8. A prehearing conference in this docket shall be held on Friday, August 14, 1998, at 9:30 a.m. in the Commission's hearing room.

9. The Secretary shall cause this notice and order to be published in the **Federal Register**.

Dated: July 20, 1998.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–19666 Filed 7–22–98; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23317; File No. 812–10896]

Equitable Life Insurance Company of Iowa, et al.; Notice of Application

July 16, 1998.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order of approval pursuant to Section 26(b) of the Investment Company Act of 1940 (the ''1940 Act'') and an order granting exemptive relief pursuant to Section 17(b) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order pursuant to Section 26(b) of the 1940 Act approving the substitution of shares of certain portfolios of the GCG Trust for shares of certain portfolios of the ESS Trust. Applicants also seek an order, pursuant to Section 17(b) of the 1940 Act, granting exemptions from Section 17(a) to permit Applicants to carry out the substitutions by means of in-kind redemption and purchase transactions, and to permit Applicants to combine certain subaccounts holding shares of the same substitute fund after the substitutions.

APPLICANTS: Equitable Life Insurance Company of Iowa (''Equitable''), Equitable Life Insurance Company of Iowa Separate Account A (''Equitable Separate Account A''), Golden American Life Insurance Company (''Golden American''), Golden American Life Insurance Company Separate Account A (''Golden American Separate Account A''), Golden American Life Insurance Company Separate Account B (''Golden American Separate Account B''), First Golden American Life Insurance Company of New York (''First Golden''), First Golden American Life Insurance Company of New York Separate Account NY–B (''First Golden Separate Account NY–B''), The GCG Trust (''GCG Trust''), and the Equi-Select Series Trust (''ESS Trust'') (collectively, ''Applicants'').

FILING DATES: The application was filed on December 15, 1997, and amended and restated on March 18, 1998, and July 2, 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 by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 10, 1998, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing request 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 SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, Marilyn Talman, Esquire, Golden American Life Insurance Company, 1001 Jefferson Street, Suite 400, Wilmington, DE 19801.

FOR FURTHER INFORMATION CONTACT: Megan Dunphy, Attorney, or Mark C. Amorosi, 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 SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. Equitable and Golden American are stock life insurance companies organized under the insurance laws of Iowa and Delaware, respectively. Each is authorized to write variable annuity and variable life insurance policies in at least 48 states and the District of Columbia. First Golden is a stock life insurance company organized under the insurance laws of the state of New York, and is authorized to write variable annuity contracts in New York. Equitable, Golden American and First Golden (collectively, ''Applicant Insurance Companies'') are indirect wholly owned subsidiaries of ING Groep, N.V. (''ING''), a global financial services holding company.

2. Equitable Separate Account A, Golden American Separate Account A, Golden American Separate Account B and First Golden Separate Account NY–B (collectively ''Applicant Separate Accounts'') are separate accounts for which one of the Applicant Insurance Companies serves as the sponsor and depositor. Equitable serves as sponsor and depositor of Equitable Separate Account A; Golden American serves as sponsor and depositor of Golden American Separate Account A and Golden American Separate Account B; First Golden serves as the sponsor and depositor of First Golden Separate Account NY–B. Each Applicant Separate Account is a segregated asset account of its insurance company sponsor and each is registered under the 1940 Act as a unit investment trust.

3. Each Applicant Separate Account serves as a funding vehicle for certain variable annuity or variable life insurance contracts (collectively, ''Variable Contracts'') issued by the Applicant Insurance Company of which it is a part. Applicant Separate Accounts are divided into separate subaccounts, each dedicated to owning shares of a designated investment portfolio of either the GCG Trust (the ''GCG Subaccounts'') or the ESS Trust (''ESS Subaccounts''). Holders of any Variable Contracts (''Contractholders'') may select one or more of the investment options available under the Variable Contract held by allocating premiums payable under such contract to that subaccount of the relevant Applicant Separate Account that corresponds to the investment option desired.

4. The ESS Trust is registered under the 1940 Act as an open-end, management, services investment company and currently offers nine investment portfolios. Of these portfolios, five—Growth & Income, OTC, Total Return, Value+Growth and Research Portfolios—invest primarily in equity securities. The remaining portfolios—Advantage, Mortgage-Backed Securities, International Fixed Income and Money Market Portfolios—invest primarily in fixed income securities. Overall management services are provided to the ESS Trust and each of its individual series by Directed Services, Inc. (''DSI''), an indirect, wholly owned subsidiary of ING. DSI is an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act'') and a broker-dealer registered under the Securities Exchange Act of 1934.

5. The GCG Trust is registered under the 1940 Act as an open-end, management, series investment company. The GCG Trust offers shares of twenty two separate investment series, including six new investment series created in anticipation of the

issuance of the Commission order requested in the application and two existing investment series that also will be involved in the substitutions described in the application. The new series include (1) five series the investment objectives and policies of which will be identical to those of the Growth & Income, Total Return, Value+Growth, Research and International Fixed Income Portfolios currently offered by ESS Trust; and (2) a new series, MidCap Growth Series, that will have investment objectives and policies substantially similar to those of the OTC Portfolio currently offered by the ESS Trust. The existing series include the Liquid Asset Series and the Limited Maturity Bond Series. Applicants state that these series have investment objectives and policies similar to those of the portfolios which they will replace.

6. Overall management services are provided to the GCG Trust by DSI. Under the terms of an investment advisory agreement between GCG Trust and DSI (''GCG Trust Management Agreement''), DSI manages the business and affairs of each of the several series of the GCG Trust, subject to the control of the Board of Trustees. Under the GCG Trust Management Agreement, DSI is entitled to receive a fee (''Unified Fee'') for its services from each series of the GCG Trust from which fee DSI pays the fees of any subadviser or other service providers. The Unified Fee is calculated for each GCG Series on a percentage of assets basis and in accordance with schedules that provide, for some of the GCG Series, fee reductions at specified asset levels or ''break points.'' On feature of the Unified Fee is that certain of the GCG Series are grouped together for the purpose of determining whether a break point has been reached. As a result, a GCG Series that is part of a designated fee group is likely to realize a reduction in the fee payable to DSI more quickly than might otherwise be the case.

7. Applicant Insurance Companies have approved a proposal whereby the ESS Subaccounts would substitute for securities issued by each portfolio of the ESS Trust (each, a ''Replaced ESS Portfolio''), securities of a designated series of the GCG Trust (each, a ''Substitute GCG Series''). Following these transactions (collectively, the ''Substitutions''), Equitable Separate Account A will have two subaccounts holding shares of the GCG Limited Maturity Bond Series and will combine these subaccounts by transferring shares at net asset value on the same date from one subaccount to the other. The several Substitutions are set forth in Table 1.

TABLE 1

ESS replaced portfolio	Substitue GCG series
1 Growth & Income Portfolio	Growth & Income Series.
2 Research Portfolio	Research Series.
3 Total Return Portfolio	Total Return Series.
4 Value+Growth Portfolio	Value+Growth Series.
5 International Fixed Income Portfolio	Global Fixed Income Series.
6 OTC Portfolio	Mid-Cap Growth Series.
7 Money Market Portfolio	Liquid Assets Series.
8 Mortgage-Backed Securities Portfolio	Limited Maturity Bond Series.
9 Advantage Portfolio	Limited Maturity Bond Series.

8. Applicants state that, for each of the Substitutions numbers 1–5 in Table 1 above, the respective Substitute GCG Series are ''mirror'' series of the respective Replaced ESS Portfolios. Applicants have concluded that, with respect to each Substitution, the investment objectives and policies of the Substitute GCG Series are either identical to, or sufficiently similar to, those of the Replaced ESS Portfolios to assure that the essential objectives and risk expectations of Contractholders with interests in any ESS Subaccount (''Affected Contractholders'') can continue to be met. Additionally, Applicants state that each Substitute GCG Series will be provided with portfolio management services by the same investment advisory organization that currently serves the Replaced ESS Portfolio.

9. Applicants state that the Substitutions and the related combination of subaccounts are part of an overall business plan of Applicant Insurance Companies to make their respective products, including the Variable Contracts, more competitive and more efficient to administer and oversee. Applicants state that, while DSI currently provides virtually identical management services to ESS Trust and GGG Trust, performance of these services are governed by two different agreements. Service provided to ESS Trust are performed pursuant to the ESS Trust Management Contract, which requires the Trust (not DSI) to pay for services provided by third-party service organizations, such as custody, fund accounting, and transfer agency fees and fees for legal and auditing expenses. In contrast, services provided by DSI under the GGG Trust Management Agreement are offered under the Unified Fee arrangement under which DSI is responsible for paying virtually all of the expenses associated with managing GGG Trust, including the fees of third-party service organizations.

10. Applicant Insurance Companies represent that the Substitutions are appropriate for the following reasons: (1) The implementation of the Unified Fee, with respect to each of the Substitute GGG Series, is likely to result in certain economies of scale, which savings will insure to the benefit of the Affected Contractholders generally and, in the case of seven of the nine ESS Portfolios involved in the Substitutions, will result in an immediate reduction in the fees currently borne by Affected Contractholders; (2) the Substitutions will eliminate certain portfolios with insufficient assets to remain cost efficient; and (3) the Substitutions will reduce the overlap among the investment options associated with the variable insurance products offered by Applicant Insurance Companies and thus reduce the potential for confusion among Contractholders and prospective investors.

11. Applicants state that, as of the effective date of the Substitutions (''Effective Date''), each Substitution will be effected by the Applicant Insurance Companies by redeeming shares of the Replaced ESS Portfolios at net asset value and using the proceeds of such redemptions, which will be effected in-kind, to purchase the appropriate number of shares of the Substitute GGG Series at net asset value. Applicant Insurance Companies state that they will bear the costs of the Substitutions, including any legal, accounting, brokerage, and other fees

and expenses relating to the Substitutions, and that Affected Contractholders will not incur any additional fees or charges as a result of the Substitutions, nor will their rights or the obligations under any of the Variable Contracts diminish in any way. Applicants state that all redemptions of shares of the Replaced ESS Portfolios and purchases of shares of the Substitute GGG Series will be effected in accordance with Rule 22c–1 under the 1940 Act. Applicants further state that the Substitutions will not result in any adverse tax consequences to the Affected Contractholders, any change in the economic interest or contract values of any Affected Contractholder or any change in the dollar value of any Variable Contract held by an Affected Contractholder.

12. Applicants state that Affected Contractholders have been notified of this Application by means of prospectus supplements. Applicants represent that prior to the Effective Date, each Affected Contractholder will be furnished with a copy of a prospectus relating to each of the Substitute GGG Series, if one has not already been forwarded to Affected Contractholders, and a notice setting forth the Effective Date for the Substitutions. The notice will also advise Affected Contractholders that contract values attributable to investments in the Replaced ESS Portfolios may be transferred to any other available subaccount without charge, either prior to, or within 30 days after the Effective Date.

13. Applicants state that each Applicant Insurance Company will furnish Affected Contractholders with a confirmation of the substitutions within five business days of the Substitution that shows before and after account values and details the transactions effected on behalf of the respective Affected Contractholder in connection with the Substitutions.

14. Applicants maintain that the combination of the two subaccounts of Equitable Separate Account A that hold shares of the Limited Maturity Bond Series will not have any impact on the value of the Variable Contracts involved, the fees or rights of the Affected Contractholders, or diminish in any way the obligations of Equitable or any other Applicant Insurance Company under any Variable Contract. Equitable will bear the costs of such combination, including any legal or accounting fees relating to them, and the Affected Contractholders will not incur any fees or charges as a result of such combination. In addition, the subaccount combination will not result in any adverse tax consequences to the Affected Contractholders, or any change in the economic interest or contract values of any Affected Contractholder.

Terms of the Substitutions and Related Transactions

The significant terms of the Substitutions described in the application include:

1. The Substitute GGG Series have objective and policies sufficiently similar to the objectives and policies of the Replaced ESS Portfolio so that the objective of the Affected Contractholders can continue to be met.

2. With one exception, the expense ratios of the Substitute GGG Series will, immediately following the Effective Date, not exceed the expense ratios of the Replaced ESS Portfoios (''ESS Expenses Level''), absent significant decreases in the asset levels of such series. In the case of any Substitute GGG Series the expense ratio of which exceeds the ESS Expense Level immediately following the Effective Date, DSI will waive its fees and/or reimburse the expenses of the relevant Substitute GGG Series such that its expense ratio does not exceed the ESS Expense Level. DSI will continue to waive its fees and/or reimburse expenses, for each such Substitute GGG Series as necessary in accordance with this undertaking until December 31, 1999.

3. Affected Contractholders may transfer assets from any ESS Subaccount to any other subaccount available under the Variable Contract held without charge from the date of the notice that the ESS Portfolios will be substituted through a date at least 30 days following the Effective Date. Affected Contractholders may also withdraw amounts under any contract held or terminate their interest in any such contract, in accordance with the terms and conditions of any such contract, including but not limited to payment of any applicable surrender charge.

4. The Substitutions 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 by Applicants.

5. The Substitutions will take place at respective net asset value without change in the amount or value of any Variable Contract held by Affected Contractholders. Affected Contractholders will not incur any fees or charges as a result of the Substitutions, nor will their rights or the obligations of Applicant Insurance Companies under such Variable Contracts be altered in any way. All expenses incurred in connection with the Substitutions, including legal, accounting and other fees and expenses, will be borne by Applicant Insurance Companies or their subsidiaries.

6. Redemptions in kind will be handled in a manner consistent with the investment objectives, policies and diversification requirements of the GCG Substitute Series. Consistent with Rule 17a–7(d) under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid by the ESS Replaced Portfolios, GCG Substitute Series, or Affected Contractholders in connection with the in-kind transactions.

7. The Substitutions will not be counted as transfers in determining the limit on the total number of transfers that Affected Contractholders are permitted to make under the Variable Contracts.

8. Neither the Substitutions nor the subsequent transactions will alter in any way the annuity, life or tax benefits afforded under the Variable Contracts held by any Affected Contractholder.

9. Each Applicant Insurance Company will send to its Affected Contractholders within five (5) business days of the Substitutions a written confirmation showing the before and after values (which will not have changed as a result of the Substitutions) and detailing the transactions effected on behalf of the respective Affected Contractholder with regard to the Substititions.

Conditions of the Substitutions and Related Transactions

Applicants state that the Substitutions and related transactions 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(b) of the 1940 Act; and (ii) exempting the in-kind redemptions and the combination of subaccounts from the provisions of Section 17(a) of the 1940 Act as necessary to carry out the transactions described in the application.

2. Each Affected Contractholder will have been sent (i) a copy of the effective prospectus relating to each of the Substitute GCG Series and any necessary amendments to the prospectuses relating to the Variable Contracts; and (ii) as soon as reasonably possible after the order has been issued and prior to the Effective Date, a notice describing the terms of the Substitutions and the rights of the Affected Contractholders in connection with the Substitutions.

3. Applicant Insurance Companies shall have satisfied themselves, that (i) the Variable Contracts allow the substitution of investment in the manner contemplated by the Substitutions and related transactions described herein; (ii) the transactions can be consummated as described in the application under applicable insurance laws; and (iii) that any regulatory requirements in each jurisdiction where the Variable Contracts are qualified for sale, have been complied with to the extent necessary to complete the transactions.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act prohibits any depositor or trustee of a 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. 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 purposes fairly intended by the policies and provisions of the 1940 Act.

2. Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the substitutions. Applicants maintain that the Substitutions, if implemented, would not raise any of the concerns that Congress sought to address when the 1940 Act was amended to include this provision (e.g., that a substitution might force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring additional sales or surrender charges.) Applicants also maintain that, subject to the terms and conditions summarized in this notice, the Substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. Section 17(a)(1) and (2) of the 1940 Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling to or purchasing a security from such registered investment company. Applicants may be deemed to be affiliates of one another based upon the definition of ''affiliated person'' in Section 2(a)(3) of the 1940 Act. Because the Substitutions and subsequent combination of subaccounts will be effected by means of an in-kind redemption and purchase, Applicants state that the Substitutions may be deemed to involve one or more purchases or sales of securities or property between a registered investment company and its affiliates.

4. Applicants request an order pursuant to Section 17(b) of the 1940 Act exempting the Substitutions and related transactions from the provisions of Section 17(a) of the 1940 Act. Section 17(b) of the 1940 Act provides that the Commission may grant an order exempting proposed transactions from the prohibition of Section 17(a) if: (i) The terms of the proposed transaction, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policy of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the 1940 Act.

5. Applicants represent that the terms of the proposed 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. Applicants maintain that the interests of Contractholders will not be diluted and that the Substitutions will not effect any change in economic interest, contract value, or the dollar value of any Variable Contract held by an Affected Contractholder.

6. Applicants also state that the Substitutions will take place in accordance with procedures, adopted by the Board of Trustees of each of the GCG Trust and the ESS Trust, respectively, designed to meet the requirements enumerated in Rule 17a–7 under the 1940 Act, except that transactions be effected in cash. Although the relief afforded by Rule 17a–7 is not available in connection with the Substitutions, Applicants submit that structuring the Substitutions to comply with the requirements of that rule provides a strong basis upon which the Commission may base a finding that the standards necessary to grant an order of exemption pursuant to Section 17(b) of the 1940 Act have been satisfied.

7. Applicants represent that the transactions are consistent with the investment policy of each investment company involved, as recited in the current prospectus relating to each investment company, and the general purposes of the 1940 Act, and 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 requested order approving the Substitutions and related transactions should be granted.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19651 Filed 7–22–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23318; 812–11104]

The RBB Fund, Inc. and BEA Associates; Notice of Application

July 16, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (''Act'') for an exemption from section 12(d)(1)(G)(i)(II) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit a fund of funds relying on section 12(d)(1)(G) to invest directly in securities and other instruments.

APPLICANTS: The RBB Fund, Inc. (the ''Company'') and BEA Associates (''BEA''). The requested order also would extend to any existing or future open-end management investment company or series thereof advised by BEA (an ''Upper Tier Fund'') that wishes to invest in a registered open-end management investment company or series thereof that is advised by BEA and is part of the same ''group of investment companies'' (as defined in section 12(d)(1)(G)(ii) of the Act) (together with the series of the Company excluding the BEA Long-Short Equity Fund, the ''Underlying Funds'') as the investing Upper Tier Fund.[1]

FILING DATES: The application was filed on April 15, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on

[1] All existing entities that currently intend to rely on the order are named as applicants and any Upper Tier Fund that may rely on this order in the future will do so only in accordance with the terms and conditions of the application.