

exchange for shares of Trust A. Applicants submit that the terms of the proposed Reorganization meet the standards set forth in section 17(b). Applicants state that the Reorganization has been approved by the Boards and the shareholders of Trust C, that it will be effected on the basis of relative net asset values, and that it is consistent with the policies of the Trusts.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-32599 Filed 12-8-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23584; File No. 812-11228]

Western-Southern Life Assurance Company; et al.; Notice of Application

December 2, 1998.

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 substitutions of securities, and pursuant to Section 17(b) of the 1940 Act exempting related transactions from Section 17(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered unit investment trusts to substitute shares of certain registered open-end investment companies for shares of certain registered investment companies currently held by those unit investment trusts, and to permit certain in-kind redemptions of portfolio securities in connection with the substitutions.

APPLICANTS: For purposes of the order requested pursuant to Section 26(b), Western-Southern Life Assurance Company, ("WSLAC"), Western-Southern Life Assurance Company Separate Account 1 ("Separate Account 1"), and Western-Southern Life Assurance Company Separate Account 2 ("Separate Account 2") (collectively, the "Section 26(b) Applicants"). For purposes of the order pursuant to Section 17(b), the Section 26(b) applicants, the Western and Southern Life Insurance Company ("WSLIC"), and The Western and Southern Life Insurance Company Separate Account A ("Separate Account A") (collectively, the "Section 17(b) Applicants").

FILING DATE: The application was filed on July 20, 1998, and amended and restated on October 2, 1998.

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 December 28, 1998, 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 may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Donald J. Wuebbeling, Esq., Western-Southern Life Assurance Company, The Western and Southern Life Insurance Company, 400 Broadway, Cincinnati, Ohio 45202. Copies to Mark H. Longenecker, Esq. and Karen M. McLaughlin, Esq., Frost & Jacobs LLP, 2500 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202.

FOR FURTHER INFORMATION CONTACT: Ethan D. Corey, Senior Counsel, at (202) 942-0675, or Kevin M. Kirchoff, Branch Chief, 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 may be obtained for a fee from the Public Reference Branch of the Commission, 450 5th Street, N.W., Washington, D.C. 20549 (tel. (202) 942-8090).

Applicants Representations

1. WSLAC is an Ohio stock life insurance company. WSLAC is the depositor and sponsor of Separate Account 1 and Separate Account 2, separate investment accounts established under Ohio law (collectively, the "WSLAC Accounts").

2. WSLAC is a wholly owned subsidiary of WSLIC, a mutual life insurance company originally organized under Ohio law. WSLIC owns of record the assets of Separate Account A, a separate investment account established under Ohio law, which holds the assets of WSLIC's defined benefit employee pension plan.

3. Each of the WSLAC Accounts is registered with the Commission as a

unit investment trust. The assets of the WSLAC Accounts support certain individual and group flexible premium deferred variable annuity contracts (collectively, the "Contracts"). Each of the WSLAC Accounts is divided into eight sub-accounts. Each sub-account invests exclusively in shares representing an interest in a separate corresponding portfolio (each, a "Portfolio") of one of two registered open-end diversified management investment companies, Select Advisors Portfolios ("SA Trust") and Select Advisors Variable Insurance Trust ("VIT"). Two new VIT Portfolios, Touchstone Growth and Income Portfolio and Touchstone Bond Portfolio (collectively, the "New Touchstone Portfolios") will be established in connection with the transactions described below.

4. Separate Account A also invests in shares representing an interest in certain Portfolios of the SA Trust. Separate Account A is not registered as an investment company under the 1940 Act pursuant to the exemption provided under Section 3(c)(11) of the 1940 Act.

5. SA Trust has proposed a reorganization in which the master-feeder structure currently employed by SA Trust and its spoke funds, Select Advisors Trust A ("Trust A") and Select Advisors Trust C, will be replaced with a multi-class structure within Trust A (the "Reorganization").

6. As a part of the Reorganization, the Board of Trustees of SA Trust has notified Separate Account 1, Separate Account 2 and Separate Account A (collectively, the "Accounts") that it intends to dissolve the SA Trust Growth & Income II Portfolio and the SA Trust Bond II Portfolio (collectively, the "SAT II Portfolios"). Therefore, the SAT II Portfolios will no longer be available as investment options for the Accounts. Currently, the Accounts are the only interest holders in the SAT II Portfolios.

7. All of the Contracts expressly reserve WSLAC's right, subject to compliance with applicable law, to substitute shares of another open-end management investment company for shares of an open-end management investment company held by a sub-account.

8. In response to the Reorganization, WSLAC, on its own behalf and on behalf of Separate Account 1 and Separate Account 2, and WSLIC, on its own behalf and on behalf of Separate Account A, propose to substitute: (a) shares of VIT Touchstone Growth & Income Portfolio for shares of SA Trust Growth & Income II Portfolio currently held by corresponding sub-accounts of Separate Account 1 and Account 2 and

by Separate Account A; and (b) shares of VIT Touchstone Bond Portfolio for shares of SA Trust Bond II Portfolio currently held by corresponding sub-accounts of Separate Account 1 and Separate Account 2 and by Separate Account A (the "Substitution"). Applicants assert that the Substitution will benefit the Contract owners and Separate Account because it is designed to provide the affected Contract owners and Separate Account A with an opportunity to continue their investment programs without interruption. In addition, the Substitution will consolidate in VIT all of the investment options related to the sub-accounts of the WSLAC Accounts, thereby permitting WSLAC to present information to Contract owners in a simpler and more concise manner.

9. VIT Touchstone Growth & Income Portfolio will have a substantially identical investment objective, investment policies and investment risks as those of the SA Trust Growth & Income II Portfolio, and will have the same investment adviser and employ the same investment techniques. VIT Touchstone Bond Portfolio will have a substantially identical investment objective, investment policies and investment risks as those of the SA Trust Bond II Portfolio, and will have the same investment adviser and employ the same investment techniques.

10. The total expenses of the SA Trust Growth & Income II Portfolio currently are 0.85%. Likewise, the total expenses of the VIT Touchstone Growth & Income Portfolio are 0.85%. The total expenses of the SA Trust Bond II Portfolio are 0.70%. Likewise, the total expenses of the VIT Touchstone Bond Portfolio are 0.70%.

11. By supplements to the various prospectuses for the Contracts ("Supplements"), all Contract owners will be notified of WSLAC's intention to take the necessary actions, including seeking the order requested by the application, to carry out the Substitution. The Supplements will advise Contract owners that (a) from the date of the Supplement until the date of Substitution, owners will be permitted to make one transfer of all amounts under a Contract invested in the Growth & Income sub-account or the Bond sub-account to another sub-account (except the Bond sub-account or Growth & Income sub-account), (b) such transfer will not count as the one transfer permitted in any 30-day period and (c) such transfer may be in an amount less than the \$250 normally required to effect a transfer. The Supplements will also inform Contract owners that

WSLAC will not exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the Substitution.

12. WSLAC, on behalf of itself and on behalf of Separate Account 1 and Separate Account 2, states that, within 5 days after the Substitution, it will send to any Contract owner who was affected by the Substitution a written notice informing him or her that the Substitution was carried out. The notice will repeat the information contained in the Supplement about the special rules for transfers from the Growth & Income sub-accounts and/or the Bond sub-accounts. The notice will repeat that WSLAC will not exercise any rights reserved by it under any of the Contracts to impose additional restrictions on transfers until at least 30 days after the Substitution. The notice will explain how to obtain the current VIT prospectus.

13. The Substitution will not result in any change to the Contract fees and charges currently being paid by existing Contract owners.

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. Section 26(b) protects the expectation of investors that the unit investment trust will accumulate shares of a particular issuer and is intended to insure that unnecessary or burdensome sales loads, additional reinvestment costs or other charges will not be incurred due to unapproved substitutions of securities.

2. The Section 26(b) Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the Substitution. Applicants represent that the purposes, terms, and conditions of the Substitution are consistent with the protection for which Section 26(b) was designed. The Section 26(b) Applicants believe the Substitution will benefit Contract owners by: (a) minimizing the impact of the Reorganization on Contract owners; and (b) consolidating in VIT all of the investment options related to the sub-accounts of the WSLAC Accounts, thereby permitting WSLAC to present information to

Contract owners in a simpler and more concise manner.

3. Contract owners who do not want their assets allocated to the New Touchstone Portfolios would be able to transfer assets to any one of the other sub-accounts available under their Contract without charge prior to or after the Substitution.

4. WSLAC, on behalf of itself and on behalf of Separate Account 1 and Separate Account 2, represents that the Substitution and related redemptions in kind and purchases by WSLAC will not change the dollar value of any Contract owner's investment in either Separate Account 1 or Separate Account 2, the value of any Contract, the accumulation value accredited to any Contract or the death benefit payable under any Contract. Contract owners will not incur any fees, expenses or charges as a result of the proposed transactions nor will their rights or WSLAC's obligations under the Contracts be altered in any way. In addition, Contract owners will not incur any adverse tax consequences because of the proposed substitutions. Furthermore, the proposed transactions will not result in any change to the Contract fees and charges currently being paid by existing Contract owners.

5. Section 17(a)(1) of the 1940 Act prohibits any affiliated person or an affiliate of an affiliated person, of a registered investment company, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits such affiliated persons from purchasing any security or other property from such registered investment company.

6. Section 17(b) of the 1940 Act authorizes the Commission to issue an order exempting a proposed transaction from Section 17(a) if: (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

7. The Section 17(b) Applicants request an order pursuant to Section 17(b) of the 1940 Act exempting them from the provisions of Section 17(a) to the extent necessary to carry out the proposed redemptions in kind from the SAT II Portfolios and subsequent purchases of shares of the New Touchstone Portfolios (the "In Kind Transactions").

8. The Section 17(b) Applicants assert that the proposed In Kind Transactions, including the consideration to be paid

and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. As part of the In Kind Transactions, the purchase and sale of the shares of SA Trust and VIT will be effected at the respective net asset value. The In Kind Transactions will not have a material financial impact on the Contract owners or Separate Account A. The Section 17(b) Applicants also state that the transactions will conform substantially with the conditions enumerated in Rule 17a-7. To the extent that the In Kind Transactions do not comply fully with the provisions of paragraphs (a) and (b) of Rule 17a-7, the Section 17(b) Applicants assert that the terms of the proposed In Kind Transactions provide the same degree of protection to the participating companies and their shareholders as if the In Kind Transactions satisfied all of the conditions enumerated in Rule 17a-7. The Section 17(b) Applicants can also assert that the proposed In Kind Transactions by WSLAC and WSLIC do not involve overreaching on the part of any person concerned. Furthermore, the Section 17(b) Applicants represent that the proposed substitutions will be consistent with the policies of: (a) VIT and the New Touchstone Portfolios; and (b) SA Trust and the SAT II Portfolios, as is, or will be, stated in the registration statement or reports filed under the 1940 Act by each.

9. The Section 17(b) Applicants assert that the In Kind Transactions are consistent with the general purposes of the 1940 Act and that the In Kind Transactions do not present any of the conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the Substitution and In Kind Transactions should be granted.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 98-32597 Filed 12-8-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40732; File No. SR-CBOE-98-09]

Self-Regulatory Organizations; Notice of Withdrawal of Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Inc. Relating to Trade Match Delayed Submission Fees

December 1, 1998.

On March 4, 1998, the Chicago Board Options Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² to amend Exchange Rule 2.30, Trade Match Delayed Submission Fee, to reduce the amount of time permitted for trade submission before the imposition of fees and to include under the rule, all types of trades executed on the Exchange. The Exchange submitted Amendment No. 1 to its proposal on April 20, 1998.³ Notice of the proposed rule change, as amended, was published on April 30, 1998 in the **Federal Register**, to solicit comment from interested persons.⁴ On May 26, 1998, the Exchange withdrew the proposed rule change.⁵

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-32601 Filed 12-8-98; 8:45 am]

BILLING CODE 8010-01-M

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Stephanie C. Mullins, Attorney, Exchange, to Ken Rosen, Attorney, Division of Market Regulation ("Division"), Commission, dated April 13, 1998.

⁴ Securities Exchange Act Release No. 39910 (April 24, 1994), 63 FR 23817.

⁵ See Letter from Stephanie C. Mullins, Attorney, Exchange, to Ken Rosen, Attorney, Division, Commission, dated May 26, 1998.

⁶ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40729; File No. SR-CBOE-98-47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Inc. Relating to Trade Match Delayed Submission Fees

November 30, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 23, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change.³ CBOE submitted to the Commission Amendment No. 1 to its proposal on November 10, 1998.⁴ The proposed rule change, as amended, is described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposal on the accelerated basis.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ An earlier version of the proposed rule change was submitted on March 4, 1998, as CBOE-98-09. The Exchange subsequently submitted Amendment No. 1 to CBOE-98-09 on April 20, 1998. The proposed rule change was noticed in the **Federal Register** on April 30, 1998. See Exchange Act Release No. 29910 (April 24, 1994), 63 FR 23817. The Commission received no comments on the proposed rule change. Subsequently, the Exchange withdrew its proposed rule change. See Letter from Stephanie C. Mullins, Attorney, CBOE, to Ken Rosen, Attorney, Division of Market Regulation ("Division") Commission, dated May 26, 1998 ("Withdrawal Letter"). The current proposed rule change differs slightly from the original proposed rule change. Generally, in this proposal the Exchange delayed the implementation date of the proposed rule change by six months, made technical changes to its proposed rule language, defined the terms nominee-employee and out-trades, and provided a more detailed explanation of how a financial loss may arise from late trade submissions and an explanation for deleting Rule 2.30(d)(2).

⁴ In Amendment No. 1, the Exchange, generally, made technical changes to its proposed rule language, defined the terms nominee-employee and out-trades, and provided a more detailed explanation of how a financial loss may arise from late trade submissions and an explanation for deleting Rule 2.30(d)(2). See letter from Stephanie C. Mullins, Attorney, CBOE, to Richard C. Strasser, Assistant Director, Division, Commission, dated November 6, 1998 ("Amendment No. 1").