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Dated at Rockville, Maryland, this 7th day of December 1998.

For the Nuclear Regulatory Commission.

Kristine M. Thomas,

*Project Manager, Project Directorate IV-2,
Division of Reactor Projects—III/IV, Office of
Nuclear Reactor Regulation.*

[FR Doc. 98-32955 Filed 12-10-98; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23589; File No. 812-10996]

Cova Financial Services Life Insurance Company, et al.; Notice of Application

December 4, 1998.

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

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

SUMMARY OF APPLICATION: Applicants request an order pursuant to 26(b) of the 1940 Act, approving the proposed substitution of securities, and pursuant to Section 17(b) of the 1940 Act exempting related transactions from Section 17(a) of the 1940 Act.

APPLICANTS: Cova Financial Services Life Insurance Company ("Cova Life"), First Cova Life Insurance Company ("First Cova Life"), Cova Financial Life Insurance Company ("Cova Financial Life") (collectively, the "Life Companies"), Cova Variable Annuity Account One ("Cova Account One"), Cova Variable Life Account One ("Cova Life Account One"), First Cova Variable Annuity Account One ("First Cova Account One"), Cova Variable Annuity Account Five ("Cova Account Five") (collectively, the "Accounts"), Cova Series Trust ("Cova Trust"), Lord Abbett Series Fund, Inc. ("Lord Abbett Fund"), and General American Capital Company ("General American Fund") (collectively, the "Management Companies").

FILING DATE: The application was filed on February 5, 1998, and amended and restated on November 4, 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 on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 29, 1998, and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester'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 SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Blazzard, Grodd & Hasenauer, P.C., 943 Post Road East, Westport, CT 06880, Attn: Raymond A. O'Hara III, Esq.

FOR FURTHER INFORMATION CONTACT: Megan L Dunphy, Attorney, or Mark Amorosi, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942-8090).

Applicants' Representations

1. The Life Companies are affiliated stock life insurance companies, whose parent is General American Life Insurance Company ("General American"). Cova Life is incorporated in Missouri and does business in the District of Columbia and in all states except California, Maine, New Hampshire, New York and Vermont. First Cova is incorporated in and licensed to do business only in the state of New York. Cova Financial Life is incorporated in and licensed to do business only in the state of California.

2. Each of the Accounts is registered with the Commission as a unit investment trust. The assets of each Account support variable annuity contracts and, with respect to Cova Life Account One, variable life insurance policies (the "Contracts"). Interests under the Contracts have been registered under the Securities Act of 1933 (File Nos. 33-39100; 33-14979; and 333-34741).

3. The Accounts are divided into subaccounts, each of which reflects the

investment performance of corresponding portfolios of Cova Trust, Lord Abbett Fund, and the General American Fund.

4. Cova Trust is registered under the 1940 Act as an open-end management investment company and is currently comprised of twenty portfolios, nine of which are involved in the proposed substitution; Stock Index Portfolio, Large Cap Stock Portfolio, Quality Income Portfolio, Quality Bond Portfolio, High Yield Portfolio, Bond Debenture Portfolio, Money Market Portfolio, VKAC Growth and Income Portfolio and the Lord Abbett Growth and Income Portfolio.

5. Cova Investment Advisory Corporation ("Cova Advisory"), an indirect wholly owned subsidiary of General American, is the investment adviser for Cova Trust. Cova Advisory has engaged sub-advisers for each of the portfolios of Cova Trust. The sub-adviser for the Large Cap Stock and Quality Bond Portfolios is J.P. Morgan Investment Management, Inc. ("JPM"). The sub-adviser for the Stock Index, Quality Income, High Yield, Money Market and VKAC Growth and Income Portfolios is Van Kampen American Capital Investment Advisory Corp. ("VKAC"). Lord Abbett is the sub-adviser for the Lord Abbett Growth and Income Portfolio and the Bond Debenture Portfolio of Cova Trust.

6. Lord Abbett Fund is registered under the 1940 Act as an open end management investment company and is currently comprised of two portfolios, one of which—the Growth and Income Portfolio—is relevant to the proposed substitution. Lord Abbett & Co. ("Lord Abbett") is the investment manager of the Lord Abbett Fund.

7. General American Fund is registered under the 1940 Act as an open-end management investment company and is comprised of eight series, one of which—the Money Market Fund—is relevant to the proposed substitution. Conning Asset Management Company, an affiliate of General American, is the investment adviser to the Money Market Fund.

8. Applicants propose to substitute shares of certain portfolios of Cova Trust and the General American Fund ("Substitute Funds") for shares of certain other portfolios of Cova Trust, the General American Fund, and the Lord Abbett Fund (the "Replaced Funds") as follows:

Substitute fund	Replaced fund
Cova Trust	Cova Trust
1. Large Cap Stock Portfolio	1. Stock Index Portfolio.
2. Quality Bond Portfolio	2. Quality Income Portfolio.
3. Bond Debenture Portfolio	3. High Yield Portfolio.
4. Lord Abbett Growth and Income Portfolio	4. VKAC Growth and Income Portfolio.
Cova Trust	Lord Abbett Fund
5. Lord Abbett Growth and Income Portfolio	5. Growth and Income Portfolio.
General American Fund	Cova Trust
6. Money Market Portfolio	6. Money Market Portfolio.

9. Applicants represent that the Substitute Funds have investment objectives that are the same as, similar to, or consistent with those of the Replaced Funds. For each of the substitutions numbered 1–4 in Table 1, above, Applicants state that the Replaced Fund and Substitute Fund are not the same, but are substantially similar. For the substitution numbered 5 above, Applicants state that the Replaced Fund and Substitute Fund are “clone” funds with identical investment objectives and policies, and the investment adviser of the Replaced Fund will continue to provide investment advice to the Substitute Fund as a sub-adviser to the fund. Applicants state that the substitution numbered 6 involves two money market funds with substantially identical investment objectives.

10. Applicants state that five of the six proposed substitutions involve Replaced Funds that are sub-advised by VKAC which is no longer an affiliated entity of the Life Companies. These five Portfolios are: the Stock Index Portfolio, the Quality Income Portfolio, the High Yield Portfolio, the VKAC Growth and Income Portfolio and the Money Market Portfolio. The Life Companies examined the historical investment performance records of the proposed sub-advisers/ advisers for the Substitute Funds and determined that such records compared favorably, or were better than, those of VKAC, the sub-adviser for five Replaced Funds. Applicants also maintain that the expense ratios of these Replaced Funds is likely to increase over time as assets decline and therefore, the performance of these funds will be hurt. Applicants state that, given the desire of the Life Companies to improve performance, the Life Companies have determined that it is in their best interest and in the best interest of the Contract owners to pursue the proposed substitutions.

11. The Lord Abbett Growth and Income Portfolio of Cova Trust is a newly created investment portfolio that will not begin operations until the proposed substitution takes place and

therefore does not have an operating history. Applicants state that the Substitute Fund's investment objectives and policies are a “clone” of the Replaced fund, and therefore, the Applicants expect the Substitute Fund to have portfolio characteristics that are substantially the same as the Replaced Fund.

12. Applicants state that certain of the Substitute Funds are substantially larger than the Replaced Funds. Applicants maintain that other Substitute Funds, although smaller than the Replaced Funds, are growing at a much faster rate than the Replaced Funds. Applicants assert that the increased asset size of the Substitute Funds is more likely to result in economies of scale and in lower operating expenses which inure to the benefit of Contract owners.

13. Applicants state that certain of the Replaced Funds of Cova Trust have experienced more favorable expense ratios than the Substitute Funds. Applicants state, however, that the Cova Trust Replaced Funds are no longer offered for sale and therefore their assets are likely to decrease over time given normal levels of transfers and redemptions. Accordingly, Applicants maintain that the expense ratios of these Replaced Funds will rise given the declining assets and the resulting loss of economies of scale.

14. Furthermore, Applicants state that Life Companies have been voluntarily subsidizing the Cova Trust Replaced Funds for all operating expenses exclusive of investment advisory fees. Applicants maintain that the Life Companies have already expended considerable amounts of money voluntarily subsidizing these portfolios, and it is likely that the Life Companies will cease any future expense reimbursements. Without expense reimbursements, Applicants maintain that the expense ratios of the Cova Trust Replaced Funds will likely exceed their Substitute Fund counterparts over time.

15. Applicants state that the proposed substitution will take place at relative net asset value with no change in the amount of any Contract owner's

Contract value or in the dollar value of their investment in the Accounts. The substitutions will be effected by redeeming shares of the Replaced Funds on the date of substitution at net asset value and using the proceeds to purchase shares of the Substitute Funds at net asset value on the same date. At all times, the Contract values will remain unchanged and fully invested. Contract owners will not incur any fees or charges as a result of the proposed substitutions nor will their rights under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitutions, including legal, accounting and other fees and expenses, will be paid by the Life Companies. In addition, the proposed substitutions will not impose any tax liability on Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions.

16. Applicants state that it is expected that certain of the substitutions will be effected by redeeming the shares of the Replaced Fund partly in cash and partly in-kind. Those assets will then be contributed to the Substitute Fund to purchase shares of that fund. Redemptions and contributions in-kind will reduce the brokerage costs that would otherwise be incurred in connection with the redemption. The use of in-kind redemptions and contributions will be done in a manner consistent with the investment objectives and policies and diversification requirements of the applicable Substitute Fund, and the adviser and each Substitute Fund's sub-adviser will review the in-kind redemptions to assure that the assets proposed for the fund are suitable for the Substitute Fund. The assets subject to in-kind redemption and purchase will be valued based on the normal valuation procedures of the redeeming and purchasing funds. Applicants state that any inconsistencies in valuation

procedures between the Replaced Fund and the Substitute Fund will be reconciled so that the redeeming and purchasing values are the same.

17. Applicants state that after the substitutions have been completed there will be one instance where more than one sub-account of an Account will hold shares of a single Substitute Fund. The Life Companies intend to consolidate those sub-accounts. Specifically, Applicants state the subaccounts currently investing in the VKAC Growth and Income Portfolio and the Growth and Income Portfolio of the Lord Abbet Fund will be merged in to new sub-accounts which will invest in the Lord Abbet Growth and Income Portfolio of Cova Trust. Shares held by the existing sub-accounts will be transferred to the new sub-accounts at net asset value so there will be no financial impact to the Contract owner.

18. Applicants state that the Life Companies have supplemented the Contract prospectuses to reflect the proposed substitutions. The supplements identify which funds are being replaced and advise Contract owners that they may transfer assets from any subaccount involved in the proposed substitution to any other subaccount available under a Contract without any limitation or charge prior to the date of the substitution and for a period of 30 days after the substitution. Contract owners who are affected by the substitution will be sent notice of the substitutions within five days following the substitution date confirming that the substitutions have been completed and reiterating their right to make transfers to any other subaccount for a period of 30 days from the date of the notice without any limitation or charge being imposed.

19. Applicants state that following the substitutions, Contract owners will be afforded the same contract rights, including surrender and other transfer rights with regard to amounts invested under the Contracts, as they currently have.

Applicant's Legal Analysis

1. Section 26(b) of the 1940 Act provides, in pertinent part, that "[i]t 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 a security unless the Commission shall have approved such substitution." Section 26(b) of the 1940 Act also provides that the Commission shall issue an order approving such substitution if the evidence establishes that the substitution is consistent with the protection of investors and the

purpose fairly intended by the policies and provisions of the 1940 Act.

2. Applicants request an order pursuant to 26(b) of the 1940 Act approving the proposed substitutions by the Life Companies. Applicants assert that the purposes, terms, and conditions of the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the 1940 Act. Applicants further assert that the proposed substitutions will not result in the type of costly forced redemption that Section 26(b) of the 1940 Act was intended to guard against.

3. Applicants state that the Contracts reserve the Life Companies' right, subject to Commission approval, to substitute shares of one management investment company for another in situations where it could benefit the Life Companies and the Contract owners. Applicants also state that the Contract prospectuses disclose this right. Applicants maintain that each of the Substitute Funds is a suitable and appropriate investment vehicle for Contract owners and each of the Substitute Funds has either a substantially identical investment objective or an investment objective that is similar to or comparable with the Replaced Fund.

4. Applicants submit that the proposed substitutions meet the following standards that have been applied to substitutions in the past in that:

a. The investment objectives of the Substitute Funds are substantially identical to, similar to, or comparable with those of the Replaced Funds;

b. The substitutions, in all cases, will be effected at the net asset value of the respective shares in conformity with Section 22(c) of the 1940 Act and Rule 22c-1 thereunder, without the imposition of any transfer or similar charge;

c. The Life Companies have undertaken to assume the expenses and transaction costs, including among others, legal and accounting fees and any brokerage commission, relating to the substitutions;

d. The substitutions in no way will alter the insurance benefits to Contract owners or the contractual obligations of the Life Companies;

e. The substitutions in no way will alter tax benefits to Contract owners; and

f. Contract owners may choose simply to withdraw amounts credited to them following the substitutions under the conditions that currently exist without incurring any charges (other than any applicable withdrawal charges).

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

6. Applicants state that certain portfolios of the Management companies may be affiliated persons of each other or affiliated persons of affiliated persons of each other. In addition, Applicants state that the proposed substitutions by the Life Companies, which may entail the indirect purchase of shares of the Substitute Funds with portfolio securities of the Replaced Funds and the indirect sale of portfolio securities of the Replaced Funds for shares of the Substitute Funds, may also entail the purchase or sale of such securities by each of the portfolios of the Management Companies involved, acting as principal, to one of the other portfolios of the Management Companies and therefore may be in contravention of Section 17(a) of the 1940 Act.

7. Applicants request an order pursuant to Section 17(b) of the 1940 Act exempting the in-kind redemptions and purchases from the provisions of Section 17(a). Section 17(b) of the 1940 Act provides that the Commission may grant an order exempting a proposed transaction from Section 17(a) if evidence establishes that: (1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and (3) the proposed transaction is consistent with the general purposes of the 1940 Act.

8. Applicants represent that the terms of the proposed substitution, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the interest of Contract owners will not be diluted. The in-kind redemptions and purchases will take place at relative net asset value with no change in the amount of any Contract owner's Contract or accumulation value or death benefit or in the dollar value of his or her investment in any of the Accounts. Both the investment advisers/and or

sub-advisers will examine the portfolios securities being offered to each Portfolio and accept only those securities as consideration that they would have acquired directly in a cash transaction. The Applicants represent that the transactions are consistent with the policies of each investment company and the general purposes of the 1940 Act, and comply with the requirements of Section 17(b).

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the substitution and related transactions involving in-kind redemptions should be granted.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-32933 Filed 12-10-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40749; File No. SR-Amex-98-29]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change Relating to the Listing Under Rules 1000A et seq. of Select Sector SPDRsSM and Technology 100 Index Fund Shares

December 4, 1998.

I. Introduction

On July 17, 1998, the American Stock Exchange, Inc. ("AMEX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade under AMEX Rules 1000A et seq. ("Index Fund Shares") the following securities: (1) nine series of Select Sector SPDRsSM; and (2) one series of the Technology 100 Index Fund (collectively, the "Funds").

Notice of the proposed rule change, together with substance of the proposal, was published for comment in Securities Exchange Act Release No. 40391 (September 1, 1998), 63 FR 48280 (September 9, 1998). On November 12, 1998, the Exchange filed Amendment

No. 2.³ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to list and trade under Rules 1000A et seq.⁴ the following securities issued by an open-end management investment company: (1) nine series of Select Sector SPDRsSM, as described herein;⁵ and (2) one series of the Technology 100 Index Fund.⁶

(a) Select Sector SPDRs

The Exchange proposes to list and trade nine investment series of Select Sector SPDRs to be offered by the Select Sector SPDR Trust, an open-ended investment company and a Massachusetts business trust. The Select Sector SPDRs offered by the Trust are: The Basic Industries Select Sector SPDR; The Consumer Services Select Sector SPDR; The Consumer Staples Select Sector SPDR; The Cyclical/

³ Amendment No. 2 changes the name of the Sector SPDRs to Select Sector SPDRs; clarifies the duties and identity of the lending agent; changes and explains the method of the dissemination of product information by the Exchange; delineates the construction and maintenance standards for the Select Sector Indices and the Technology 100 Index; and clarifies that in the event of market wide circuit breakers trading in the Select Sector SPDRs and the Technology 100 Index Fund would be suspended pursuant to AMEX Rule 117. The substance of this amendment is incorporated into this order. See Letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, to Heather Seidel, Special Counsel, Division of Market Regulation ("Division"), Commission, dated November 11, 1998 ("Amendment No. 2").

⁴ Amex Rules 1000A et seq. provide for the listing and trading of Index Fund Shares, which are shares issued by an open-end management investment company that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic index. See Securities Exchange Act Release No. 36947 (March 8, 1996), 63 FR 2348 (March 14, 1996). The Exchange currently lists under Rules 1000A et seq. seventeen series of World Equity Benchmark SharesTM ("WEBSTM") based on Morgan Stanley Capital International foreign stock indices. "World Equity Benchmark Shares" and "WEBS" are service marks of Morgan Stanley Group, Inc.

⁵ "S&P"®, "Standard & Poor's 500"®, "Standard & Poor's Depository Receipts"® and "SPDRs"® are trademarks of The McGraw-Hill Companies, Inc., and "Select Sector SPDR" is a service mark of The McGraw-Hill Companies, Inc.

⁶ The Select Sector SPDR Trust (with respect to Select Sector SPDRs) and The Index Exchange Listed Securities Trust (with respect to the series of the Technology 100 Index Fund) filed with the Commission an Application for Orders under Sections 6(c) and 17(b) of the Investment Company Act of 1940 ("1940 Act") as amended, for the purpose of exempting Select Sector SPDRs and the series of the Technology 100 Index Fund from Sections 2(a)(32), 5(a)(1), 22(d), 17(a)(1) and (a)(2), and Rule 22c-1 under the 1940 Act. See Investment Company Act Release No. 23492 (October 20, 1998), 63 FR 57332 (October 27, 1998).

Transportation Select Sector SPDR; The Energy Select Sector SPDR; The Financial Select Sector SPDR; The Industrial Select Sector SPDR; The Technology Select Sector SPDR; and The Utilities Select Sector SPDR.⁷

Each Select Sector SPDR offers and issues Select Sector SPDR shares at their net asset value only in aggregations of a specified number of shares ("Creation Unit"), generally in exchange for a basket of common stocks consisting of some or all of the component securities ("Fund Securities") of a specified market sector index ("Select Sector Index"), together with the deposit of a specified small cash payment known as the "cash component" and reflecting, for example, net accrued dividends. It is anticipated that the deposit of Fund Securities and the specified cash payment, in exchange for Select Sector SPDRs will be made primarily by institutional investors, arbitrageurs and the Exchange specialist. Creation Units are separable upon issue into identical shares which are listed and traded on the AMEX. Similarly, shares are also redeemable only in Creation Unit size aggregations and usually in exchange for Fund Securities and a specified cash payment. It is anticipated that a Creation Unit will consist of 50,000 shares of the relevant series of Select Sector SPDRs. The Select Sector SPDR Trust reserves the right to offer a "cash" option for creations and redemptions of Select Sector SPDRs, although it has no current intention of doing so. For each Select Sector, SPDR, the Administrator (State Street Bank and Trust Company) makes available through the National Securities Clearing Corporation ("NSCC"), immediately prior to the opening of business on the AMEX, the list of names and the required number of share of stocks of each relevant Select Sector Index to be included in the securities deposit required in connection with the creation of Select Sector SPDRs in Creation Unit size aggregations.⁸

⁷ Information on the component stocks of the Select Sector Indices and the Technology 100 Index is available in the public file.

⁸ The procedures for the creation and redemption of Select Sector SPDRs and Technology 100 Index Fund shares are similar to those applicable for SPDRs, for utilize processes of the National Securities Clearing Corporation in connection with the transmittal of trade instructions, the transfer of component securities and the cash component, and the transfer of Select Sector SPDRs or Technology 100 Index Fund shares and component securities on creation or redemption. This contrasts with procedures for the creation and redemption of other Index Fund Shares currently listed on the Amex (i.e., WEBSTM), which, while similar in certain respects to SPDR procedures, do not utilize such National Securities Clearing Corporation processes.

Continued

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.