

given the knowledge, tools, training, and encouragement to be successful; and where everyone is recognized for and takes pride in their participation in customers' and the Postal Service's success.

(3) Voice of the Business goal: To generate financial performance that assures the commercial viability of the Postal Service as a service provider in a changing, competitive marketplace, and generate cash flow to finance high-yield investments for the future while providing competitively priced products and services.

Any comments pertaining to the means by which the Postal Service can best achieve these goals are welcome. Comments on other aspects of strategic planning, goal-definition, and performance measurement are also welcome.

This request for comments initiates a formal process for the development of the 2001–2005 Five-Year Strategic Plan and offers an opportunity for stakeholder comments to be given careful consideration in the development of the plan's goals, targets, and strategies. While its May 15 deadline corresponds with a need and requirement for formality in the development of this plan, the strategic planning process itself is continuous and welcomes ongoing input from all stakeholders in the development of annual business environmental assessments, annual performance plans, and annual performance reports.

Stanley F. Mires,
Chief Counsel, Legislative.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24370; File No. 812–11890]

Fidelity Investments Life Insurance Company, et al.

March 29, 2000.

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

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the “1940 Act”) approving certain substitution of securities.

Applicants: Fidelity Investments Life Insurance Company (“FIL”), Fidelity Investments Variable Annuity Account I (“Account I”), Empire Fidelity Investments Life Insurance Company (“EFIL”), Empire Fidelity Investments Variable Annuity Account A (“Account

A”) and Fidelity Brokerage Services, Inc. (“FBSI”) (hereinafter “Applicants”).

Summary of Application: Applicants request an order to permit the substitution of shares of Variable Insurance Products Fund III Mid Cap Portfolio Initial Class (“Mid Cap”), a fund affiliated with FIL and EFIL, for shares of Strong Discovery Fund II Portfolio (“Discovery”), a fund currently held by Account I and Account A to support certain deferred and immediate variable annuity contracts. FIL’s and EFIL’s variable annuity contracts are referred to herein as the “Contracts.”

Filing Date: The Application was filed on December 15, 1999, and was amended and restated on March 23, 2000.

Hearing or Notification of Hearing: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 28, 2000, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Jorden Burt Boros Cicchetti Berenson & Johnson, LLP, 1025 Thomas Jefferson Street, NW, Suite 400 East, Washington, DC 20007–0805, Attention: Michael Berenson, Esq.

FOR FURTHER INFORMATION CONTACT: Jane G. Heinrichs, Senior Counsel, at (202) 942–0699, or William J. Kotapish, Assistant Director, at (202) 942–0672, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Commission’s Public Reference Branch of the Commission, 450 Fifth Street, NW, Washington, DC 20549–0102 (Tel. (202) 942–8090).

Applicants’ Representations

1. FIL is a stock life insurance company organized under the laws of the State of Utah. FIL was organized under the laws of the Commonwealth of Pennsylvania and redomesticated to

Utah in 1992. FIL offers life insurance policies and annuity contracts in 49 states and the District of Columbia.

2. EFIL is a stock life insurance company organized under the laws of the State of New York. EFIL offers life insurance policies and annuity contracts solely in the State of New York.

3. EFIL is a direct, wholly-owned subsidiary of FIL. FIL is a direct, wholly-owned subsidiary of FMR Corp., the parent company of the group of companies commonly known as Fidelity Investments.

4. Account I is a separate account of FIL which acts as a funding vehicle for FIL’s deferred and immediate variable annuity contracts. Account A is a separate account of EFIL which acts as a funding vehicle for EFIL’s deferred and immediate variable annuity contracts. Account I and Account A are referred to herein as “Separate Accounts.”

5. The assets of Account I and Account A are owned by FIL and EFIL, respectively. The obligations under FIL’s Contracts are obligations of FIL and the obligations under EFIL’s Contracts are obligations of EFIL. FIL and EFIL are required to maintain sufficient assets in Account I and Account A, respectively, to meet anticipated obligations of the Contracts.

6. The assets of Account I and the assets of Account A are kept separate from the other assets of FIL and EFIL, respectively. The income, gains, and losses of each of the Separate Accounts, whether or not realized, are credited to or charged against the Separate Account without regard to other income, gains, or losses of any other separate account or arising out of any other business FIL or EFIL may conduct.

7. Account I and Account A each has 28 investment divisions (“Subaccounts”), each of which invests exclusively in a single underlying mutual fund portfolio registered as an open end management investment company. The 28 portfolios are members of five different mutual fund families: Fidelity (13 portfolios), Morgan Stanley Asset Management (four portfolios), Strong (three portfolios), PBHG (five portfolios) and Warburg Pincus (three portfolios). The portfolios span a wide variety of investment objectives and policies.

8. Account I was established by FIL as a separate account on July 22, 1987, pursuant to a resolution of FIL’s Board of Directors. Account I is a unit investment trust (“UIT”) and has filed a registration statement with the Commission on Form N–4 (Registration No. 33–24400) for the purpose of registering Account I under the 1940

Act and to register its deferred variable annuity contracts under the Securities Act of 1933 (the "1933 Act"). Account I has also filed a registration statement under the 1933 Act for its immediate variable annuity contracts (Registration No. 33-54926).

9. Account A was established by EFIL as a separate account under the laws of the State of New York on July 15, 1991, pursuant to a resolution of EFIL's Board of Directors. Account A is a UIT and has filed a registration statement on Form N-4 (Registration No. 33-42376) for the purpose of registering Account A under the 1940 Act and registering its deferred variable annuity contracts under the 1933 Act. Account A has also filed a registration statement under the 1933 Act for its immediate variable annuity contracts (Registration No. 33-54924).

10. FBSI is the principal underwriter for all the Contracts. FBSI is registered with the Commission under the Securities Exchange Act of 1934 (the "1934 Act") as a broker/dealer and is a member of the National Association of Securities Dealers, Inc.

11. The Contracts are immediate variable annuity contracts ("Immediate Contracts") and deferred variable annuity contracts ("Deferred Contracts"). FILI's and EFIL's Immediate Contracts are identical in all respects material to the Application except as specifically noted herein below. FILI's and EFIL's Deferred Contracts are also identical in all respects material to the Application except as specifically noted herein below.

12. The Deferred Contracts are offered as non-qualified contracts and Individual Retirement Annuity contracts. The Immediate Contracts are offered as non-qualified contracts, Individual Retirement Annuity contracts, and Section 403(b) tax-sheltered annuity contracts. Contracts offered on a non-qualified basis are purchased with after-tax dollars. Contracts offered as Individual Retirement Annuities can be purchased only with dollars rolled over from other individual retirement arrangements, 403(b) plans or qualified plans. Contracts offered as Section 403(b) tax-sheltered annuities can be purchased only with dollars in 403(b) arrangements.

13. Deferred Contracts have no front-end or contingent deferred sales load.

14. There are currently no limits on the number of permitted transfers among Subaccounts under Deferred Contracts. FILI reserves the right to limit the number of permitted transfers to not less than five per years, and, for

Contracts issued after May 1, 1997, to impose a transfer fee for transfers in excess of twelve per calendar year. Currently FILI imposes no transfer fee and no limit on the number of transfers. EFIL reserves the right to limit the number of permitted transfers to not less than six per years, and to impose a charge not to exceed \$15 per transfer for transfers in excess of six per year. Currently EFIL imposes no transfer fee and no limit on the number of transfers.

15. Deferred Contracts have an annual maintenance charge of \$30. This charge is currently waived for any Deferred Contract containing at least \$25,000 of premium payments. This charge may be reduced or waived for FILI's Deferred Contracts issued under certain sponsored arrangements.

16. Deferred Contracts impose daily charges against the assets of the Separate Accounts attributable to the contracts at an annual rate of 0.80%. Of this amount, 0.75% is for the assumption of mortality and expense risks, and 0.05% is an administrative charge.

17. Immediate Contracts have no front end or contingent deferred sales load.

18. There are currently no limits on the number of permitted transfers among Subaccounts under Immediate Contracts. FILI and EFIL reserve the right to limit the number of permitted transfers to not less than six per year. Immediate Contracts have no transfer charges.

19. Immediate Contracts have no annual contract fee.

20. Immediate Contracts impose daily charges against the assets of the Separate accounts attributable to the contracts at an annual rate of 1.00%. Of this amount, 0.75% is for the assumption of mortality and expense risks, and 0.25% is an administrative charge.

21. The Contracts expressly reserve FILI's and EFIL's right to make additions to, deletions from, or substitutions for any of the investment portfolios in which the Subaccounts invest, subject to obtaining all necessary approvals.

22. Mid Cap is not currently an investment option under the Contracts. It will be added as an investment option effective April 30, 2000. In this regard, FILI and EFIL will each create a new subaccount of their respective Separate Accounts. The new subaccounts will hold the shares of Mid Cap.

23. FILI and EFIL propose to exercise their contractual right to eliminate Discovery as an investment option under the Contracts, and to substitute shares of Mid Cap. The subaccounts currently holding shares of Discovery

would be merged into the subaccounts already holding shares of Mid Cap following the substitution. The substitution would not result in a reduction in the number of variable investment options under the Contracts, which would remain at 28. The substitution will take place (contingent upon the requested Order) on a date selected by FILI and EFIL, currently anticipated to be on or about May 29, 2000.

24. As more fully described below, Applicants believe the substitution will benefit Contract owners by eliminating an investment option that has had poor investment performance and replacing it with an investment option having a similar investment objective and better historical performance, and which Applicants believe is likely to have better investment performance in the future. In addition, Mid Cap has had and is expected to continue to have a lower expense ratio than Discovery, providing an additional benefit to Contract owners.

25. The April 30, 2000, prospectuses for the Contracts will disclose the date of the substitution. Affected Contract owners (those with Contract values allocated to Discovery) will be notified soon after the Order is granted (if indeed it is) advising them of (1) the pending substitution and of their ability to transfer free of charge to one or more of the remaining subaccounts of their choice in advance of the substitution, and (2) their ability to remain in the subaccount that invests in Discovery until the date of the substitution, and the fact that if they do so they will have values transferred to the new subaccount that will invest in Mid Cap on the date of the substitution.

26. Contract owners who elect to remain in the Discovery subaccount through the date of the substitution will receive confirmations evidencing the substitution in accordance with the provisions of the 1934 Act. Confirmations will be delivered the day after the substitution is effected. The confirmation will be accompanied by a notice reminding Contract owners of their ability to transfer without charge to other subaccounts. Presently, there are no transfer charges under the Contracts. However, if such charges are imposed, Contract owners affected by the substitution will be given 60 days after the substitution to make transfers without charge.

27. FILI and EFIL have sought to provide continuity of investment choice following the substitution, and believe that Discovery and Mid Cap offer important similarities. The investment objective of both Discovery and Mid Cap

is to seek capital growth. Both Discovery and Mid Cap normally invest the bulk of their assets in equity securities, although both can invest in other types of instruments as well. Both can invest in domestic as well as foreign securities. Both can invest in growth stocks or value stocks.

28. Minor differences between the two funds exist. For example, Mid Cap has somewhat less flexibility in its choice of investments, with a policy of investing at least 65% of its assets in securities of companies with medium market capitalizations, while Discovery may invest 100% of its assets in securities of companies of any size.

29. After the substitution, Contract owners invested in Mid Cap instead of Discovery will still be invested in a portfolio seeking capital growth primarily through investment in equity securities.

30. The net expense ratio for Mid Cap is lower than for Discovery. For the fiscal year ended December 31, 1999, the expense ratio for Discovery was 1.10% and the gross expense ratio for Mid Cap was 3.34%. Mid Cap's expenses, however, are subject to a voluntary 1.00% cap, which can be eliminated at any time. If this voluntary cap is eliminated and Mid Cap's expense ratio exceeds 1.00% at any time before July 1, 2001, FILI and EFILI will reimburse, from their general account assets, the accounts of their respective Contract owners who have been affected by the substitution to the extent necessary to limit the expenses actually incurred to 1.00%. Any reimbursement will be calculated on the same basis as under the voluntary cap currently in place and will be made by FILI's or EFILI's purchase of additional units (or fractional units) of the Mid Cap subaccount for the benefit of the accounts of their respective "substituted" Contract owners.

31. For the fiscal years ended December 31, 1998, 1997, and 1996 Discovery's total return was 7.3%, 11.4%, and 0.8%, respectively. In each year the fund trailed significantly the performance of its benchmark, the Standard & Poor's Composite Stock Price Index ("S & P 500"), which had returns of 28.58% in 1998, 33.36% in 1997 and 22.96% in 1996. Mid Cap's operations did not commence until December 28, 1998. Through September 30, 1999, Mid Cap's 1999 year to date total return was 12.8% and Discovery's was negative 16.61%. During the same period the S & P 500's return was 5.36%. Mid Cap has substantially outperformed Discovery in 1999, and the Applicants expect that it will continue to do so.

32. Applicants represent that (1) the substitution will be effected by redeeming shares of Discovery in cash on the date of the substitution at net asset value and using the proceeds to purchase shares of Mid Cap at net asset value on the same date; (2) Contract owners will not incur any fees or charges, including brokerage costs, as a result of the transfer of values from Discovery to Mid Cap; (3) all Contract values will remain unchanged and fully invested; (4) the substitution will not increase Contract or Separate Account fees and charges after the substitution; (5) Contract owners' rights and FILI's EFILI's obligations under the Contracts will not be altered in any way; and (6) all expenses incurred in connection with the substitution, including legal, accounting and other expenses, will be paid by FILI and EFILI. In addition, as of the date of filing the Application, Applicants represent that to the best of their knowledge, the substitution will not result in any adverse federal income tax consequences for Contract owners. Following the substitution, the subaccounts of FILI and EFILI that invest in Discovery will be terminated.

Applicants' Legal Analysis and Conditions

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution; and the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

2. Section 26(b) protects the expectations that the UIT will accumulate shares of a particular issuer. That Section insures that unnecessary or burdensome sales loads, additional reinvestment costs, or other charges will not be incurred due to an unapproved substitution of securities.

3. Applicants represent that the purposes, terms, and conditions of the substitution are consistent with the protections for which Section 26(b) was designed and will not result in any of the harms which Section 26(b) was designed to prevent.

4. Any Contract owner who does not want his or her assets allocated to Mid Cap would be able to transfer assets to any one or more of the other subaccounts available under his or her Contract without charge. Such transfers could be made prior to or after the date

of the substitution. Contract owners would, in all cases, have alternative investment options available, and Contract owners could transfer their assets at any time to those alternative options without the imposition of transfer charges or other sales charges.

5. The substitution will be effected at net asset value in conformity with Section 22 of the 1940 Act and Rule 22c-1 thereunder. Contract owners will not incur any fees or charges as a result of the transfer of account values from any Portfolio. There will be no increase in the Contract or Separate Account fees and charges after the substitution. All contract values will remain unchanged and fully invested. In addition, as of the date of filing of the Application, Applicants represent that to the best of their knowledge the substitution will not result in any adverse federal income tax consequences for Contract owners.

6. In light of the foregoing facts and representations, Applicants believe that the request to allow the substitution meets the applicable standards for an order under Section 26(b) of the 1940 Act. The application is consistent with applicable precedent. The staff of the Commission has previously granted similar requests for orders pursuant to Section 26(b) of the 1940 Act.

Conclusion

Applicants assert that, for the reasons summarized above, the Substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 00-8295 Filed 4-4-00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42592; File No. SR-Amex-00-06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Providing Access to the Trading Floor by Allied Members and Former Members

March 29, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on

¹ 15 U.S.C. 78s(b)(1).