

any waivers and reimbursements). Moreover, the proposed Substitutions will be effected only with the approval of Variable Contract owners. Finally, MLLIC and MLNY will agree that, for two years from the date of the Substitutions, they will reduce Separate Account expenses to the extent the annualized expenses for either Replacement Portfolio for any fiscal quarter exceed the 2002 net expense level of its corresponding Substituted Portfolio. Similarly, although the advisory fee and total operating expenses of the MFS Research Series and the MFS Investors Trust Series are lower than those of the Roszel/PIMCO CCM Capital Appreciation Portfolio (before any waivers and reimbursements), MLLIC and MLNY will effect the proposed Substitutions only if Variable Contract owner approval is received. And, MLLIC and MLNY will agree that, for two years from the date of the Substitutions, they will reduce Separate Account expenses to the extent the annualized expenses for either Replacement Portfolio for any fiscal quarter exceed the 2002 net expense level of its corresponding Substituted Portfolio.

7. Although not always identical, the investment risks of the Replacement Portfolios are comparable to those of their respective Substituted Portfolios.

8. The Section 17(b) Applicants also request that the Commission issue an order pursuant to Section 17(b) of the 1940 Act exempting them from Section 17(a) of the 1940 Act to the extent necessary to permit MLLIC and MLNY to carry out the Substitutions by redeeming shares issued by AllianceBernstein Fund, Delaware Trust, and MFS Trust in-kind and using the distributed securities to purchase shares issued by MLIG Trust.

9. Section 17(a)(1) and (a)(2) of the 1940 Act generally prohibit any affiliated person of a registered investment company, or any affiliated person of an affiliated person, from selling any security or other property to such registered investment company and from purchasing any security or other property from such registered investment company. MLLIC and MLNY anticipate that the Substitutions will be done (in whole or in part) by redeeming shares of the Substituted Portfolios in-kind rather than in cash and then using those assets to purchase shares of the Replacement Portfolios. Redemptions and purchases in-kind involve the purchase of property from a registered investment company and the sale of property to a registered investment company by MLLIC, MLNY, and the

MLIG Trust, each arguably an affiliated person of those investment companies.

10. Pursuant to Section 17(a)(1) of the 1940 Act, the Section 17(b) Applicants may be considered affiliates of one or more of the funds involved in the Substitutions, based upon the definition of "affiliated person" under Section 2(a)(3) of the 1940 Act. Because the Substitutions may be effected, in whole or in part, by means of in-kind redemptions and subsequent purchases of shares, and also by means of in-kind transactions, the Substitutions may be deemed to involve one or more purchases or sales of securities or property between affiliates.

11. Any in-kind redemptions and purchases for purposes of the Substitutions will be effected in a manner consistent with the investment objectives and policies of the Substituted Portfolios and the Replacement Portfolios. Subject to the oversight of Roszel Advisors, DMC will review the securities holdings of the AllianceBernstein Quasar Portfolio and the Delaware VIP Trend Series, and PIMCO and Cadence will review the securities holdings of the MFS Research Series and the MFS Investors Trust Series, and determine which of these Substituted Portfolio holdings would be suitable investments for the Roszel/Delaware Trend Portfolio and the Roszel/PIMCO CCM Capital Appreciation Portfolio, respectively, in the overall context of the Replacement Portfolios' investment objectives and policies and consistent with their management of the Replacement Portfolios. The Section 17(b) Applicants state that securities to be paid out as redemption proceeds and subsequently contributed to the Replacement Portfolios to effect the contemplated in-kind purchases of shares will be valued based on the normal valuation procedures of the redeeming and purchasing portfolios. The redeeming and purchasing values will be the same. Consistent with Rule 17a-7(d) under the 1940 Act, no brokerage commissions, fees, or other remuneration will be paid in connection with the in-kind transactions. If Roszel Advisors declines to accept particular portfolio securities of any of the Substituted Portfolios for purchase in-kind of shares of any of the Replacement Portfolios, those positions will be liquidated by the applicable Substituted Portfolio and shares of the corresponding Replacement Portfolio will be purchased with cash.

12. Section 17(b) of the 1940 Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of Section 17(a) if the

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 records filed under the 1940 Act; and (3) the proposed transaction is consistent with the general purposes of the 1940 Act.

13. The Section 17(b) Applicants submit that the terms of the Substitutions, 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 Section 17(b) Applicants also submit that the Substitutions are consistent with the policies of AllianceBernstein Fund, Delaware Trust, MFS Trust, and MLIG Trust, and their portfolios, as recited in the current registration statements and reports filed by each under the 1940 Act. Finally, the Section 17(b) Applicants submit that the proposed Substitutions are consistent with the general purposes of the 1940 Act.

Applicants' Conditions

For purposes of the approval sought pursuant to Section 26(c) of the 1940 Act, the Substitutions described in the Application will not be completed unless all of the following conditions are met.

1. The Commission shall have issued an order (i) approving the Substitutions under Section 26(c) of the 1940 Act as necessary to carry out the transactions described in the Application; and (ii) exempting any in-kind redemptions and purchases from the provisions of Section 17(a) of the 1940 Act as necessary to carry out the transactions described in the Application.

2. Each Variable Contract owner will have been sent (i) prior to the Effective Date, a copy of the effective prospectus relating to the relevant Replacement Portfolio, (ii) prior to the Effective Date, a Pre-Substitution Notice describing the terms of the Substitutions and the rights of the Variable Contract owners in connection with the Substitutions, and (iii) a Post-Substitution Notice within five days after the Substitutions informing them that the Substitutions were carried out and restating the information set forth in the Pre-Substitution Notice.

3. MLLIC and MLNY shall have satisfied themselves that (i) the Variable Contracts allow the substitution of portfolios in the manner contemplated by the Substitutions and related