

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25957; File No. 812-12668]

Lincoln Benefit Life Co. et al.; Notice of Application

March 12, 2003.

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

ACTION: Notice of an application for an amended order pursuant to Section 26(c) of the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Lincoln Benefit Life Company ("Lincoln Benefit"), Lincoln Benefit Life Variable Annuity Account (the "VA Account"), and Lincoln Benefit Life Variable Life Account (the "VL Account") (collectively, "Applicants").

SUMMARY OF APPLICATION: Applicants seek an order of the Commission amending a prior order granted April 30, 2002 (Release No. IC-25562) (the "April 30 Order"), which authorized Applicants to effect a substitution of shares of one underlying portfolio for shares of another portfolio. The purpose of the Amendment is to modify a term of the April 30 Order pertaining to limits on the receipt of direct or indirect future benefits from the Replacement Fund, its adviser, or their affiliates.

FILING DATE: The application was filed on June 11, 2002.

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 Commission's Secretary 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 April 7, 2003, and must 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, NW., Washington, DC 20549-0609. Applicants: c/o Jorden Burt LLP, 1025 Thomas Jefferson Street, NW., Suite 400 East, Washington, DC 20007-0806, Attention: Christopher S. Petito, Esq.

FOR FURTHER INFORMATION CONTACT: Zandra Y. Bailes, 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 is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 [tel. (202) 942-8090].

Applicants' Representations

1. Lincoln Benefit is a stock life insurance company organized under the laws of the state of Nebraska. The VA Account is a segregated asset account of Lincoln Benefit. It was established in 1992 and is registered as a unit investment trust under the 1940 Act. Lincoln Benefit issues certain variable annuity contracts through the VA Account.

2. The VL Account was established in 1992 and is registered as a unit investment trust under the 1940 Act. The VL Account is used to fund certain variable life insurance policies issued by Lincoln Benefit. (The VA Account and the VL Account are referred to collectively as the "Separate Account Applicants." Certain variable annuity contracts and variable life policies are referred to herein as "Contracts.").

3. In the substitution approved by the April 30 Order (the "Substitution"), Lincoln Benefit, on behalf of the Separate Account Applicants, substituted shares of T. Rowe Price MidCap Growth Fund (the "Replacement Fund"), a series of the T. Rowe Price Equity Series, Inc., for shares of the Strong Discovery Fund II (the "Replaced Fund"). The Substitution is described in more detail in the Notice of Application for the April 30 Order [Release No. IC-25509 (April 4, 2002) (the "Notice")].

4. One of the representations (the "Service Fee Representation") in the Notice, which Applicants now seek to amend, is the following:

Lincoln Benefit does not currently receive, and will not receive for three years from the date of the requested Commission order, any direct or indirect benefit from the Replacement Fund, T. Rowe Price Inc., or any of its affiliates at a higher rate than Lincoln Benefit has received from the Replaced Fund, SCM, or any of its affiliates, including without limitation Rule 12b-1 fees, shareholder service or administrative or other service fees, revenue sharing or other arrangements, either with specific reference to the Replacement Fund or as part of an overall business arrangement.

5. Applicants state that on May 17, 2002, they effected the Substitution in full compliance with the April 30 Order. Applicants represent that they intend to continue to comply with Service Fee

Representation unless and until the amended order is granted.

6. Applicants seek to amend the April 30 Order to permit the replacement of the Service Fee Representation with the following representation (the "Amended Service Fee Representation"):

Lincoln Benefit will not receive, for three years from the date of the Substitution, any direct or indirect benefits from the Replacement Fund, its adviser or underwriter, or their respective affiliates, in connection with assets attributable to Contracts affected by the Substitution, at a higher rate than it received from the Replaced Fund, its adviser or underwriter, or their respective affiliates, including without limitation Rule 12b-1 fees, shareholder service or administrative or other service fees, revenue-sharing or other arrangements in connection with such assets. Lincoln Benefit represents that the Substitution and its selection of the Replacement Fund was not motivated by any financial consideration paid or to be paid to it by the Replacement Fund, its adviser or underwriter, or their respective affiliates.

Applicants state that the effect of the Amended Service Fee Representation would be to limit the effects of the Service Fee Representation to assets attributable to Contracts actually affected by the Substitution.

7. Applicants state that after the Notice was issued, they learned that another substitution order involving similar circumstances would be issued to other insurance companies and their respective separate accounts in part based on a representation identical in substance to the Amended Service Fee Representation.* Applicants contacted the Commission staff during the notice period and participated in discussions with the staff. Through those discussions, Applicants determined that applying for an amendment before issuance of the April 30 Order would have required issuance of a new notice and a new notice period, thereby delaying the Substitution. Applicants were particularly concerned that delaying the Substitution could possibly harm affected Contract owners because of the potentially adverse effects of dwindling assets on the Replaced Fund's expenses and performance. Because Applicants thought it would be in the best interests of Contract owners to effect the Substitution without delay, they decided to effect the Substitution on the terms set forth in the Notice and wait to seek the amendment until after the April 30 Order issued. Applicants believed that following this course of action would not prejudice their ability to obtain the requested relief. On May

* American Enterprise Life Insurance Company, et al., Release No. IC-25518 (April 10, 2002) (notice).

1, 2002, an order was issued to American Enterprise Life Insurance Company, *et al.* (Release No. IC-25561) (the "May 1 Order"). Applicants note that the Amended Service Fee Representation is consistent with the corresponding representation made in the exemptive application filed by American Enterprise Life Insurance Company, *et al.*

Applicants' Legal Analysis

1. Section 26(c) 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 security unless the Commission shall have approved such substitution." The purpose of Section 26(c) is both to protect the expectations of investors that the unit investment trust will accumulate the shares of a particular issuer and to prevent unscrutinized substitutions which might, in effect, force shareholders dissatisfied with a substituted security to redeem their shares, thereby incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Section 26(c) affords this protection to investors by preventing a depositor or trustee of a unit investment trust holding the shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves the substitution.

2. By approving the April 30 Order, the Commission determined that the Substitution was "consistent with the protection of the investors and the purposes fairly intended by the policy and provisions of [the 1940 Act]." Applicants submit that the amended order also will meet this standard. Applicants submit that the requested amendment is appropriate and in the public interest, and that the interests of fairness require that the April 30 Order be amended to be no more restrictive than the relief granted other parties in the same circumstances.

3. Applicants submit that a restriction of the type in the April 30 Order is less necessary in the context of a liquidation. Applicants submit that in this situation, the need for a substitution is forced on the insurer and is not a product of the insurer's independent business planning. Accordingly, Applicants argue, it is less likely that an improper or self-interested motive has prompted the insurer's action, and it should not be presumed that a prophylactic measure like the Service Fee Representation is necessary. Moreover, Applicants believe

that because the Amended Service Fee Representation directly and fully denies the existence of any financial incentive from the Replacement Fund or its affiliates, the broad restriction imposed by the existing Service Fee Representation is wholly unnecessary.

4. Second, Applicants submit that the existing Service Fee Representation places a significant burden on assets that are entirely unrelated to the Substitution. Applicants state that because the Replaced Fund was not popular among investors, only a few Contracts and a small amount of Applicants' subaccount assets were invested in the Replaced Fund. On the other hand, a significant amount of subaccount assets were invested in the Replacement Fund, which was an existing investment option under the Contracts. Applicants submit that in the absence of the Substitution, the service fee rate was set and could be changed as a product of arm's length bargaining between Applicants and the Replacement Fund's adviser. Applicants submit that it is unfair to impose an artificial restriction on Applicants' negotiating posture with respect to all service fees for all of those assets, as well as assets relating to new product developments entirely unrelated to the Substitution, because of a substitution that was compelled by circumstances beyond Applicants' control.

5. Applicants also argue that imposing the restriction in the existing Service Fee Representation may discourage insurers in some circumstances from selecting the most appropriate replacement fund in future substitutions. Applicants argue that limiting service fees with respect to all other funds in a replacement fund's fund complex creates an incentive for insurers to effect substitutions only with members of fund families in which the insurer does not already invest, and that this incentive may conflict with the interests of investors.

6. Applicants submit that fairness requires that the Service Fee Representation be amended to conform with the representation on which the May 1 Order was based. Applicants submit that the circumstances there were identical in all material respects with the circumstances presented by this substitution. Applicants state that both cases involved the liquidation of an unaffiliated fund for reasons unrelated to the affected insurers and the substitution into another unaffiliated fund. Applicants submit that by granting the May 1 Order, the Commission determined that a representation such as the Amended Service Fee Representation was in the

public interest in circumstances involving a substitution prompted by liquidation of an unaffiliated fund. Given the similarity of the two cases, Applicants submit that here also, the proposed change in the Service Fee Representation would be fair and in the public interest.

7. Applicants submit that, for the reasons summarized above, their request meets the standards set out in Section 26(c) of the 1940 Act. Accordingly, Applicants request an order, pursuant to Section 26(c) of the 1940 Act, amending the April 30 Order as requested above.

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

[Rel. No. IC-25959; File No. 812-12828]

Allianz Life Insurance Company of North America, et al.

March 14, 2003.

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

ACTION: Notice of application for an order of approval pursuant to section 26(c) of the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Allianz Life Insurance Company of North America ("Allianz Life"), Allianz Life Variable Account A ("Allianz Account A"), Allianz Life Variable Account B ("Allianz Account B"), Allianz Life Insurance Company of New York ("Allianz Life of NY") and Allianz Life of NY Variable Account C ("Allianz Account C"). Allianz Life and Allianz Life of NY are collectively referred to as the "Insurance Company Applicants." Allianz Account A, Allianz Account B and Allianz Account C are collectively referred to as the "Separate Account Applicants."

FILING DATE: The application was filed on May 20, 2002, and amended and restated on August 6, 2002, December 16, 2002, March 7, 2003 and March 13, 2003.

SUMMARY OF APPLICATION: Applicants request an order of approval to permit the substitution of shares of The Dreyfus Stock Index Fund ("Dreyfus Fund") for shares of Franklin Templeton Variable Insurance Products Trust's (the "Trust's") Franklin S&P 500 Index Fund ("Franklin Fund") (the "Substitution").