

change the scope of the September 20, 2001, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 12, 2002.

*No significant hazards consideration comments received:* No.

*STP Nuclear Operating Company, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas*

*Date of amendment request:* October 22, 2001, as supplemented by letters dated May 16 and June 25, 2002.

*Brief description of amendments:* The amendments change TS 3/4.9.4, "Refueling Operations—Containment Building Penetrations", to allow the equipment hatch to be open during core alterations or movement of irradiated fuel within the containment.

*Date of issuance:* July 18, 2002.

*Effective date:* July 18, 2002.

*Amendment Nos.:* Unit 1—139; Unit 2—128.

*Facility Operating License Nos. NPF-76 and NPF-80:* The amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* January 22, 2002 (67 FR 2930). The May 16 and June 25, 2002, supplemental letters provided clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 18, 2002.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 26th day of July 2002.

For the Nuclear Regulatory Commission.

**Ledyard B. Marsh,**

*Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25690; File No. 812-12767]

### American United Life Insurance Company, et al.; Notice of Application July 31, 2002.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of Application for an order pursuant to section 26(c) of the

Investment Company Act of 1940, as amended ("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.

**APPLICANTS:** American United Life Insurance Company ("AUL"), AUL American Unit Trust ("AUL Account"), AUL American Individual Unit Trust ("AUL Individual Account") and, with respect only to the relief requested pursuant to section 17(b), OneAmerica Funds, Inc. ("OneAmerica"). AUL, the AUL Account, the AUL Individual Account and OneAmerica are together referred to herein as the "Applicants."

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain registered unit investment trusts to substitute (i) shares of common stock issued by OneAmerica Asset Director Portfolio ("Asset Director Portfolio"), a series of OneAmerica for shares of common stock issued by OneAmerica Tactical Asset Allocation Portfolio ("Tactical Asset Allocation Portfolio"), also a series of OneAmerica; and (ii) Investor Class shares issued by American Century Strategic Allocation: Conservative Fund ("Strategic Allocation: Conservative Fund"), American Century Strategic Allocation: Moderate Fund ("Strategic Allocation: Moderate Fund"), and American Century Strategic Allocation: Aggressive Fund ("Strategic Allocation: Aggressive Fund" and, together with the Strategic Allocation: Conservative Fund and the Strategic Allocation: Moderate Fund, the "Strategic Allocation Funds"), each a series of American Century Strategic Asset Allocations, Inc. ("American Century Strategic") for shares of common stock issued by the OneAmerica Conservative Investor Portfolio ("Conservative Investor Portfolio"), OneAmerica Moderate Investor Portfolio ("Moderate Investor Portfolio"), and OneAmerica Aggressive Investor Portfolio ("Aggressive Investor Portfolio" and, together with the Conservative Investor Portfolio and the Moderate Investor Portfolio, the "Lifestyle Portfolios"), each a series of OneAmerica, respectively, currently held by those unit investment trusts, and to permit in-kind purchases and redemptions of portfolio securities in connection with the proposed substitution transactions relating to the Tactical Asset Allocation Portfolio and the Asset Director Portfolio ("In-Kind Transactions").

**FILING DATE:** The application was filed on January 28, 2002, and amended and

revised on July 26, 2002 ("Amended and Restated Application").

**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 Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 26, 2002, 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 Richard A. Wacker, Esq., American United Life Insurance Company, One American Square, Indianapolis, Indiana 46282. Copies to: Keith T. Robinson, Dechert, 1775 Eye Street, NW, Washington, DC 20006-2401.

**FOR FURTHER INFORMATION CONTACT:** Patrick F. Scott, Attorney, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW, Washington, DC 20549, (202) 942-8090.

### Applicants' Representations

1. AUL is an Indiana stock insurance company. AUL is the depositor and sponsor of the AUL Account and the AUL Individual Account, each a separate investment account established under Indiana law.

2. The AUL Account and the AUL Individual Account are each registered with the Commission under the 1940 Act as a unit investment trust. The assets of the AUL Account and the AUL Individual Account support certain individual and group variable annuity contracts (collectively, the "Contracts"). The individual variable annuity contracts include Contracts for which premiums may vary in amount and frequency, subject to certain limitations and Contracts for which premiums may vary in amount and frequency during

the first year. The group variable annuity Contracts may allow ongoing contributions that can vary in amount and frequency, while other Contracts may allow only a single contribution to be made. All of the Contracts provide for the accumulation of values either on a variable basis, a fixed basis, or both. The Contracts also provide several options for fixed annuity payments to begin on a future date.

3. The AUL Account is currently divided into sixty-two (62) sub-accounts referred to as Investment Accounts. Each Investment Account, in turn, invests exclusively in shares of an underlying fund or in shares of specific series thereof. Contributions may be allocated to one or more Investment Accounts available under a Contract. Not all of the Investment Accounts may be available under a particular Contract and some of the Investment Accounts are not available for certain types of Contracts. AUL may in the future establish additional Investment Accounts of the AUL Account which may invest in other securities, mutual funds or investment vehicles.

4. The AUL Individual Account is currently divided into nineteen (19) sub-accounts also referred to as Investment Accounts. Each Investment Account in turn, invests exclusively in shares of an underlying fund or in shares of specific series thereof. Premiums may be allocated to one or more Investment Accounts available under a Contract. AUL may in the future establish additional Investment Accounts of the AUL Individual Account which may invest in other securities, mutual funds or investment vehicles.

5. OneAmerica is organized as a Maryland corporation and is registered as an open-end management investment company under the 1940 Act. OneAmerica is a series investment company, as defined by Rule 18f-2 under the 1940 Act, and currently offers shares of eight (8) separate series. Only five (5) such series would be involved in the proposed substitutions. The Conservative Investor Portfolio, the Moderate Investor Portfolio, the Aggressive Investor Portfolio and the Tactical Asset Allocation Portfolio are herein referred to as the Removed Portfolios. The Asset Director Portfolio is one of the Substituted Portfolios, as defined in paragraph nine (9).

6. Effective May 1, 2002, OneAmerica's name was changed from "AUL American Series Fund, Inc." to "OneAmerica Funds, Inc." In addition, the names of the various series of OneAmerica involved in the proposed

Substitutions, were changed effective May 1, 2002 as follows:

Former name	New name
AUL American Tactical Asset Allocation Portfolio.	OneAmerica Tactical Asset Allocation Portfolio.
AUL American Managed Portfolio.	OneAmerica Asset Director Portfolio.
AUL American Conservative Investor Portfolio.	OneAmerica Conservative Investor Portfolio.
AUL American Moderate Investor Portfolio.	OneAmerica Moderate Investor Portfolio.
AUL American Aggressive Investor Portfolio.	OneAmerica Aggressive Investor Portfolio.

7. AUL, an investment adviser registered under the Investment Advisers Act of 1940, as amended ("Advisers Act"), currently serves as the investment adviser for each of the OneAmerica Portfolios pursuant to an investment advisory agreement between AUL and OneAmerica, on behalf of the OneAmerica Portfolios, dated March 8, 1990 ("Investment Advisory Agreement"). Pursuant to the Investment Advisory Agreement, and subject to the overall supervision of the Board of Directors of OneAmerica, AUL exercises overall responsibility for the investment and reinvestment of the assets of each OneAmerica Portfolio. AUL currently manages the day-to-day investment operations and the composition of all of the assets of each of the OneAmerica Portfolios.

8. Until May 1, 2002, Credit Suisse Asset Management, LLC ("CSAM"), another investment adviser registered under the Advisers Act, was responsible for managing the growth-oriented equity and international equity portions of the Conservative Investor Portfolio, the Moderate Investor Portfolio and the Aggressive Investor Portfolio (together, the "Lifestyle Portfolios"), pursuant to a sub-advisory agreement ("CSAM Sub-Advisory Agreement"). On October 30, 2001, CSAM notified AUL and the Lifestyle Portfolios that it intended to terminate the CSAM Sub-Advisory Agreement effective May 1, 2002. Consequently, AUL assumed responsibility for managing all of the assets of the Lifestyle Portfolios on May 1, 2002.

9. Dean Investment Associates ("Dean"), a division of C.H. Dean and Associates, Inc., served as the sub-adviser for the Tactical Asset Allocation Portfolio from May 15, 1995 to November 10, 2001 pursuant to a sub-advisory agreement ("Dean Sub-Advisory Agreement"). On September 7, 2001, AUL gave notice to Dean that it

intended to terminate the Dean Sub-Advisory Agreement, effective November 10, 2001. AUL assumed the investment management duties for the Tactical Asset Allocation Portfolio on November 10, 2001.

10. American Century Strategic is organized as a Maryland corporation and is registered as an open-end management investment company under the 1940 Act. American Century Strategic is a series investment company, as defined by Rule 18f-2 under the 1940 Act, and currently offers shares of three separate series, the Strategic Allocation: Conservative Fund; the Strategic Allocation: Moderate Fund; and the Strategic Allocation: Aggressive Fund (together with the Asset Director Portfolio, the "Substituted Portfolios").

11. The prospectuses for both the AUL Account and the AUL Individual Account state that "AUL reserves the right, subject to compliance with the law as then in effect, to make additions to, deletions from, substitutions for, or combinations of the securities that are held by the Variable Account or any Investment Account or that the Variable Account or any Investment Account may purchase." Comparable language appears in the Contracts.

12. With the exceptions noted below, neither the AUL Account nor the AUL Individual Account imposes any limitations on the number of transfers between variable investment accounts available under a Contract or the fixed account or imposes charges on transfers. With respect to the AUL Individual Account, the minimum transfer amount from any one Investment Account or from the fixed account is \$500. Under certain circumstances, amounts transferred from the fixed account to an Investment Account during any given year may not exceed 20% of the fixed account's value as of the beginning of that year. AUL reserves the right, however, at a future date, to impose a different minimum or maximum transfer amount, to assess transfer charges, to change the limit on remaining balances, to limit the number and frequency of transfers, and to suspend the transfer privilege or the telephone authorization, interactive voice response, or internet based transfers.

13. Applicants propose to substitute (i) shares of common stock issued by the Tactical Asset Allocation Portfolio currently held by the AUL Account and the AUL Individual Account for shares of common stock issued by the Asset Director Portfolio; and (ii) shares of common stock issued by each of the Lifestyle Portfolios currently held by the

AUL Account for the Investor Class shares issued by the corresponding Strategic Allocation Funds (the "Substitutions").

14. As shown in the chart below, the Tactical Asset Allocation Portfolio has investment objectives, investment strategies and anticipated risks that are

compatible, although not identical, to those of the Asset Director Portfolio.

	Removed portfolio	Substituted portfolio
	Tactical asset allocation portfolio	Asset director portfolio
Investment objective .....	Preservation of capital and competitive investment returns.	High total return consistent with prudent investment risk.
Investment Strategies .....	<p>Primary Investment Strategy: To achieve this objective, the portfolio invests primarily in stocks, United States Treasury issues, corporate bonds, and other debt securities. When markets are favorable, the portfolio concentrates on performance; in declining markets, the portfolio will have less equities in its portfolio in an effort to protect its assets.</p> <p>Types of Securities: The portfolio will normally invest at least 65% of its equity assets in the common or preferred stocks of companies listed on a national exchange or traded over-the-counter. The focus is generally on high quality, liquid, undervalued stocks of small, medium and large capitalization companies. When market conditions require a more defensive position, the portfolio invests more of its assets in investment grade corporate debt securities, U.S. government securities and money market instruments.</p>	<p>Primary Investment Strategy: The investments of the portfolio are not limited to one type of investment, and it purchases publicly traded common stocks, debt securities, and money market instruments. The makeup of the portfolio changes based on AUL's evaluation of economic and market trends and the expected total return from a particular type of security. Therefore, up to 100% of the portfolio may be invested in any one type of investment such as common stocks, debt securities, or money market instruments.</p> <p>Types of Securities: The portfolio may buy common stocks listed on a national securities exchange or traded over-the-counter and debt securities, including investment grade corporate bonds, U.S. government securities, convertible bonds and mortgage-backed securities. The portfolio can invest up to 10% of its assets in debt securities that are rated below-investment grade ("junk bonds"). The portfolio also may buy high quality money market instruments.</p>

15. Applicants represent it is also the case that: (i) the management fees with respect to the Asset Director Portfolio were lower than the management fees applicable to the Tactical Asset Allocation Portfolio as of December 31, 2001; and (ii) the total expense ratio

with respect to the Asset Director Portfolio was lower than the total expense ratio of the Tactical Asset Allocation Portfolio as of December 31, 2001. The chart below shows the management fees, operating expenses and total expenses for the Tactical Asset

Allocation Portfolio and the Asset Director Portfolio for the year ended December 31, 2001. The fees and expenses in the chart are presented as a percentage of average daily net assets.

	Removed portfolio	Substituted portfolio
	Tactical asset allocation portfolio (%)	Asset director portfolio (%)
Management Fee .....	0.80	0.50
12b-1 Fee .....	0.00	0.00
Other Expenses .....	0.20	0.14
Gross Total Annual Operating Expenses .....	1.00	0.64

16. As shown in the chart below, each Lifestyle Portfolio has investment

objectives, investment strategies and anticipated risks that are substantially

similar to those of the corresponding Strategic Allocation Fund.

	Removed portfolio	Substituted portfolio
	Conservative investor portfolio	Strategic allocation: Conservative Fund
Investment Objective	High current income, with opportunities for capital appreciation.	Highest level of total return consistent with its asset mix.
Investment Strategies	Primary Investment Strategy: To achieve its objective, the portfolio invests in a strategically allocated portfolio, primarily of bond and money market instruments, with the balance of the portfolio in equities.	Primary Investment Strategy: Seeks regular income through its emphasis on bonds and cash-equivalent securities. It also has the potential for moderate long-term total return as a result of its stake in equity securities.

	Removed portfolio	Substituted portfolio
	Conservative investor portfolio	Strategic allocation: Conservative Fund
Investment Objective	Types of Securities: The portfolio invests in a mix of equity securities, bonds and money market instruments. Within each asset class, the portfolio's holdings are invested across a diversified group of industries and issuers based on AUL's investment criteria. AUL regularly reviews the portfolio's investments and allocations and may make changes in the particular securities or in the asset mix (within defined operating ranges) to favor investments that it believes will help achieve the portfolio's objective.	Types of Securities: The fund may invest in any type of U.S. or foreign equity security that meets certain fundamental and technical standards. The fund managers draw on growth, value and quantitative investment techniques in managing the equity portion the fund's portfolio and they diversify the fund's equity investments among small, medium and large companies. The fund also invests in a variety of debt securities payable in both U.S. and foreign currencies. The fund primarily invests in investment grade securities, that is, securities rated in the four highest categories by independent rating organizations.
Investment Strategies	Neutral Mix: Equity: 35% Debt: 50% Cash: 15%	Neutral Mix: Equity: 45% Debt: 45% Cash: 10%
	Moderate Investor Portfolio	Strategic Allocation: Moderate Fund
	Blend of capital appreciation income ..... Primary Investment Strategy: To achieve its objective, the portfolio invests in a strategically allocated portfolio of equities, bonds and money market instruments with a weighting that is normally slightly heavier in equities. Type of Securities: Same as Conservative Investor Portfolio.	Highest level of total return consistent with its asset mix. Primary Investment Strategy: Seeks long-term capital growth with some regular income. It emphasizes investments in equity securities but maintains a sizeable stake in bonds and cash-equivalent securities. Type of Securities: Same as the Strategic Allocation: Conservative Fund. The fund may invest up to 5% of its assets in below investment-grade (high-yield) securities.
	Neutral Mix: Equity: 55% Debit: 35% Cash: 10%	Neutral Mix: Equity: 63% Debt: 31% Cash: 6%
	Aggressive Investor Portfolio	Strategic Allocation: Aggressive Fund
Investment Objective	Long-term capital appreciation ..... Primary Investment Strategy: To achieve its objective, the portfolio invests in a strategically allocated portfolio consisting primarily of equities. Current income is not a major consideration.	Highest level of total return consistent with its asset mix. Primary Investment Strategy: Seeks long-term capital growth with a small amount of regular income. It emphasizes investments in equity securities but maintains a portion of its assets in bonds and cash-equivalent securities.
Investment Strategies	Types of Securities: Same as Conservative Investor Portfolio.	Types of Securities: Same as the Strategic Allocation: Conservative Fund. The fund may invest up to 10% of its assets in below investment-grade (high-yield) securities.
	Neutral Mix: Equity: 80% Debt: 20% Cash: 0%	Neutral Mix: Equity: 78% Debt: 20% Cash: 2%

17. It is expected that the net total annual operating expenses with respect to certain of the Strategic Allocation Funds may be higher than the net total annual operating expenses currently applicable to the corresponding Lifestyle Portfolios, even though the gross total annual operating expenses of

each Strategic Allocation Fund are lower than those of the corresponding Lifestyle Portfolios. The chart below shows: (i) the management fees, operating expenses and total annual operating expenses (both gross and net of applicable fee waivers and reimbursements) for the shares of

common stock of each Lifestyle Portfolio for the year ended December 31, 2001; and (ii) the current total operating expenses of the Investor Class shares of each Strategic Allocation Fund. The fees and expenses in the chart are presented as a percentage of average daily net assets.

	Removed portfolios (percent)	Substituted portfolios (percent)
	Conservative Investor Portfolio	Strategic Allocation: Conservative Fund
Management Fee .....	0.70	1.00
12b-1 Fee .....	0.00	0.00
Other Expenses .....	0.83	0.00
Gross Total Annual Operating Expenses .....	1.53	1.00
Applicable Waiver or Reimbursements .....	0.53	0.00
Net Total Annual Operating Expenses .....	1.00	1.00

	Removed portfolios (percent)	Substituted portfolios (percent)
	Moderate Investor Portfolio	Strategic Allocation: Moderate Fund
Management Fee .....	0.70	1.10
12b-1 Fee .....	0.00	0.00
Other Expenses .....	0.80	0.00
Gross Total Annual Operating Expenses .....	1.50	1.10
Applicable Waiver or Reimbursements .....	0.50	0.00
Net Total Annual Operating Expenses .....	1.00	1.10
	Aggressive Investor Portfolio	Strategic Allocation: Aggressive Fund
Management Fee .....	0.70	1.20
12b-1 Fee .....	0.00	0.00
Other Expenses .....	0.81	0.00
Gross Total Annual Operating Expenses .....	1.51	1.20
Applicable Waiver or Reimbursements .....	0.51	0.00
Net Total Annual Operating Expenses .....	1.00	1.20

18. With respect to the Management Fee for the Strategic Allocation Funds listed in the table above, Applicants state that, out of this fee, American Century Investment Management, Inc. ("American Century"), the investment adviser to the Strategic Allocation Funds, pays all the ordinary expenses of managing and operating the portfolio, except brokerage expenses, taxes, interest, and fees and expenses of the independent directors (including legal counsel fees). This fee does not apply to extraordinary expenses as determined under generally accepted accounting principles. In other words, American Century pays substantially all of the ordinary operating expenses that would normally be shown under "Other Expenses" out of the management fee. This management fee may not be raised without a shareholder vote. A breakpoint in the management fee will apply to each Strategic Allocation Fund when it reaches \$1 billion. In that case, assets in excess of \$1 billion will incur a management fee that is 10 basis points lower than that shown in the table.

19. With respect to the Gross Total Annual Operating Expenses for the Conservative Investor Portfolio, Moderate Investor Portfolio and Aggressive Investor Portfolio listed in the table above, Applicants state that AUL has currently agreed to waive its advisory fee if the ordinary expenses of the portfolio exceed 1% and, to the extent necessary, assume any expenses in excess of its advisory fee so that the expenses of the portfolio, including the advisory fee but excluding extraordinary expenses, will not exceed 1% of the portfolio's average daily net asset value per year. AUL may terminate the policy of reducing its fee and/or assuming fund expenses upon 30 days written notice to

the portfolio and such policy will be terminated automatically by the termination of the investment advisory agreement between AUL and the portfolio.

20. Applicants represent that the unified management fee structure employed by the Strategic Allocation Funds has the practical effect of locking in a specific expense ratio for shareholders. AUL's policy of reducing its fee and/or assuming expenses of the Lifestyle Portfolios may be terminated unilaterally by AUL upon thirty (30) days written notice to the portfolio. In comparison, the unified management fees for each of the Strategic Allocation Funds may only be changed by a vote of shareholders.

21. Applicants represent that AUL has determined that it is not feasible to maintain the Lifestyle Portfolios for an extended period of the time following the resignation of CSAM, or to maintain the Tactical Asset Allocation Portfolio for an extended period of time following the resignation of Dean. CSAM was originally hired for its expertise in growth equity and foreign investing—areas in which AUL has little expertise. However, the Lifestyle Portfolios are strategically managed and, as a result, would need to be able to invest in these markets. In addition, Dean was retained in order to provide a process-driven asset allocation program that relies on proprietary forecasting models. AUL has determined that it will not be cost effective to hire internal managers to attempt to provide a comparable model-driven asset allocation program or to manage the small amount of assets that would be invested in the growth equity and foreign equity markets.

22. Applicants assert that finding replacement sub-advisers would not be

feasible due to the relatively small size of the Tactical Allocation Portfolio and each of the Lifestyle Portfolios. Management of funds the size of the Removed Portfolios simply is not cost-effective, as demonstrated by AUL's substantial subsidization of the Lifestyle Portfolios, and many investment advisers are not interested in managing registered investment companies of this size. Moreover, since each of these Portfolios is so small, allocating the assets among asset classes can be difficult and inefficient.

23. Applicants represent that Contract Owners and Participants who have allocated contract values to one or more of the Removed Portfolios have been provided with a detailed notice (in the form of a prospectus or prospectus supplement) disclosing the Substitutions ("First Notice"), which described the relevant Substituted Portfolio(s), identified the relevant Removed Portfolio(s), disclosed the impact of the Substitutions on fees and expenses at the underlying fund level, and disclosed that AUL will not impose any fee, charge or restriction that might otherwise be imposed through a date at least thirty (30) days after the effective date of the proposed Substitutions ("Substitution Date").

24. Applicants represent that, following Commission approval of the Amended and Restated Application, Applicants will send Contract Owners and Participants who have allocated Contract values to one or more of the Removed Portfolios further detailed notice concerning the proposed Substitutions ("Second Notice"). The Second Notice will inform affected Contract Owners and Participants that the substitutions will be carried out, identify the anticipated date of the

Substitutions and inform Contract Owners and Participants that AUL will not impose any fee, charge or restriction that might otherwise be imposed through a date at least thirty (30) days after the Substitution Date. Together with this disclosure, affected Contract Owners and Participants also will be sent a prospectus for the applicable Substituted Portfolio(s). New purchasers of Contracts also will be provided with the Contract prospectuses, the Second Notice, and a prospectus for the applicable Substituted Portfolio(s).

25. Applicants will effect the Substitutions by redeeming the contributions and premium payments invested in the shares of common stock of the Removed Portfolios and purchasing shares of common stock of the Asset Director Portfolio or Investor Class shares of the Strategic Allocation Funds, as applicable, with the proceeds of that distribution.

26. Redemptions from the Lifestyle Portfolios will be made in cash, as will the corresponding purchases of Investor Class shares of the Strategic Allocation Funds.

27. In the case of the Tactical Asset Allocation Portfolio, the redemptions will take the form of a distribution of that portion of the Tactical Asset Allocation Portfolio's gross assets attributable to the AUL Account and the AUL Individual Account along with the assumption of a corresponding portion of the Tactical Asset Allocation Portfolio's liabilities. Assets to be distributed and liabilities to be assumed may include rights, obligations and liabilities associated with the Tactical Asset Allocation Portfolio's pending trade transactions and over-the-counter positions. All assets and liabilities will be valued based on the normal valuation procedures of the Tactical Asset Allocation Portfolio and the Asset Director Portfolio (which are identical), as set forth in OneAmerica's registration statement. The Substitutions of shares of the Asset Director Portfolio for shares of the Tactical Asset Allocation Portfolio are expected to be performed wholly on an in-kind basis.

28. Confirmation of the Substitutions will be mailed to affected Contract Owners and Participants within five (5) days after the Substitution Date. The confirmation will disclose (i) that the substitution was carried out and (ii) that Contract Owners and Participants may transfer assets from the Substituted Portfolios to another investment option available under their Contract without the imposition of any fee, charge or restriction that might otherwise be imposed through a date at least thirty (30) days after the Substitution Date.

29. Applicants represent that the significant terms of the proposed Substitution described above and in the Amended and Restated Application include:

a. Each Substituted Portfolio will have investment objectives, investment strategies, and anticipated risks that are substantially similar, or at least comparable, in all material respects to those of the corresponding Removed Portfolio.

b. Contract Owners and Participants who have allocated Contract values to one or more of the Removed Portfolios may transfer assets from a Removed Portfolio or a Substituted Portfolio to another investment option available under their Contract without the imposition of any fee, charge or other penalty that might otherwise be imposed from the date of the First Notice through a date at least thirty (30) days following the Substitution Date.

c. The Substitutions, in all cases, will be effected at the relative net asset values of the respective shares of the Removed Portfolios and the corresponding Substituted Portfolios in conformity with Section 22(c) of the 1940 Act and Rule 22c-1 thereunder, without the imposition of any transfer or similar charge by the Applicants, and with no change in the amount of any Contract Owner's Contract value or in the dollar value of any Contract Owner's or Participant's investment in such Contract.

d. Contract Owners and Participants will not incur any fees or charges as a result of the proposed Substitutions, nor will their rights or AUL's obligations under the Contracts be altered in any way. AUL will bear all expenses incurred in connection with proposed seed capital redemptions as well as the Substitutions and related filings and notices, including brokerage, legal, accounting and other fees and expenses. The proposed Substitutions will not cause the Contract fees and charges currently being paid by existing Contract Owners or Participants to be greater after the proposed Substitutions than before the proposed Substitutions.

e. Redemptions in-kind and contributions in-kind will be done in a manner consistent with the investment objectives, policies and diversification requirements of both the Tactical Asset Allocation Portfolio and the Asset Director Portfolio. Consistent with Rule 17a-7(d) under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid in connection with the In-Kind Transactions.

f. The Substitutions will not be counted as new investment selections in

determining the limit, if any, on the total number of Investment Accounts that Contract Owners or Participants can select during the life of a Contract.

g. The Substitutions will not alter in any way the tax benefits, insurance and other Contract benefits, or any Contract obligations of the Applicants, under the Contracts.

h. Contract Owners and Participants may withdraw amounts under the Contracts or terminate their interest in a Contract, under the conditions that currently exist, including payment of any applicable withdrawal or surrender charge.

i. Contract Owners and Participants affected by the Substitutions will be sent written confirmation of the Substitutions that identify each Substitution transaction made on behalf of that Contract Owner or Participant within five (5) days following the Substitution Date.

j. AUL will waive its management fee with respect to the Asset Director Portfolio and/or reimburse ordinary expenses incurred by the Asset Director Portfolio during the twenty-four (24) months following the Substitution Date to the extent necessary to ensure that the total operating expenses for any period (not to exceed a fiscal quarter) of the Asset Director Portfolio do not exceed 1.00% (the total annual operating expenses, net of fee waivers and/or expense reimbursements, for the Tactical Asset Allocation Portfolio for the year ended December 31, 2001) of the Asset Director Portfolio's average daily net assets on an annualized basis.

k. In addition, for all Contract Owners and Participants with contract values allocated to the Tactical Asset Allocation Portfolio as of the Substitution Date, AUL will not increase sub-account or Contract expenses for a period of twenty-four (24) months following the Substitution Date.

l. AUL does not receive, and will not receive for three (3) years following the Substitution Date, any direct or indirect benefits from the Strategic Allocation Funds or their investment adviser or underwriter (or their affiliates), in connection with assets representing contract values of Contracts affected by the Substitution, at a higher contractual rate than it had been entitled to receive from the Lifestyle Portfolios or their investment adviser or underwriter (or their affiliates), including, without limitation: 12b-1 fees; shareholder service fees; administration or other service fees; revenue sharing; or other arrangements in connection with such assets.

m. The Substitution and the selection of the Strategic Allocation Funds were

not motivated by any financial consideration paid or to be paid to AUL, or its affiliates, by the Strategic Allocation Funds, their investment adviser or underwriter, or their respective affiliates.

n. AUL agrees that if the total operating expenses for a Strategic Allocation Fund (taking into account any fee waivers and/or reimbursements) ("Strategic Allocation Fund Expenses") for any fiscal quarter during the one (1) year period following the Substitution Date exceed on an annualized basis the expense ratio for the corresponding Lifestyle Portfolio (taking into account any fee waivers and/or expense reimbursements) as a percentage of average daily net assets for the fiscal year ended December 31, 2001 ("Lifestyle Portfolio Expenses"), AUL will waive separate account fees and/or reimburse separate account expenses applicable to the Investment Account that invests in the relevant Strategic Allocation Fund for those Contract Owners who were Contract Owners on the Substitution Date, such that the Strategic Allocation Fund Expenses, together with Investment Account expenses paid during that period, will not exceed, on an annualized basis, the corresponding Lifestyle Portfolio Expenses and Investment Account expenses prior to the Substitution Date.

30. Applicants submit that they will not complete the Substitutions as described in the Amended and Restated Application unless all of the following conditions are met:

a. The Commission will have issued an order approving the Substitutions under section 26(c) of the 1940 Act.

b. The Commission will have issued an order exempting the In-Kind Transactions from the provisions of section 17(a) of the 1940 Act, to the extent necessary to carry out the Substitutions as described herein with respect to the Tactical Asset Allocation Portfolio and the Asset Director Portfolio.

c. The amendments to the registration statements for the Contracts describing the Substitutions shall have become effective.

d. Each Contract Owner and Participant who has allocated Contract values to the Removed Portfolios will have been mailed the First Notice, the Second Notice and current prospectuses for the Contracts and the applicable Substituted Portfolio(s).

e. The Applicants will have satisfied themselves, based on advice of counsel familiar with insurance laws, that the Contracts allow the substitution of portfolios as described in the Amended and Restated Application, and that the

Substitution transactions can be consummated, as described herein, under applicable insurance laws and under the Contracts.

f. The Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Contracts have been qualified for sale.

#### Applicants' Legal Analysis

1. Section 26(c) 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(c) 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. Applicants request an order pursuant to section 26(c) of the 1940 Act approving the Substitutions. Applicants represent that the purposes, terms, and conditions of the Substitution are consistent with the protections for which Section 26(c) was designed.

3. Applicants state that Contract Owners and Participants who do not want their assets allocated to the Substituted Portfolios would be able to transfer assets to any one of the other Investment Accounts available under their Contract without any transfer charge until thirty (30) days after the Substitution Date.

4. Applicants represent that the Substitution and related redemptions and purchases will not result in any change in the amount of any Contract Owner's or Participant's Contract value or in the dollar value of his or her investment in such Contract. Contract Owners and Participants will not incur any fees or charges as a result of the proposed Substitutions, nor will their rights or AUL's obligations under the Contracts be altered in any way. Furthermore, the proposed Substitutions will not cause the Contract fees and charges currently being paid by existing Contract Owners or Participants to be greater after the proposed Substitutions than before the proposed Substitutions.

5. For these reasons, Applicants assert that the proposed Substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

6. 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 such affiliated persons from purchasing any security or other property from such registered investment company.

7. 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.

8. The 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 permit them to carry out the In-Kind Transactions.

9. The Applicants assert that the 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. The In-Kind Transactions will be effected at the respective net asset values of the Tactical Asset Allocation Portfolio and the Asset Director Portfolio, as determined in accordance with the procedures disclosed in the registration statement for OneAmerica and as required by Rule 22c-1 under the 1940 Act. The In-Kind Transactions will not change the dollar value of any Participant's or Contract Owner's investment in the AUL Account or the AUL Individual Account, the value of any Contract, the accumulation value or other value credited to any Contract, or the death benefit payable under any Contract. After the proposed In-Kind Transactions, the value of the AUL Account's or AUL Individual Account's investments in the Asset Director Portfolio will equal the value of its investment in the Tactical Asset Allocation Portfolio (together with the value of any pre-existing investment in the Asset Director Portfolio) before the In-Kind Transactions.

10. The Applicants also state that the transactions will conform substantially to the conditions of 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 Applicants assert that the terms of the 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 Applicants also assert that the proposed In-Kind Transactions by the Applicants does not involve overreaching on the part of any person concerned. Furthermore, the Applicants represent that the proposed In-Kind Transactions will be consistent with the policies of the Tactical Asset Allocation Portfolio and the Asset Director Portfolio, as recited in OneAmerica's current registration statement.

11. The 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 Commission should grant the requested order approving the Substitutions and the In-Kind Transactions.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46282; File No. SR-NYSE-2001-33]

### Self-Regulatory Organizations; New York Stock Exchange; Order Granting Approval of a Proposed Rule Change Relating to Issuing Book-Entry Securities

July 30, 2002.

On April 24, 2001, the New York Stock Exchange ("NYSE") filed with the Securities and Exchange Commission ("Commission") and on April 16, 2002, and May 7, 2002, amended proposed rule change SR-NYSE-2001-33 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was

published in the **Federal Register** on May 28, 2002.<sup>2</sup> One comment letter in support of the proposed rule change was received.<sup>3</sup> For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### I. Description

Over the years the NYSE has accommodated the market's desire to immobilize or dematerialize securities by amending its rules to provide alternatives to issuing physical certificates. For example, in 1988 the NYSE amended Section 501.02 of its Listed Company Manual ("Manual") to allow the issuance of bonds on a book-entry-only basis by using global certificates held by a depository.<sup>4</sup> To further book-entry delivery and settlement of trades between brokers, the U.S. markets, including NYSE, adopted uniform rules in the 1990s that required securities listed on U.S. exchanges and securities associations to be depository-eligible<sup>5</sup> and that required members of exchanges and securities associations to settle trades in "depository-eligible" securities through book-entry movements at registered clearing agencies.<sup>6</sup> In 1996, the NYSE amended section 501.01 of the Manual to rescind its policy of requiring issuers to provide certificates to record holders with respect to distributions and instead allowed issuers to offer shareholders a choice of receiving certificates or holding their positions in book-entry form directly with the issuer through a direct registration system offered by a depository.<sup>7</sup>

<sup>2</sup> Securities Exchange Act Release No. 45970, (May 21, 2000), 67 FR 102 (May 28, 2002).

<sup>3</sup> Letter from C. Michael Viviano, Chairman, Securities Industry Association, Operations Committee; Chairman and Chief Executive Officer, Bank of New York Clearing Services L.L.C. (June 4, 2002).

<sup>4</sup> Securities Exchange Act Release No. 25872 (June 30, 1988), 53 FR 25560 [File No. SR-NYSE-88-07] (order approving permitting the use of a single global certificate for bonds).

<sup>5</sup> NYSE Rule 227. Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909 [File No. SR-NYSE-95-19] (order approving adopting of Rule 227 requiring issuers' shares to be depository eligible).

<sup>6</sup> NYSE Rule 226. Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679 [File Nos. SR-AMEX-93-07; SR-BSE-93-08; SR-MSE-93-03; SR-NASD-93-11; SR-NYSE-93-13; SR-PSE-93-04; and SR-PHLX-93-09] (order approving SRO rules requiring book-entry settlement of securities transactions).

<sup>7</sup> Securities Act Release No. 37937 (November 8, 1996), 61 FR 58728 [File No. SR-NYSE-96-29] (order approving rule change requiring participation in a direct registration system for certain stock distributions). Using the direct registration system operated by The Depository Trust Company ("DRS"), an investor is able to hold a book-entry position on the books of the issuer, to update stock ownership information directly with an issuer's transfer agent, and to electronically

In recent months, several non-U.S. issuers have approached the NYSE expressing an interest in listing their ordinary shares on the NYSE. These non-U.S. issuers would prefer or are required by home country law to issue in dematerialized format. In order for the NYSE to accommodate such non-U.S. issuers' need or preference to dematerialize or immobilize their shares, the exchange must amend its Manual.

Section 501 of the Manual sets out the certification requirements for stocks and bonds, including when certificates must be distributed and what form stock certificates must take. Section 501.01 of the Manual currently does not require a listed company to send stock certificates to a record holder unless the record holder requests one if (1) the stock distribution relates an issuance pursuant to a stock dividend reinvestment plan, stock dividend reinvestment purchase plan, or a similar stock purchase plan and (2) regardless of the nature of the distribution, the company's stock is included in DRS. Because a listed company has to send a record holder a certificate upon request, Section 501.01 did not afford the issuer the ability to completely dematerialize securities positions or immobilize securities positions where certificates would not be available to anyone other than the depository.

The rule change will amend Section 501.01 to allow a listed company to issue in a dematerialized or completely immobilized form and therefore not send stock certificates to record holders, provided the company's stock is issued pursuant to a dividend reinvestment program, stock purchase plan, or similar plan or is included in DRS.<sup>8</sup> The rule change will not mandate dematerialization or immobilization but rather will allow listed companies the option of issuing traditional stock certificates or not. Securities that have traditionally been issued in a dematerialized or completely immobilized form, such as bonds and derivatives, will continue to be covered by the specific rules applicable to them and will not be required to be in DRS.<sup>9</sup> Dematerialized or immobilized equities listed on the NYSE will continue to be subject to the requirement of Rules 226 and 227 that the issue must be depository eligible and must be settled

transfer shares between the books of the issuer and his or her broker.

<sup>8</sup> Listed companies incorporated in states that require certification may not be able to issue their securities in an immobilized or dematerialized format.

<sup>9</sup> Sections 501.11 and 703.16 of the Manual respectively.

<sup>1</sup> 15 U.S.C. 78s(b)(1).