

expects to hold the TRA contract through annuitization, and that the owner may be better off rejecting the exchange offer if he or she plans to surrender the TRA contract during the withdrawal period. All boxes on the form must be checked off with affirmative responses before Travelers Insurance/Travelers Life will process the exchange. After making a suitability determination, each broker-dealer will be required to forward completed forms to Travelers Insurance/Travelers Life for processing. In the event either company receives an incomplete form (*i.e.*, a form with one or more acknowledgment boxes not checked off), Travelers Insurance/Travelers Life will not process the exchange, treating the transaction as "not in good order." Travelers Insurance/Travelers Life intends to contact any broker-dealer who submits a form not in good order, however, in no event will Travelers Insurance/Travelers Life process exchange transactions based on incomplete forms.

53. Travelers Insurance/Travelers Life will apply the cash value of the UA contract, together with any applicable purchase payment credit, and any additional purchase payments submitted with an internal exchange application form for the TRA contract to the TRA contract on the exchange date. Travelers Insurance will not deduct a contingent deferred sales charge upon the surrender of a UA contract in connection with the exchange offer.

54. After expiration of the TRA contract's right to return period, surrenders and withdrawals will be governed by the terms of the TRA contract for purposes of calculating any withdrawal charge. This means, in part, that Travelers Insurance/Travelers Life will not recapture any purchase payment credit applied to the contract value of the TRA contract, unless the owner were to cancel the contract during the right to return period.

55. The exchange date will be the issue date of the TRA contract for purposes of determining contract years and anniversaries after the exchange date.

56. To accept the exchange offer, a UA contract owner must complete an internal exchange application form. Contract values under the TRA contract will be allocated according to owner instructions. Travelers Insurance/Travelers Life will assume purchase payments submitted with the internal exchange application form to be payments under the TRA contract as of the date of issue of the TRA contract.

57. UA owners who accept the exchange offer will not be subject to any

adverse tax consequences. The exchanges will constitute tax-free exchanges under section 1035 of the Code.

58. Travelers Insurance/Travelers Life will compensate broker-dealers in connection with the proposed exchange offer. These broker-dealers will receive the same compensation they would have received had there been a new sale of a TRA contract without the exchange program.

Applicants' Legal Analysis

1. Section 11 of the 1940 Act makes it unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his or her security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with Commission rules and regulations adopted under section 11. Section 11(c) of the 1940 Act, in pertinent part, makes section 11(a) applicable to an offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company, irrespective of the basis of the exchange. Accounts GIS, MM, QB, TAS, TGIS, and TSB are registered with the SEC as open-end diversified management investment companies, and Fund U and Accounts Five and Six are registered with the SEC as unit investment trusts. Accordingly, the proposed exchange offer is subject to section 11(a) under the 1940 Act and can only be made after the Commission has approved the terms of the offer under section 11(a). Applicants submit that the terms of the proposed exchange offer do not present the abuses section 11 was designed to prevent, and are consistent with public policy and Commission precedent.

2. As noted by the Commission when proposing rule 11a-3 under the 1940 Act, the purpose of section 11 of the Act is to prevent "switching." "Switching" is the practice of inducing security holders of one investment company to exchange their securities for those of a different investment company solely for the purpose of exacting additional selling charges. This practice was found by Congress to be widespread in the 1930's before the adoption of the 1940 Act.

3. Section 11(c) of the 1940 Act requires Commission approval (by order or rule) of any exchange, regardless of

its basis, involving securities issued by a unit investment trust, because investors in unit investment trusts were found by Congress to be particularly vulnerable to switching operations. Applicants note that the legislative history of section 11 makes clear that the potential for harm to investors perceived in switching was its use to extract additional sales charges from investors.

4. Applicants represent that the terms of the proposed exchange offer do not present the abuses (*i.e.*, the additional sales charges that result from abusive switching practices) against which section 11 was designed to prevent. Applicants submit that the purpose of their exchange offer is not to earn additional sales commissions; rather, the purpose of the offer is to give investors, many of whom because of the terms of their employer's 403(b) and 457 plans may no longer be able to contribute towards their retirement, an opportunity to invest in a lower cost contract that has innovative death benefit and annuitization features. In stark contrast with the 9-10% front-end commission deducted in the "switching" exchanges that led to adoption of section 11, each UA owner accepting the exchange offer may be able to receive a 2% purchase payment credit added to each purchase payment should the owner elect the optional death benefit. The effect of the credit is to add to cash value at the time of the exchange. This credit provides a significant benefit to the owner because neither Travelers Insurance nor Travelers Life will recapture the amount of that credit should the owner make a withdrawal from or surrender his or her contract after the expiration of the TRA contract's right to return period. Further, the TRA contract offers the owner the opportunity to receive additional economic benefits upon annuitization. At that time, each company will add an annuitization credit to the value of an owner's contract. In addition, no sales charges will be imposed on amounts surrendered from a UA contract and applied to a TRA contract, and no sales charges ever will be paid on amounts rolled over in the exchange unless the TRA contract is surrendered before the expiration of the TRA contract's initial withdrawal charge period.

5. Rule 11a-2 permits an offer to exchange one variable annuity contract which has a contingent deferred sales load for another variable annuity contract which also has a contingent deferred sales load of the same or of an affiliated insurer without obtaining Commission approval, as long as (i) no