity option, payment of death benefit proceeds, etc., or where a particular Contract option (such as a withdrawal under a guaranteed living benefit) is utilized. Describe any circumstances under which the adjustment will be waived.
4. Briefly describe in simple terms the manner in which the Contract Adjustment is determined, including: (i) whether the adjustment results from the application of a particular formula or set of factors (*e.g.*, a change in value of hypothetical derivative instruments); (ii) the factors that may cause a positive or negative adjustment (*e.g.*, timing of withdrawal, Index volatility, increase in external interest rates, etc.); (iii) a description of any proportionate withdrawal calculations; and (iv) how a positive or negative adjustment is applied (*e.g.*, allocated among the Investment Options, applied to a withdrawal amount). Detailed disclosure on the method of calculating the Contract Adjustment should be placed in the SAI in response to Item 22. Provide a cross-reference to the SAI for more information about the Contract Adjustment, including examples illustrating the operation of the adjustment.
5. State how the Contract Adjustment will affect the Contract value, surrender value, death benefit, and any living benefits, and disclose that a negative adjustment could reduce the values under the Contract by an amount greater than the value withdrawn. If applicable, state the impact of the Contract Adjustment on interest to be credited to an Index-Linked Option at the end of its Crediting Period.
6. Describe the relationship between the Contract Adjustment and any other charges or fees applied under the Contract, including, for example, the sequence in which charges and adjustments are applied.
7. Briefly describe the purpose of the Contract Adjustment (*e.g.*, to transfer risk from the Insurance Company to the investor to protect the Insurance Company from losses on its own investments supporting Contract guarantees if amounts are withdrawn prematurely).
8. Disclose how an investor can obtain information about the current value of a Contract Adjustment. State that this value can fluctuate daily, and the current value quoted to the investor may differ from the actual value calculated at the time of adjustment.

Item 8. General Description of Contracts

(a) *Contract Rights.* Identify the person or persons (*e.g.*, the investor, participant, annuitant, or beneficiary) who have material rights under the Contracts, and the nature of those rights (1) during the accumulation period, (2) during the annuity period, and (3) after the death of the annuitant or investor.

Instruction. Disclose all material state variations and intermediary-specific variations (*e.g.*, variations resulting from different brokerage channels) to the offering.

(b) *Contract Provisions and Limitations.* Briefly describe any provisions and limitations for:

(1) minimum Contract value, and the consequences of falling below that amount;

(2) allocation of purchase payments among Investment Options;

(3) transfer of Contract value between Investment Options, including transfer programs (*e.g.*, dollar cost averaging, portfolio rebalancing, asset allocation programs, and automatic transfer programs);

(4) conversion or exchange of Contracts for another contract, including a fixed or variable annuity or life insurance contract; and

Instruction. In discussing conversion or exchange of Contracts, the Registrant should include any time limits on conversion or exchange, the name of the company issuing the other contract and whether that company is affiliated with the issuer of the Contract, and how the cash value of the Contract will be affected by the conversion or exchange.

(5) buyout offers, including interests or participations therein.

(c) *General Account.* Describe the obligations under the Contract that are funded by the Insurance Company's general account (*e.g.*, Index-Linked or Fixed Options, death benefits, living benefits, or other benefits available under the Contract), and state that these amounts are subject to the Insurance Company's claims-paying ability and financial strength.

(d) *Contract or Registered Separate Account Changes*. Briefly describe the changes that can be made in the Contracts or the operations of the Registered Separate Account by the Registered Separate Account or the Insurance Company, including:

(1) why a change may be made (*e.g.*, changes in applicable law or interpretations of law);

(2) who, if anyone, must approve any change (*e.g.*, the investor or the Commission); and

(3) who, if anyone, must be notified of any change.

Instruction. Describe only those changes that would be material to a purchaser of the Contracts, such as a reservation of the right to deregister the Registered Separate Account under the Investment Company Act or to substitute one Portfolio Company for another. Do not describe possible non-material changes, such as changing the time of day at which accumulation unit values are determined.

(e) *Class of Purchasers*. Disclose any limitations on the class or classes of purchasers to whom the Contract is being offered.

(f) Frequent Transfers among Variable Options.

(1) Describe the risks, if any, that frequent transfers of Contract value among Variable Options may present for other investors and other persons (*e.g.*, participants, annuitants, or beneficiaries) who have material rights under the Contract.

(2) State whether or not the Registered Separate Account or Insurance Company has adopted policies and procedures with respect to frequent transfers of Contract value among Variable Options.

(3) If neither the Registered Separate Account nor the Insurance Company has adopted any such policies and procedures, provide a statement of the specific basis for the view of the Insurance Company that it is appropriate for the Registered Separate Account and Insurance Company not to have such policies and procedures.

(4) If the Registered Separate Account or Insurance Company has any such policies and procedures, describe those policies and procedures, including:

(i) whether or not the Registered Separate Account or Insurance Company discourages frequent transfers of Contract value among Variable Options;

(ii) whether or not the Registered Separate Account or Insurance Company accommodates frequent transfers of Contract value among Variable Options; and

(iii) any policies and procedures of the Registered Separate Account or Insurance Company for deterring frequent transfers of Contract value among Variable Options, including any restrictions imposed by the Registered Separate Account or Insurance Company 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:

(A) any restrictions on the volume or number of transfers that may be made within a given time period;

(B) any transfer fee;

(C) 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 Variable Options, together with a description of the circumstances under which such costs, fees, or charges will be imposed;

(D) any minimum holding period that is imposed before a transfer may be made from a Variable Option into another;

(E) any restrictions imposed on transfer requests submitted by overnight delivery, electronically, or via facsimile or telephone; and

(F) any right of the Registered Separate Account or Insurance Company 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 Variable Options, including the circumstances under which such right will be exercised.

(5) If applicable, include a statement, adjacent to the disclosure required by paragraphs (f)(1) through (f)(4) 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 Variable Options.

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 SAI in response to Item 25.

(g) If applicable, state that the investor will not be able to withdraw any Contract value amounts after the annuity commencement date.

Item 10. Benefits Available Under the Contract

(a) Include the following information:

The following table[s] summarize information about the benefits available under the contract.

Name of Benefit	Purpose	Is Benefit Standard or Optional	Maximum Fee	Brief Description of Restrictions/ Limitations
			[ ]%	
			[ ]%	

Instructions.

1. *General.*

   (a) The table required by paragraph (a) of this Item is meant to provide a tabular summary overview of the benefits described in paragraph (b) of this Item (*e.g.*, standard or optional death benefits, standard or optional living benefits, etc.).

   (b) If the Contract offers multiple benefits of the same type (*e.g.*, death benefit, accumulation benefit, withdrawal benefit, long-term care benefit), the Registrant may include multiple tables in response to paragraph (a) of this Item, if doing so might better permit comparisons of different benefits of the same type. Registrants that choose to use a single table should consider whether grouping together multiple benefits of the same type, with appropriate headings, might similarly permit better comparisons of those benefits.

   (c) The Registrant should include appropriate titles, headings, or any other information to promote clarity and facilitate understanding of the table(s) presented in response to paragraph (a) of this Item. For example, if certain optional benefits are only available to certain investors (*e.g.*, investors who invested during specific time periods), the table could include footnotes or headings to identify which optional benefits are affected and to whom those optional benefits are available.

2. *Name of Benefit.* State the name of each benefit included in the table(s).

3. *Purpose*. Briefly describe the purpose of each benefit included in the table(s).

4. *Is Benefit Standard or Optional.* State whether the benefit is standard or optional. If the Registrant includes titles or headings for the table(s) specifying whether the benefit is standard or optional, the Registrant does not need to include the "Is Benefit Standard or Optional" column in the table(s).

5. *Maximum Fee*. State the maximum fee associated with each benefit included in the table(s). Include parentheticals providing information about what the stated percentage refers to (*e.g.*, percentage of Contract value, percentage of benefit base, etc.).

6. *Current Fee*. The Registrant may disclose the current charge in a separate column titled "Current Charge," if the disclosure of the current charge is no more prominent than, and does not obscure or impede understanding of, the disclosure of the maximum charge.

7. *Brief Description of Restrictions/Limitations*. Briefly describe the restriction(s) or limitation(s) associated with each benefit. Registrants are encouraged to use short phrases (*e.g.*, "benefit limits investment options available," "withdrawals could terminate benefit") to describe the restriction(s) or limitation(s).

(b) Briefly describe any benefits (*e.g.*, death benefits, living benefits, etc.) offered under a Contract, including:

(1) Whether the benefit is standard or optional;

(2) The operation of the benefit, including the amount of the benefit and how the benefit amount may vary, the circumstances under which the value of the benefit may increase or be reduced (including the effect of withdrawals), and how the benefit may be terminated;

(3) Fees and costs, if any, associated with the benefit; and

(4) How the benefit amount is calculated and payable and the effect of choosing a specific method of payment on calculation of the benefit.

(c) Briefly describe any limitations, restrictions and risks associated with any benefit offered under the Contract (*e.g.*, restrictions on which Portfolio Companies or Investment Options may be selected; risk of reduction or termination of benefit or of additional costs resulting from excess withdrawals).

Instruction. In responding to paragraphs (b) and (c) of this Item, provide one or more examples illustrating the operation of each benefit in a clear, concise, and understandable manner.

Item 11. Purchases and Contract Value

(a) Briefly describe the procedures for purchasing a Contract. Include a concise explanation of:

(1) 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 Investment Option, state these limits);

(2) a statement of when initial and subsequent purchase payments are credited; and

(3) a description of how purchase payments are allocated to the Investment Options, including how such allocation would take place in the absence of instructions from the investor.

(b) For Variable Options:

(1) Describe the manner 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.

(2) Explain that investment performance of the Portfolio Companies, expenses, and deduction of certain charges affect accumulation unit value and/or the number of accumulation units.

(3) 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.

(c) Identify each principal underwriter (other than the Insurance Company) of the Contracts and state its principal business address. If the principal underwriter is affiliated with the Registrant or any affiliated person of the Registrant, identify how they are affiliated (*e.g.*, the principal underwriter is controlled by the Insurance Company).

Item 12. Surrenders and Withdrawals

(a) *Surrender and Withdrawal*. Briefly describe how surrenders and withdrawals can be made from a Contract, including any limits on the ability to surrender, how the proceeds are calculated, and when they are payable. Briefly describe the potential effect of such surrenders and withdrawals.

(b) *Additional Information Regarding Surrender and Withdrawal*. Indicate generally whether and under what circumstances surrenders and withdrawals are available under a Contract, including the minimum and maximum amounts that may be surrendered or withdrawn, any limits on their availability, how the proceeds are calculated, and when the proceeds are payable.

(c) *Effect of Surrender and Withdrawal*. Indicate generally whether and under what circumstances surrenders or withdrawals will affect a Contract's cash value, death benefit(s), and/or any living benefits, and whether any charge(s) and Contract Adjustment will apply.

(d) *Investment Option Allocation*. Describe how surrenders and withdrawals will be allocated to the Investment Options, including how such allocation would take place in the absence of instructions from the investor.

Instruction. The Registrant should generally describe the terms and conditions that apply to surrender and withdrawal transactions. Technical information regarding the determination of amounts available to be surrendered or withdrawn should be included in the SAI.

(e) *Involuntary Redemption*. Briefly describe any provision for involuntary redemptions under the Contract and the reasons for it, such as the size of the account or infrequency of purchase payments.

(f) *Revocation Rights*. Briefly describe any revocation rights (*e.g.*, "free look" provisions), including a description of how the amount refunded is determined. Disclose the method for crediting Variable Option earnings to purchase payments during the free look period, and whether Investment Options are limited during the free look period.

Item 13. Loans

Briefly describe the loan provisions of the Contract, including any of the following that are applicable.

(a) *Availability of Loans*. State that a portion of the Contract's cash surrender value may be borrowed. State how the amount available for a loan is calculated.

(b) *Limitations*. Describe any limits on availability of loans (*e.g.*, a prohibition on loans during the first Contract year).

(c) *Interest*. Describe how interest accrues on the loan, when it is payable, and how interest is treated if not paid. Explain how interest on the amount in the collateral account is credited to the Contract and allocated to the investment options.

(d) *Effect on Contract Value and Death Benefit*. Describe how loans and loan repayments affect Contract value and how they are allocated among the investment options, including, if applicable, how such allocation would take place in the absence of instructions from the investor. Include (i) a brief explanation that amounts borrowed under a Contract do not participate in the investment experience of an Investment Option and that loans, therefore, can affect the Contract value and death benefit whether or not the loan is repaid, and (ii) a brief explanation that the Contract value at surrender and the death proceeds payable will be reduced by the amount of any outstanding Contract loan plus accrued interest.

(e) *Other Effects*. Describe any other effect that a loan could have on the Contract (*e.g.*, the effect of a Contract loan in excess of Contract value).

(f) *Procedures*. Describe the loan procedures, including how and when amounts borrowed are transferred out of the Investment Options and how and when amounts repaid are credited to the Investment Options.

Item 14. Taxes

(a) *Tax Consequences*. Describe the material tax consequences to the investor and beneficiary of buying, holding, exchanging, or exercising rights under the Contract.

Instruction. Discuss the taxation of annuity payments, death benefit proceeds, periodic and non-periodic withdrawals, loans, and any other distribution that may be received under the Contract, as well as the tax benefits accorded the Contract, and other material tax consequences. Describe, if applicable, whether the tax consequences vary with different uses of the Contract.

(b) *Qualified Plans*. Identify the types of qualified plans for which the 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 qualifications of plans or the non-annuity tax consequences of qualification (*e.g.*, the effect on employer taxation).

(c) *Effect*. Describe the effect, if any, of taxation on the determination of cash values or Contract values.

Item 15. Legal Proceedings

Describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registered Separate Account, the principal underwriter, or the Insurance Company is a party. Include the name of the court where the case is pending, the date instituted, the principal parties involved, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any proceedings instituted, or known to be contemplated, by a governmental authority.

Instruction. For purposes of this requirement, legal proceedings are material only to the extent that they are likely to have a material adverse effect on the Registered Separate Account, the ability of the principal underwriter to perform its contract with the Registrant, or the ability of the Insurance Company to meet its obligations under the Contracts.

Item 16. Financial Statements

If all of the required financial statements of the Registered Separate Account and the Insurance Company (see Item 26 and General Instruction C.3.(b)) are not in the prospectus, state, under a separate caption, where the financial statements may be found. Briefly explain how investors may obtain any financial statements not in the Statement of Additional Information.

Item 17. Investment Options Available Under the Contract

Include the following information as an Appendix under the heading **"Appendix: Investment Options Available Under the Contract."** A Registrant may modify the Appendix heading as appropriate under the Contract.

(a) *Variable Options.* Include the following legend, in the format specified below:

The following is a list of Portfolio Companies available under the Contract. More information about the Portfolio Companies is available in the prospectuses for the Portfolio Companies, which may be amended from time to time and can be found online at [___]. You can also request this information at no cost by calling [_____] or by sending an email request to [___].

The current expenses and performance information below reflects fee and expenses of the Portfolio Companies, but do not reflect the other fees and expenses that your Contract may charge [, such as Platform Charges]. Expenses would be higher and performance would be lower if these other charges were included. Each Portfolio Company's past performance is not necessarily an indication of future performance.

Type/Investment Objective	Portfolio Company and Adviser/ Subadviser	Current Expenses	Average Annual Total Returns *(as of 12/31/_)*		
			1 year	5 year	10 year
[Insert]	[Names of Portfolio Company and *adviser/subadviser*]	[_]%	[_]%	[_]%	[_]%

Instructions.

1. *General.*

   (a) Only include Portfolio Companies that are investment options under the Contract. Indicate if investments in any of the Portfolio Companies are restricted (*e.g.*, because of a "hard" or "soft" close).

   (b) The introductory legend to the table must provide a website address, other than the address of the Commission's electronic filing system; toll free telephone number; and email address that investors can use to obtain the prospectuses of the Portfolio Companies and to request other information about the Portfolio Companies. The website address must be specific enough to lead investors directly to the prospectuses of the Portfolio Companies, rather than to the home page or other section of the website on which the materials are posted. The

website could be a central site with prominent links to each document.

(c) The legend may indicate, if applicable, that the prospectuses and other information are available from a financial intermediary (such as an insurance sales agent or broker-dealer) through which the Contract may be purchased or sold.

(d) Registrants not relying upon rule 498A(j) under the Securities Act [17 CFR 230.498A(j)] with respect to the Portfolio Companies that are investment options under the Contract may, but are not required to, provide the next-to-last sentence of the first paragraph of the introductory legend to the table regarding online availability of the prospectuses.

(e) If applicable, include a statement explaining that updated performance information is available and providing a website address and/or toll-free (or collect) telephone number where the updated information may be obtained.

2. *Type/Investment Objective*. Briefly describe each Portfolio Company's type (*e.g.*, money market fund, bond fund, balanced fund, etc.), or include a brief statement describing the Portfolio Company's investment objectives.

3. *Portfolio Company and Adviser/Subadviser*. State the name of each Portfolio Company and its adviser/subadviser, as applicable. The adviser's/sub-adviser's name may be omitted if it is incorporated into the name of the Portfolio Company. A Registrant also need not identify a sub-adviser whose sole responsibility for the Portfolio Company is limited to day-to-day management of the Portfolio Company's holdings of cash and cash equivalent instruments, unless the Portfolio Company is a money market fund or other Portfolio Company with a principal investment strategy of regularly holding cash and cash equivalent instruments. If the Portfolio Company has three or more sub-advisers, each of which manages a portion of the Portfolio Company's portfolio, the Registrant need not identify each such sub-adviser, except that the Registrant must identify any sub-adviser that is (or is reasonably expected to be) responsible for the management of a significant portion of the Portfolio Company's net assets. For purposes of this paragraph, a significant portion of a Portfolio Company's net assets generally will be deemed to be 30% or more of the Portfolio Company's net assets.

4. *Current Expenses*. Report "Total Annual Fund Operating Expenses" as calculated pursuant to Item 3 of Form N-1A [17 CFR §§ 239.15A and 274.11A], reflecting any expense reimbursements or fee waiver arrangements that are in place and reported in the Portfolio Company's registration statement pursuant to Item 3 of Form N-1A. If applicable, identify each Portfolio Company subject to an expense reimbursement or fee waiver arrangement and provide a footnote stating that their annual expenses reflect temporary fee reductions.

5. *Platform Charge.* If the Insurance Company charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, add a column titled "Platform Charge" disclosing the current Platform Charge for each Portfolio Company. If applicable, also provide a footnote indicating the highest level to which any relevant Platform Charge may be increased.

6. *Current Expenses + Platform Charge*. If the Insurance Company charges a Platform Charge to make any of the Portfolio Companies available as investment options under the Contract, add a column titled "Current Expenses + Platform Charge." The column contemplated by this Instruction must be presented in a manner reasonably calculated to draw investor attention to that column.

7. *Average Annual Total Returns.* For purposes of this Item, "average annual total returns" means the "average annual total return" (before taxes) as calculated pursuant to Item 4(b)(2)(iii) of Form

N-1A.

(b) *Index-Linked Options*. Include the following legend, in the format specified below:

The following is a list of Index-Linked Options currently available under the Contract. We may change the features of the Index Linked Options listed below (including the Index and the current limits on Index gains and losses), offer new Index-Linked Options, and terminate existing Index-Linked Options. We will provide you with written notice before doing so. Information about current limits on Index gains is available at [provide website address].

Note: If amounts are withdrawn from an Index-Linked Option before the end of its Crediting Period, we may apply a Contract Adjustment. This may result in a significant reduction in your Contract value that could exceed any protection from Index loss that would be in place if you held the option until the end of the Crediting Period.

Index	Type of Index	Crediting Period	Index Crediting Methodology	Limit on Index Loss (if held until end of Crediting Period)	Guaranteed Minimum Limit on Index Gain
[Name of Index]	[Insert]	[ ] Year	[ ]	[ ]%	[ ]%

Instructions.

1. *General.*

   (a) Include appropriate cross-references in the legend to the section(s) of the prospectus that describe the features of the Index-Linked Options as well as the Contract Adjustment.

   (b) Only include those Index Linked Options that are available under the Contract. Indicate if investments in any of the Index-Linked Options are restricted (*e.g.*, because of a "hard" or "soft" close).

   (c) An Insurance Company may add, modify, or exclude table headings only as necessary to describe the material features of an Index-Linked Option.

   (d) If an Index provider calculates the Index return in a manner that does not reflect the full investment performance of the assets tracked by the Index (*e.g.*, the return does not reflect dividends paid on the assets composing the Index, the return reflects a fee or cost, etc.), then include, if applicable, a footnote to the table stating that the Index return does not reflect the full investment performance of the assets it tracks, which will reduce Index performance.

   (e) The website address in the legend must be specific enough to lead investors directly to current rates, rather than to the home page or other section of the website on which the rates are posted.

2. *Index.* Provide the name of the Index.

3. *Type.* Briefly describe the type of Index (*e.g.*, market index, exchange-traded fund, etc.), or include a brief statement describing the assets that the Index seeks to track (*e.g.*, U.S. large-cap

equities).

4. *Crediting Period.* State the duration of the Index-Linked Option.

5. *Index Crediting Methodology.* If the Insurance Company utilizes multiple index crediting methodologies under the Contract (*e.g.*, point-to-point, step-up, enhanced upside, etc.), include a column indicting the type of methodology used for each Index-Linked Option.

6. *Limit on Index Loss (if held until end of Crediting Period).* State the current percentage used by the Insurance Company in its interest crediting methodology to limit the amount of negative Index return credited to the Index-Linked Option. Identify in the table whether this limit is a buffer, floor, or some other rate or measure.

7. *Limit on Index Gain.* State the guaranteed minimum percentage the Insurance Company may use in its interest crediting methodology to limit the amount of positive Index return credited to the Index-Linked Option. Identify in the table whether this limit is a cap, participation rate, or some other rate or measure.

(c) *Fixed Options*. Include the following legend, in the format specified below:

The following is a list of Fixed Options currently available under the Contract. We may change the features of the Fixed Options listed below, offer new Fixed Options, and terminate existing Fixed Options. We will provide you with written notice before doing so.

Name	Term	Minimum Guaranteed Interest Rate
[Name of Fixed Option]	[ ] Year	[ ]%

Instructions.

1. *General.*

   (a) Include appropriate cross-references in the legend to the section(s) of the prospectus that describe the features of the Fixed Options.

   (b) Only include those Fixed Options that are available under the Contract.

   (c) A Company may add, modify, or exclude table headings only as necessary to describe the material features of a Fixed Option.

2. *Term.* State the duration of the Fixed Option.

3. *Minimum Guaranteed Interest Rate.* Disclose the minimum guaranteed interest rate as a numeric rate, rather than referring to any minimums permitted under state law.

(d) *Restrictions*. If the availability of one or more Investment Options varies by benefit offered under the Contract:

(1) The following sentence should be added to the first paragraph of the legend preceding each table above, as applicable: “Depending on the [optional] benefits you choose, you may not be able to invest in certain Investment Options, as noted below.”; and

(2) Indicate which Investment Options are available (or are restricted) under the benefits offered

under the Contract. The Appendix could incorporate a separate table that is structured pursuant to the following example, or could use any other presentation that might promote clarity and facilitate understanding:

[Investment Option]	[Benefit #1]	[Benefit #2]	[Benefit #3]	[Benefit #4]
Investment Option A	☑	☑	☑	☑
Investment Option B	☑	☑	☑	
Investment Option C	☑	☑		
Investment Option D	☑			

PART B - INFORMATION REQUIRED IN A STATEMENT OF ADDITIONAL INFORMATION

Item 18. Cover Page and Table of Contents

(a) *Front Cover Page*. Include the following information on the outside front cover page of the SAI:

(1) The Registered Separate Account's name.

(2) The Insurance Company's name.

(3) The name of the Contract and the Class or Classes, if any, to which the Contract relates.

(4) A statement or statements:

(i) That the SAI is not a prospectus;

(ii) How the prospectus may be obtained; and

(iii) Whether and from where information is incorporated by reference into the SAI, as permitted by General Instruction D.

Instruction. Any information incorporated by reference into the SAI must be delivered with the SAI.

(5) The date of the SAI and the prospectus to which the SAI relates.

(b) *Table of Contents*. Include under appropriate captions (and subcaptions) a list of the contents of the SAI and, when useful, provide cross-references to related disclosure in the prospectus.

Item 19. General Information and History

(a) *Insurance Company.* Provide the date and form of organization of the Insurance Company, the name of the state or other jurisdiction in which the Insurance Company is organized, and a description of the general nature of the Insurance Company's 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 in which it does business if a general description (*e.g.*, "variable annuity" or "reinsurance") is provided.

(b) *Registered Separate Account.* Provide the date and form of organization of the Registered Separate Account and the Registered Separate Account's classification pursuant to section 4 of the Investment Company Act [15 U.S.C. 80a-4] (*i.e.*, a separate account and a unit investment trust).

(c) *History of Insurance Company and Registered Separate Account.* 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 Registered Separate Account 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. Briefly describe the nature and results of any bankruptcy, receivership, or similar proceeding, or any other material reorganization, readjustment, or succession of the Insurance Company during the past five years.

(d) *Ownership of Registered Separate Account Assets.* If 10 percent or more of the assets of any Variable Option are not attributable to 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 Registered Separate Account. If the Insurance Company, or any other person controlling the assets, has any present intention of removing the assets from the Registered

Separate Account, so state.

(e) *Control of Insurance Company.* State the name of each person who controls the Insurance Company and the nature of its business.

Instruction. 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 20. Non-Principal Risks of Investing in the Contract

Summarize the non-principal risks of purchasing a Contract to the extent not disclosed in the prospectus.

Item 21. Services

(a) *Expenses Paid by Third Parties.* Describe all fees, expenses, and costs of the Registered Separate Account that are to be paid by persons other than the Insurance Company or the Registered Separate Account, and identify those persons.

(b) *Service Agreements.* Summarize the substantive provisions of any management-related service contract that may be of interest to a purchaser of the Contracts, under which services are provided to the Registrant in connection with the Contracts, unless the contract is described in response to some other item of the form. Indicate the parties to the contract, and the total dollars paid and by whom for each of the past three years.

Instructions:

1. The term "management-related service contract" includes any contract with the Registrant to keep, prepare, or file accounts, books, records, or other documents required under federal or state law, or to provide any similar services with respect to the daily administration of the Registered Separate Account, but does not include the following:

   (a) Any agreement with the Registrant to act as custodian or agent to administer purchases and redemptions under the Contracts, and

   (b) Any contract with the Registrant for outside legal or auditing services, or contract for personal employment entered into with the Registrant in the ordinary course of business.

2. In summarizing the substantive provisions of any management-related service contract, include the following:

   (a) The name of the person providing the service;

   (b) The direct or indirect relationships, if any, of the person with the Registered Separate Account, the Insurance Company, or the principal underwriter; and

   (c) The nature of the services provided, and the basis of the compensation paid for the services for the Registrant's last three fiscal years.

(c) Other Service Providers.

(1) Unless disclosed in response to paragraph (b) or another item of this form, identify and state the principal business address of any person who provides significant administrative or business affairs management services for the Registrant in connection with the Contracts (*e.g.*, an "Administrator," "Sub-Administrator," "Servicing Agent"), describe the services provided, and the compensation paid for the services.

(2) State the name and principal business address of the Registered Separate Account's custodian and Registrant's independent public accountant and describe generally the services performed by each.

(3) If the Registered Separate Account's assets 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.

(4) If an affiliated person of the Registered Separate Account or the Insurance Company, or an affiliated person of such an affiliated person, acts as administrative or servicing agent for the Registrant in connection with the Contracts, describe the services the person performs and the basis for remuneration. State, for the past three years, the total dollars paid for the services, and by whom.

Instruction. No disclosure need be given in response to paragraph (c)(4) of this Item for an administrative or servicing agent who is also the Insurance Company.

(5) If the Insurance Company is the principal underwriter of the Contracts, so state.

Item 22. Purchase 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 Investment Options, between the Registered Separate Account and other separate accounts, and between the Registered Separate Account 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 Contracts offered by the Registrant.

Instruction. Explain fully any difference in the price at which Contracts are offered to members of the public, as individuals or 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 Insurance Company, underwriter, Portfolio Company, or investment adviser to the Portfolio Company.

(c) *Frequent Transfer Arrangements*. Describe any arrangements with any person to permit frequent transfers of Contract value among Variable Options, 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 Registered Separate Account, the Insurance Company, or any other party pursuant to such arrangements.

Instructions:

1. The consideration required to be disclosed by paragraph (c) of this Item includes any agreement to maintain assets in the Registered Separate Account or in other investment companies or accounts managed or sponsored by the Insurance Company, any investment adviser of a Portfolio Company, or any affiliated person of the Insurance Company or of any such investment adviser.

2. If the Registrant has an arrangement to permit frequent transfers of Contract value among Variable Options 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.

(d) *Contract Adjustment.* Fully explain the operation of any Contract Adjustment under the Contract, including any formulas used to calculate the adjustment.

Instruction. Include one or more numeric examples to illustrate the application of the Contract Adjustment. The example should include a negative adjustment, reflect surrender charges, if applicable, and disclose the percentage change in Contract value as a result of the adjustment.

Item 23. Underwriters

(a) *Identification*. Identify each principal underwriter (other than the Insurance Company) of the Contracts, and state its principal business address. If the principal underwriter is affiliated with the Registered Separate Account, the Insurance Company, or any affiliated person of the Registered Separate Account or the Insurance Company, identify how they are affiliated (*e.g.*, the principal underwriter is controlled by the Insurance Company).

(b) *Offering and Commissions*. For each principal underwriter distributing Contracts of the Registrant, state:

(1) whether the offering is continuous; and

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

(c) *Other Payments*. With respect to any payments made by the Registrant to an underwriter of or dealer in the Contracts during the Registrant's last fiscal year, disclose the name and address of the underwriter or dealer, the amount paid and basis for determining that amount, the circumstances surrounding the payments, and the consideration received by the Registrant. Do not include information about:

(1) Payments made through deduction from purchase payments made at the time of sale of the Contracts; or

(2) Payments made from Contract values upon surrender of or withdrawal from the Contracts

Instructions.

1. Information need not be given about the service of mailing proxies or periodic reports of the Registered Separate Account.

2. Exclude information about bona fide contracts with the Registered Separate Account or the Insurance Company for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registered Separate Account or the Insurance Company in the ordinary course of business.

3. Information need not be given about any service for which total payments of less than $15,000 were made during each of the Registrant's last three fiscal years.

4. Information need not be given about payments made under any contract to act as administrative or servicing agent.

5. If the payments were made under an arrangement or policy applicable to dealers generally, describe only the arrangement or policy.

Item 24. Calculation of Performance Data

(a) *Money Market Funded Sub-Accounts.* Yield quotation(s) included in the prospectus for an account or sub-account of a Registered Separate Account that holds itself out as a "money market" account or sub-account should be calculated according to paragraphs (a)(1) - (2).

(1) *Yield Quotation*. Based on the 7 days ended on the date of the most recent balance sheet of the Registered Separate Account 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 Contracts, 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.

(2) *Effective Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registered Separate Account 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 Contracts, 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:

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

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 Contracts 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 and effective yield. However, the amount or specific rate of such deductions 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. If applicable, disclose that the performance information may not reflect all Contract charges (contracts may impose certain charges that are not reflected in the performance of the sub-account, but reduce the value of an investment in the sub-account, such as optional benefit charges). Performance would be lower if these charges were included.

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

(1) *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 Registered Separate Account 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:

$$P(1+T)^n = ERV$$

Where:

P = a hypothetical initial purchase payment of $1,000

T = average annual total return

n = number of years

ERV = ending redeemable value of a hypothetical $1,000 purchase 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 purchase payments) is deducted from the initial $1,000 purchase payment.

2. Include all recurring fees that are charged to all Contracts. 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. If recurring fees charged to Contracts 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 Registered Separate Account'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 Registered Separate Account's most recent fiscal year.

7. If applicable, disclose that the performance information may not reflect all Contract charges and provide one or more examples of such charges (contracts may impose certain charges that are not reflected in the performance of the sub-account, but reduce the value of an investment in the sub-account, such as optional benefit charges). State that performance would be lower if these charges were included.

(2) *Yield Quotation*. Based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registered Separate Account 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:

$$\text{YIELD} = 2[(\frac{a-b}{cd} + 1)^6 - 1]$$

Where:

a = net investment income earned during the period by the Portfolio Company attributable to shares owned by the sub-account

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. Include among the expenses accrued for the period all recurring fees that are charged to all Contracts. 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. If a broker-dealer or an affiliate (as defined in paragraph (b) of rule 1-02 of Regulation S-X [17 CFR 210.1-02(b)]) of the broker-dealer has, in connection with directing the Portfolio Company'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 Portfolio Company (other than brokerage and research services as these terms are defined in section 28(e) of the Securities Exchange Act [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 Portfolio Company had paid for the services directly in an arms-length transaction.

3. Net investment income must be calculated by the Portfolio Company as prescribed by Item 26(b)(4) of Form N-1A.

NOTE: (a-b) = net investment income in the Item 26(b)(4) equation.

4. Disclose the amount or specific rate of any nonrecurring account or sales charges.

5. If applicable, disclose that the performance information may not reflect all Contract charges (contracts may impose certain charges that are not reflected in the performance of the sub-account, but reduce the value of an investment in the sub-account, such as optional benefit charges). State that performance would be lower if these charges were included.

(3) *Non-Standardized Performance Quotation.* A Registered Separate Account 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 25. 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 26. Financial Statements

(a) *Registered Separate Account*. Provide financial statements of the Registered Separate Account.

Instructions. Include, in a separate section, the financial statements and schedules required by Regulation S-X [17 CFR 210]. Financial statements of the Registered Separate Account may be limited

to:

(i) An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

(ii) An audited statement of operations of the most recent fiscal year conforming to the requirements of rule 6-07 of Regulation S-X [17 CFR 210.6-07];

(iii) An audited statement of cash flows for the most recent fiscal year if necessary to comply with generally accepted accounting principles; and

(iv) Audited statements of changes in net assets conforming to the requirements of rule 6-09 of Regulation S-X [17 CFR 210.6-09] for the two most recent fiscal years.

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

Instructions:

1. Include, in a separate section, the financial statements and schedules of the Insurance Company required by Regulation S-X. 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, N-4, or N-6, its financial statements may be prepared in accordance with statutory requirements. The Insurance Company's financial statements must be prepared in accordance with generally accepted accounting principles if the Insurance Company prepares financial information in accordance with generally accepted accounting principles for use by the Insurance Company's parent, as defined in rule 1-02(p) of Regulation S-X [17 CFR 210.1-02(p)], in any report under sections 13(a) and 15(d) of the Securities Exchange Act [15 U.S.C. 78m(a) and 78o(d)] or any registration statement filed under the Securities Act.

2. All statements and schedules of the Insurance Company 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 to these statements or schedules, may be omitted from Part B and instead included in Part C of the registration statement. If any of this information is omitted from Part B and included in Part C, the consolidated balance sheets included in Part B should be accompanied by a statement that additional financial information about the Insurance Company is available, without charge, upon request. When a request for the additional financial information is received, the Registrant should send the information within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

1. 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. In addition, when the anticipated effective date of a registration statement falls within 90 days subsequent to the end of the fiscal year of the Insurance Company, the registration statement need not include financial statements of the Insurance Company more current than as of the end of the third fiscal quarter of the most recently completed fiscal year of the Insurance Company unless the audited financial statements for such fiscal year are available. The exceptions to rule 3-12 of Regulation S-X contained in this Instruction 3 do not apply when:

   (a) The Insurance Company's financial statements have never been included in an effective registration statement under the Securities Act of a separate account that offers variable annuity contracts or variable life insurance contracts; or

(b) 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 $2,500,000; or

(c) The balance sheet of the Insurance Company at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the Securities Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the Investment Company Act) would show a combined capital surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $2,500,000. If two fiscal quarters end within the 135 day period, the Insurance Company may choose either for 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.

(c) *Changes in and Disagreements with Accountants*. For Contracts with Index-Linked Options, include the information required by Item 304 of Regulation S-K [17 CFR 229.304].

PART C - OTHER INFORMATION

Item 27. Exhibits

Subject to General Instruction D regarding incorporation by reference and rule 483 under the Securities Act [17 CFR 230.483], file the exhibits listed below as part of the registration statement. Letter or number the exhibits in the sequence indicated and file copies rather than originals, unless otherwise required by rule 483. Reflect any exhibit incorporated by reference in the list below and identify the previously filed document containing the incorporated material.

(a) *Board of Directors Resolution.* The resolution of the board of directors of the Insurance Company authorizing the establishment of the Registered Separate Account.

(b) *Custodian Agreements*. All agreements for custody of securities and similar investments of the Registered Separate Account, including the schedule of remuneration.

(c) *Underwriting Contracts*. Underwriting or distribution contracts between the Registered Separate Account or Insurance Company and a principal underwriter and agreements between principal underwriters or the Insurance Company and dealers.

(d) *Contracts*. The form of each Contract, including any riders or endorsements.

(e) *Applications*. The form of application used with any Contract provided in response to (d) above.

(f) *Insurance Company's Certificate of Incorporation and By-Laws*. The Insurance Company's current certificate of incorporation or other instrument of organization and by-laws and any related amendment.

(g) *Reinsurance Contracts*. Any contract of reinsurance related to a Contract.

(h) *Participation Agreements*. Any participation agreement or other contract relating to the investment by the Registered Separate Account in a Portfolio Company.

(i) *Administrative Contracts*. Any contract relating to the performance of administrative services in connection with administering a Contract.

(j) *Other Material Contracts*. Other material contracts not made in the ordinary course of business to be performed in whole or in part on or after the filing date of the registration statement.

(k) *Legal Opinion*. An opinion and consent of counsel regarding the legality of the securities being registered, stating whether the securities will, when sold, be legally issued and represent binding obligations of the Insurance Company.

(l) *Other Opinions*. Copies of any other opinions, appraisals, or rulings, and consents of their use relied on in preparing this registration statement and required by section 7 of the Securities Act [15 U.S.C. 77g].

(m) *Omitted Financial Statements*. Financial statements omitted from Item 26.

(n) *Initial Capital Agreements*. Any agreements or understandings made in consideration for providing the initial capital between or among the Registered Separate Account, Insurance Company, underwriter, or initial investors and written assurances from the Insurance Company or initial investors that purchases were made for investment purposes and not with the intention of redeeming or reselling.

(o) *Form of Initial Summary Prospectuses*. The form of any Initial Summary Prospectus that the Registrant intends to use on or after the effective date of the registration statement, pursuant to rule 498A under the Securities Act [17 CFR 230.498A].

(p) *Power of attorney.* Any power of attorney included pursuant to rule 483(b) under the Securities Act [17 CFR 230.483(b)].

(q) *Letter Regarding Change in Certifying Accountant.* For Contracts with Index-Linked Options, a letter from the Insurance Company's former independent accountant regarding its concurrence or disagreement with the statements made by the Insurance Company in the registration statement concerning the resignation or dismissal as the Insurance Company's principal accountant.

Instructions.

1. Schedules (or similar attachments) to the exhibits required by this Item are not required to be filed provided that they do not contain information material to an investment or voting decision and that information is not otherwise disclosed in the exhibit or the disclosure document. Each exhibit filed must contain a list briefly identifying the contents of all omitted schedules. Registrants need not prepare a separate list of omitted information if such information is already included within the exhibit in a manner that conveys the subject matter of the omitted schedules and attachments. In addition, the Registrant must provide a copy of any omitted schedule to the Commission or its staff upon request.

2. The Registrant may redact information from exhibits required to be filed by this Item if disclosure of such information would constitute a clearly unwarranted invasion of personal privacy (*e.g.*, disclosure of bank account numbers, social security numbers, home addresses and similar information).

3. The Registrant may redact specific provisions or terms of exhibits required to be filed by paragraphs (g) and (j) of this Item if the Registrant customarily and actually treats that information as private or confidential and if the omitted information is not material. If it does so, the Registrant should mark the exhibit index to indicate that portions of the exhibit or exhibits have been omitted and include a prominent statement on the first page of the redacted exhibit that certain identified information has been excluded from the exhibit because it is both not material and the type that the Registrant treats as private or confidential. The Registrant also must include brackets indicating where the information is omitted from the filed version of the exhibit. If requested by the Commission or its staff, the Registrant must promptly provide on a supplemental basis an unredacted copy of the exhibit and its materiality and privacy or confidentiality analyses. Upon evaluation of the Registrant's supplemental materials, the Commission or its staff may require the Registrant to amend its filing to include in the exhibit any previously redacted information that is not adequately supported by the Registrant's analyses. The Registrant may request confidential treatment of the supplemental material submitted under this Instruction 3 pursuant to Rule 83 of the Commission's Organizational Rules [17 CFR 200.83] while it is in the possession of the Commission or its staff. After completing its review of the supplemental information, the Commission or its staff will return or destroy it, if the Registrant complies with the procedures outlined in Rule 418 under the Securities Act [17 CFR 230.418].

4. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active link to an exhibit that is filed with the registration statement or, if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR. If the registration statement is amended, each amendment must include active hyperlinks to the exhibits required with the amendment.

5. Registrants are required to provide the Initial Summary Prospectus exhibits, as required by paragraph (o) of this Item, only in connection with the filing of an initial registration statement, or in connection with a pre-effective amendment or a post-effective amendment filed in accordance with paragraph (a) of rule 485 under the Securities Act [17 CFR 230.485(a)]. Registrants should add a legend clearly identifying the document as a form of Initial Summary Prospectus the Registrant intends to use on or after the effective date of the registration statement.

Item 28. Directors and Officers of the Insurance Company

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

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

Instruction. Registrants are required to provide the above information only for officers or directors who are engaged directly or indirectly in activities relating to the Registered Separate Account or the Contracts, and for executive officers including the Insurance Company's president, secretary, treasurer, and vice presidents who have authority to act as president in the president's absence.

Item 29. Persons Controlled by or Under Common Control with the Insurance Company or the Registered Separate Account

Provide a list or diagram of all persons directly or indirectly controlled by or under common control with the Insurance Company or the Registered Separate Account. For any person controlled by another person, disclose the percentage of voting securities owned by the immediately controlling person or other basis of that person's control. For each company, also provide the state or other sovereign power under the laws of which the company is organized.

Instructions:

1. Include the Registered Separate Account and the Insurance Company in the list or diagram and show the relationship of each company to the Registered Separate Account and Insurance Company and to the other companies named, using cross-references if a company is controlled through direct ownership of its securities by two or more persons.

2. Indicate with appropriate symbols subsidiaries that file separate financial statements, subsidiaries included in consolidated financial statements, or unconsolidated subsidiaries included in group financial statements. Indicate for other subsidiaries why financial statements are not filed.

Item 30. Indemnification

State the general effect of any contract, arrangements, or statute under which any underwriter or affiliated person of the Registrant is insured or indemnified against any liability incurred in his or her official capacity, other than insurance provided by any underwriter or affiliated person for his or her own protection.

Item 31. Principal Underwriters

(a) *Other Activity*. State the name of each investment company (other than the Registered Separate Account) for which each principal underwriter currently distributing the Registrant's securities also

acts as a principal underwriter, Insurance Company, sponsor, or investment adviser.

(b) *Management*. Provide the information required by the following table for each director, officer, or partner of each principal underwriter named in the response to Item 23:

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

Instruction. If a principal underwriter is the Insurance Company or an affiliate of the Insurance Company, and is also an insurance company, the above information for officers or directors need only be provided for officers or directors who are engaged directly or indirectly in activities relating to the Registered Separate Account or the Contracts, 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 the president's absence.

(c) *Compensation From the Registrant*. Provide the information required by the following table for all commissions and other compensation received, directly or indirectly, from the Registrant during the Registrant's last fiscal year by each principal underwriter:

(1) Name of Principal Underwriter	(2) Net Underwriting Discounts	(3) Compensation on Redemption	(4) Brokerage Commission	(5) Other Compensation

Instructions:

1. Disclose the type of services rendered in consideration for the compensation listed under column (5).

2. Information need not be given about the service of mailing proxies or periodic reports of the Registered Separate Account.

3. Exclude information about bona fide contracts with the Registered Separate Account or the Insurance Company for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registered Separate Account or the Insurance Company in the ordinary course of business.

4. Exclude information about any service for which total payments of less than $15,000 were made during each of the Registrant's last three fiscal years.

5. Exclude information about payments made under any agreement whereby another person contracts with the Registered Separate Account or the Insurance Company to perform as custodian or administrative or servicing agent.

Item 31A. Information about Contracts with Index-Linked Options

For any Contract with Index-Linked Options offered through this registration statement, provide the information required by the following table as of December 31 of the prior year:

Name of the Contract	Number of Contracts outstanding	Total value attributable to the Index-Linked Option	Number of Contracts sold during the prior calendar year	Gross premiums received during the prior calendar year	Amount of Contract value redeemed during the prior calendar year	Combination Contract (Yes/No)

Instructions:

1. In the case of group Contracts, each participant certificate should be counted as an individual Contract.

2. "Total value attributable to the Index-Linked Option" means the sum of the Contract value in the Index-Linked Options of each individual Contract. For "Combination Contracts," which for purposes of this Item are Contracts that offer Variable Options in addition to Index-Linked Options, exclude amounts allocated to the Registered Separate Account.

Item 32. Location of Accounts and Records

State the name and address of each person maintaining physical possession of each account, book, or other document, required to be maintained by the Registered Separate Account pursuant to section 31(a) of the Investment Company Act [15 U.S.C. 80a-30(a)] and the rules under that section.

Instruction. The Registered Separate Account may omit this information to the extent it is provided in its most recent report on Form N-CEN [17 CFR 274.101].

Item 33. Management Services

Provide a summary of the substantive provisions of any management-related service contract not discussed in Part A or Part B, disclosing the parties to the contract and the total amount paid and by whom for the Registrant's last three fiscal years.

Instructions:

1. The instructions to Item 21(b) shall also apply to this Item.

2. Exclude information about any service provided for payments totaling less than $15,000 during each of the Registrant's last three fiscal years.

Item 34. Fee Representation and Undertakings

(a) With regard to Variable Options, provide a representation of the Insurance Company that the fees and charges deducted under the Contracts, in the aggregate, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the Insurance Company.

(b) With regard to Index-Linked Options, furnish the following undertakings in substantially the following form:

1. To file, during any period in which offers or sales are being made, a post-effective amendment to the registration statement to include any prospectus required by section 10(a)(3) of the Securities Act; and

2. That, for the purpose of determining any liability under the Securities Act, each such post-effective

amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933 and the Investment Company Act of 1940, the Registrant (certifies that it meets all of the requirements for effectiveness of this registration statement under rule 485(b) under the Securities Act and) has duly caused this registration statement to be signed on its behalf by the undersigned, duly authorized, in the City of_____, and State of _____, on this_____day of_____,_____.

_____
(Registered Separate Account)

By _____
(Signature)

_____
(Title)

_____
(Insurance Company)

By _____
(Name of Officer of Insurance Company)

_____
(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 Registered Separate Account and the Insurance Company, if applicable. If the registration statement is being filed only under the Investment Company Act, it should be signed only by the Registered Separate Account.

Pursuant to the requirements of 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

Appendix B—Form N-6

Form N-6

* * * * *

Item 30. Exhibits

* * * * *

Instructions.

* * *

3. The Registrant may redact specific provisions or terms of exhibits required to be filed by paragraphs (g) and (j) of this Item if the Registrant customarily and actually treats that information as private. If it does so, the Registrant should mark the exhibit index to indicate that portions of the exhibit have been omitted and include a prominent statement on the first page of the redacted exhibit that certain identified information has been excluded from the exhibit because it is both not material and the type that the Registrant treats as private or confidential. The Registrant also must include brackets indicating where the information is omitted from the filed version of the exhibit.

If requested by the Commission or its staff, the Registrant must promptly provide on a supplemental basis an unredacted copy of the exhibit and its materiality and privacy or confidentiality analyses. Upon evaluation of the Registrant's supplemental materials, the Commission or its staff may require the Registrant to amend its filing to include in the exhibit any previously redacted information that is not adequately supported by the Registrant's analyses. The Registrant may request confidential treatment of the supplemental material submitted under this Instruction 3 pursuant to rule 83 of the Commission's Organizational Rules [17 CFR 200.83] while it is in the possession of the Commission or its staff. After completing its review of the supplemental information, the Commission or its staff will return or destroy it, if the Registrant complies with the procedures outlined in rule 418 under the Securities Act [17 CFR 230.418].

* * * * *

Appendix C—Form 24F-2

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

FORM 24F-2
Annual Notice of Securities Sold
Pursuant to Rule 24f-2 under the
Investment Company Act of
1940 or Rule 456(e) under the
Securities Act of 1933

Read Instructions at end of this Form before preparing.

1. Name and address of issuer:
2. The name and EDGAR identifier of each series or class of securities for which this Form is filed. If the Form is being filed for all series and classes of securities of the issuer, check the box but do not list series or classes: ☐
3. Investment Company Act File Number: Securities Act File Number:
4(a). Last day of fiscal year for which this Form is filed:
4(b). ☐ Check box if this Form is being filed late (*i.e.*, more than 90 calendar days after the end of the issuer's fiscal year). (See Instruction A.2) *Note: If the Form is being filed late, interest must be paid on the registration fee due.*
4(c). ☐ Check box if this is the last time the issuer will be filing this Form.

5. Calculation of registration fee (if calculating on a class-by-class or series-by-series basis, provide the EDGAR identifier for each such class or series):

(i) Aggregate sale price of securities sold during the fiscal year pursuant to section 24(f) or rule 456(e): $_____

(ii) Aggregate price of securities redeemed or repurchased during the fiscal year: $_____

(iii) Aggregate price of securities redeemed or repurchased during any *prior* fiscal year ending no earlier than the date the issuer became eligible to use this form that were not previously used to reduce registration fees payable to the Commission: $_____

(iv) Total available redemption credits [add Items 5(ii) and 5(iii)]: -$ _____

(v) Net sales -- if Item 5(i) is greater than Item 5(iv) [subtract Item 5(iv) from Item 5(i)]: $ _____

(vi) Redemption credits available for use in future years — if Item 5(i) is less than Item 5(iv) [subtract Item 5(iv) from Item 5(i)]: $ (_____)

(vii) Multiplier for determining registration fee (See Instruction C.9): x _____

(viii) Registration fee due [multiply Item 5(v) by Item 5(vii)] (enter "0" if no fee is due): =$ _____

6. Interest due -- if this Form is being filed more than 90 days after the end of the issuer's fiscal year (see Instruction D):

+$_____

7. Total of the amount of the registration fee due plus any interest due [line 5(viii) plus line 6]:

=$ _____

8. Explanatory Notes (if any): The issuer may provide any information it believes would be helpful in understanding the information reported in response to any item of this Form. To the extent responses relate to a particular item, provide the item number(s), as applicable.

SIGNATURES

This report has been signed below by the following persons on behalf of the issuer and in the capacities and on the dates indicated.

By (Signature and Title)*_____

_____

Date _____

*Please print the name and title of the signing officer below the signature.

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

FORM 24F-2

Annual Notice of Securities Sold Pursuant to Rule 24f-2 under the Investment Company Act of 1940 or Rule 456(e) under the Securities Act of 1933

INSTRUCTIONS

A. General

1. This Form should be used by an open-end management investment company, closed-end management company that makes periodic repurchase offers pursuant to § 270.23c-3(b) of this chapter (an "interval fund"), face amount certificate company, or unit investment trust for annual filings required by rule 24f-2 under the Investment Company Act of 1940 [15 U.S.C. 80a] ("Investment Company Act") or an issuer that offers registered index-linked annuity securities for annual filings required by rule 456 under the Securities Act of 1933 [15 U.S.C. 77a-aa] ("Securities Act") (each an "issuer"). If the issuer has registered more than one class or series of securities that are required to be reported on this form on the same registration statement under the Securities Act, the issuer may file a single Form 24F-2 for those classes or series that have the same fiscal year end. Such an issuer may calculate its fees based on aggregate net sales of the series having the same fiscal year end. An issuer choosing to calculate registration fees on a class-by-class or series-by-series basis should make a single filing consisting of a separate Form 24F-2 for each class or series in a single EDGAR document.

2. This Form must be filed within 90 calendar days after the end of the issuer's fiscal year or, if the last day of the 90 day period falls on Saturday, Sunday or a Federal holiday, the first business day thereafter. For example, a Form 24F-2 for a fiscal year ending on June 30 must be filed no later than September 28. If September 28 falls on a Saturday or Sunday, the Form must be filed on the following Monday. In these instructions, we refer to this as the "Due Date."

3. Pursuant to rule 101(a)(1)(iv) of Regulation S-T [17 CFR 232.101(a)(1)(iv)] this Form must be submitted in electronic format using the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system.

4. This Form must be accompanied by the appropriate registration fee. If the Form is being filed late, interest must be paid. See Instruction D.

5. This Form will be deemed filed with the Commission on the date on which it is received and accepted by the Commission. The Commission will not accept for filing any Form accompanied by insufficient payment of the registration fee. A Form accompanied by insufficient payment of the registration fee will not be deemed accepted and filed until receipt by the Commission of proper payment of the registration fee. No part of the registration fee is refundable. Issuers should refer to rule 111 of the Securities Act [17 CFR 230.111], rule 0-8 under the Investment Company Act [17 CFR 270.0-8], rule 3a of the Commission's Rules of Informal and Other Procedures [17 CFR 202.3a], and rule 13(c) under Regulation S-T [17 CFR 232.13(c)] for instructions on payment of fees to the Commission.

B. Identifying Information

1. **Item 1** - Provide the name of the issuer as it appears on the cover of the issuer's most recent Securities Act registration statement or post-effective amendment.

2. **Item 2** - If the Form is being filed for all classes and series of securities of the issuer, the issuer should check the box and not list the names of the classes and series. Issuers of registered index-linked annuities should check this box if the Form is being filled for all of the issuer's registered index-linked annuity and classes.

3. **Item 3** - If applicable, the Investment Company Act file number should be the number assigned to the issuer's registration statement filed under the Investment Company Act (beginning with "811-"). The Securities Act file number is the number of the issuer's most recent Securities Act registration statement (beginning with "2-", "33-" or

"333-") relating to the securities being reported (e.g., issuers of registered index-linked annuities should use the most recent registered index-linked annuity Securities Act registration statement being reported, but not any other intervening Securities Act registration statements relating to securities not being reported).

4. Item 4(a) - In the case of an issuer that ceases operations, the date it ceases operations is deemed the last day of its fiscal year for purposes of section 24(f) of the Investment Company Act or rule 456(e) of the Securities Act.

5. Item 4(b) - Check the box if the Form is filed late. If the issuer files the Form late, the issuer is required under section 24(f) or rule 456(e) to pay interest on unpaid amounts at the rate applicable to Treasury and tax loan accounts. See Instruction D.

6. Item 4(c) - Check the box if this is the last time the issuer will be filing Form 24F-2 (*i.e.*, if the issuer has ceased operations).

C. Computation of Registration Fee

1. Item 5 is a work sheet for calculating the registration fee due. An issuer must aggregate prices for all classes or series for which the Form is being filed. If the issuer charges a front-end sales load on its securities, the aggregate sale price must include the sales load.

2. Mergers -

(a) In the case of a liquidation, merger, or sale of all or substantially all of the assets of an issuer ("merger"), the securities of the entity ceasing operation (the "Predecessor") that are exchanged for or converted into the other issuer (the "Successor") should be treated as redemptions on the Predecessor's final Form 24F-2 (not the Successor's).

(b) In the case of a merger in which the Predecessor is *not* deemed to cease operations (*e.g.*, a reorganization), the Successor inherits the sales and redemption credits of the Predecessor, and the Successor must report them as sales and redemptions on its next Form 24F-2 filing. The Predecessor in this type of merger need not file a final Form 24F-2. *See* Rule 24f-2(b)(1) and (2) [17 CFR 270.24f-2(b)(1) and (2)] and rule 456(e)(4) [17 CFR 230.456(e)(4)].

3. Special Rule for Unit Investment Trusts - The aggregate sale price of securities sold to a unit investment trust ("UIT") that offers interests that are registered under the Securities Act and on which a registration fee has been or will be paid to the Commission, may be excluded from the aggregate sale price of securities reported in Item 5(i). If the issuer chooses to exclude the aggregate sale price of these securities from Item 5(i), the issuer may not use securities redeemed or repurchased from those UITs for purposes of determining the redemption or repurchase price of securities in Items 5(ii) and 5(iii).

4. Special Rule for Registered Index-Linked Annuities - The aggregate sale price of securities sold during the fiscal year in reliance upon registration under rule 456(e) shall include the value of any expiring annuity contract or investment option that is rolled over into a new crediting period. The value of such contracts or options should therefore be reported in Item 5(i). In addition, the value of such expiring annuity contract or options should also be reported in Item 5(ii) as a redemption. Where the contract value of the new and expiring annuity contract is the same, the reported amounts attributable to such contracts in Items 5(i) and 5(ii) would result in a net-zero calculation.

5. Item 5(i) - Report the aggregate sale price of securities sold during the fiscal year in reliance upon registration under section 24(f) or rule 456(e). Include securities issued pursuant to dividend reinvestment plans ("DRIP shares") whether or not they are required to be registered under the Securities Act. *Do not* include the sale price of securities, if any, that were registered under the Securities Act *other than* pursuant to section 24(f) or rule 456(e), as applicable. [**Example:** An interval fund issuer sold 1,000,000 shares, 250,000 of which were registered prior to August 1, 2021. Item 5(i) should show the aggregate sale price of 750,000 shares.]

6. Item 5(ii) - Report the aggregate redemption or repurchase price of securities redeemed or repurchased during the fiscal year in reliance upon registration under section 24(f) or rule 456(e). *Do not* include securities that have been redeemed or repurchased, if any, other than pursuant to section 24(f) or rule 456(e), as applicable.

7. Item 5(iii) - Report the aggregate redemption or repurchase price of securities redeemed or repurchased during any prior fiscal year ending no earlier than the date the issuer became eligible to use this Form (e.g., August 1, 2021 for interval funds, [EFFECTIVE DATE] for issuers of registered index-linked annuity securities, and October 11, 1995 for all other filers on this Form) that were *not* used previously to reduce registration fees payable to the Commission.

8. Items 5(iv) through 5(vi) - Report the sum of Items 5(ii) and 5(iii) in Item 5(iv). Subtract Item 5(iv) from Item 5(i). If Item 5(iv) is less than Item 5(i), report the result in Item 5(v) (net sales). If Item 5(iv) is greater than Item 5(i), report the resulting negative number in parentheses in Item 5(vi) (net redemptions or repurchases). The amount of redemptions or repurchases reported in Item 5(vi) may be used by the issuer in future years to offset sales (by including it in response to Item 5(iii) of Form 24F-2 filed for the next fiscal year).

9. Item 5(vii) - The registration fee is calculated by multiplying the net sales amount (Item 5(v)) by the fee rate. For the current fee rate, see https://www.sec.gov/ofm/Article/feeamt.html The fee rate in effect at the time of filing applies to all securities sold during the fiscal year, regardless of whether the fee rate changes during the year.

10. Item 5(viii) - If the issuer reports net redemptions or repurchases in Item 5(vi), report "0" in Item 5(viii).

D. Computation of Interest Due if Form is Filed Late

1. Item 6 – Section 24(f) and rule 456(e) require any issuer that pays its registration fee after the Due Date (see Instruction A.2) to pay interest to the Commission on fees that are not paid on time. The payment of interest does not preclude the Commission from bringing an action to enforce the requirements of section 24(f) or rule 456(e), as applicable. Under section 11 of the Debt Collection Act [31 U.S.C. 3717(a)], the interest rate is published by the Secretary of the Treasury. The rate is computed annually and is effective on January 1 each year. In some circumstances the rate may be changed on a quarterly basis. Filers owing interest should verify the current interest rate. Filers can find the rate by looking for the "current value of funds rate" on the Treasury Department's internet site at https://fiscal.treasury.gov/reports-statements/cvfr/rates.html.

2. The interest is assessed only on the amount of the registration fee due, and begins to accrue on the day after the Due Date. The amount of interest due should be calculated based on the interest rate in effect at the time the interest payment is made using the following formula:

I = (X) (Y) (Z/365)

where:

I = Amount of interest due
X = Amount of registration fee due
Y = Applicable interest rate, expressed as a fraction
Z = Number of days by which the registration fee payment is late

E. Signature

The Form must be signed on behalf of the issuer by an authorized officer of the issuer. See rule 302 of Regulation S-T [17 CFR 232.302] regarding signatures on forms filed electronically.

F. 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 calculate the registration fee payable to the Commission. 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.

Appendix D—Retail Investor Feedback Flyer

Tell Us about Your Experiences with Registered Index-Linked Annuities and Other Annuity Products

We are requesting input from retail investors regarding registered index-linked annuities (or "RILAs"), a type of annuity contract offered by insurance companies. In a RILA, the investor's gains or losses are based on whether a selected index goes up or down over a set period of time, such as three years. These annuities also have what is called a "bounded return structure," meaning that they will usually limit your losses when the index goes down, but at the cost of limiting your gains when the index goes up. We encourage interested persons to provide comments on any or all of the following questions. Please provide your comments on or before November 28, 2023 – and thank you for your feedback!

Part 1: Have you purchased or considered purchasing any kind of annuity, including a RILA? If so:

1. What were your reasons for either purchasing or not purchasing the annuity?

Text box

   a. What features of the annuity appealed to you?

Text box

   b. What were your investment goals?

Text box

c. What alternatives did you consider to the annuity, if any?

Text box

2. Where did you learn about the annuity? Did someone recommend it to you?

Text box

3. What kind of annuity did you consider purchasing?

	Yes	No
Fixed annuity	[ ]	[ ]
Variable annuity	[ ]	[ ]
RILA	[ ]	[ ]
Other type of annuity (please specify)	[ ]	[ ]

4. What kind of annuity did you end up purchasing?

	Yes	No
Fixed annuity	[ ]	[ ]
Variable annuity	[ ]	[ ]
RILA	[ ]	[ ]
Other type of annuity (please specify)	[ ]	[ ]

5. What documents or other materials did you use when considering the purchase?

Text box

   a. Did you find those documents or materials easy or challenging to understand?

Text box

   b. Which documents did you find to be more confusing?

Text box

   c. Were the documents or materials at a reading level comfortable for you?

Yes	No
[ ]	[ ]

Text box (please add any explanatory detail)

d. Were those documents or materials helpful?

Yes	No
[ ]	[ ]

Text box (please add any explanatory detail)

e. What, if any, other information do you wish had been available?

Text box

f. If the annuity was a RILA, how well do you think that the documents you received explained the RILA's features?

Text box

g. If the annuity was a RILA, do you think, based on the documents you received, you could explain all of the RILA's features?

Yes	No
[ ]	[ ]

Text box (please add any explanatory detail)

Part 2: Have you purchased a RILA? A RILA is a type of annuity contract where the investor's gains or losses are based on whether a selected index goes up or down over a set period of time subject to a bounded return structure. If so:

6. Please describe your experience investing in the RILA.

   a. Has your experience with the RILA been consistent with your expectations for the RILA, based on any materials you read (or information that a financial professional told you) before purchasing the RILA? For example, if you purchased the RILA based on the expectation that it was a long-term investment and would allow you to participate to a degree in positive market performance while providing some protection against loss, was that your experience? Conversely, did you find that you ended up having to withdraw money early and lose some of the benefits you had anticipated?

Yes	No

[ ]	[ ]

Text box (please add any explanatory detail)

b. If you have withdrawn money from the RILA, did you pay fees or penalties?

Yes	No
[ ]	[ ]

Text box (please add any explanatory detail)

c. Were you aware when you purchased the RILA that withdrawals would be subject to such fees or penalties?

Yes	No
[ ]	[ ]

Text box (please add any explanatory detail)

Part 3: When you make investment decisions, what type of information do you want?

7. When you select investments, what information sources do you most commonly read?

	Yes	No
Prospectus	[ ]	[ ]
Annual shareholder report	[ ]	[ ]
Website of the investment product	[ ]	[ ]
Other information source (please explain below)	[ ]	[ ]

Text box (please add any explanatory detail, including any other information source not mentioned above)

8. Do you prefer to rely on a recommendation from a financial professional?

Yes	No
[ ]	[ ]

   a. If you rely on a financial professional, do you also separately research the recommended investment?

Yes	No

[ ]	[ ]

9. Do you prefer to receive short summary documents (with more detailed disclosures available for additional research)?

Yes	No
[ ]	[ ]

a. If you answered "yes":

What do you consider an appropriate length for a summary?

1-2 pages	[ ]
3-5 pages	[ ]
6-10 pages	[ ]
More than 10 pages	[ ]

What topics do you want the summary to include? For example, should the summary explain the investment being offered, any fees being charged, ways that you may not get the returns described, or the risks of the investment?

Text box

If an investment product offers different features you can select (such as the type of index it tracks or the time in which the investment lasts), how would you like to see the summary organized? For example:

	Yes	No
A summary based on the decisions you will have to make when selecting among available features, and the implications of selecting various features?	[ ]	[ ]
A summary of each feature of the investment product, to allow the reader to identify important information for a particular decision?	[ ]	[ ]
Other (please add any explanatory detail)		

b. Please share any reasons you may prefer to receive a longer, more detailed disclosure document instead of a summary.

Text box

Part 4: Is there anything else you want to tell us about RILAs?

Text box

**

Ways to Submit Your Feedback You can send us feedback in the following ways (include the file number S7-16-23 in your response):
Print Your Responses and Mail Secretary Securities and Exchange Commission 100 F Street, NE Washington, Dc 20549-1090
Print Your Responses and Email Select a PDF printer to create a file you can email to: rule-comments@sec.gov

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

If you are interested in more information on the proposal, or want to provide feedback on additional questions, please see the Commission's proposing release, available at https://www.sec.gov/files/rules/proposed/2023/33-11250.pdf. Comments should be received on or before November 28, 2023.

Thank you!