

act or to the rules and regulations, or to a portion thereof, defines such terms for all purposes as used both in the act and in the rules and regulations in this part, unless the context otherwise requires.

(d) Unless otherwise specified or the context otherwise requires, the term “prospectus” means a prospectus meeting the requirements of section 10(a) of the Securities Act of 1933 as amended.

(e) Definition of separate account and conditions for availability of exemption under §§ 270.6c-6, 270.6c-7, 270.6c-8, 270.11a-2, 270.14a-2, 270.15a-3, 270.16a-1, 270.22c-1, 270.22d-3, 270.22e-1, 270.26a-1, 270.26a-2, 270.27a-1, 270.27a-2, 270.27a-3, 270.27c-1, and 270.32a-2 of this chapter.

(1) As used in the rules and regulations prescribed by the Commission pursuant to the Investment Company Act of 1940, unless otherwise specified or the context otherwise requires, the term “separate account” shall mean an account established and maintained by an insurance company pursuant to the laws of any state or territory of the United States, or of Canada or any province thereof, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains or losses of the insurance company and the term “variable annuity contract” shall mean any accumulation or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either prior or subsequent to annuitization, or both, varies according to the investment experience of the separate account in which the contract participates.

(2) As conditions to the availability of exemptive Rules 6c-6, 6c-7, 6c-8, 11a-2, 14a-2, 15a-3, 16a-1, 22c-1, 22d-3, 22e-1, 26a-1, 26a-2, 27a-1, 27a-2, 27a-3, 27c-1, and 32a-2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal

to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

[Rule N-1, 5 FR 4316, Oct. 31, 1940, as amended at 19 FR 6730, Oct. 20, 1954; 30 FR 829, Jan. 27, 1965; 48 FR 36098, Aug. 9, 1983; 50 FR 42682, Oct. 22, 1985; 58 FR 14859, Mar. 18, 1993; 66 FR 3757, Jan. 16, 2001; 69 FR 46389, Aug. 2, 2004]

#### § 270.0-2 General requirements of papers and applications.

(a) *Filing of papers.* All papers required to be filed with the Commission pursuant to the Act or the rules and regulations thereunder shall, unless otherwise provided by the rules and regulations in this part, be delivered through the mails or otherwise to the Securities and Exchange Commission, Washington, DC 20549. Except as otherwise provided by the rules and regulations, the date on which papers are actually received by the Commission shall be the date of filing thereof. If the last day for the timely filing of such papers falls on a Saturday, Sunday, or holiday, such papers may be filed on the first business day following.

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant but the other four copies may have facsimile or typed signatures. Such applications should be on paper no larger than 8½ × 11 inches in size. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ × 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. The application must be typed, printed, copied or prepared by any process which, in the opinion of the commission, produces copies suitable for microfilming. All typewritten or printed matter (including deficits in financial statements)

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should be set forth in black so as to permit photocopying.

(c) *Authorizations respecting applications.* (1) Every application for an order under any provision of the act, for which a form with instructions is not specifically prescribed and which is executed by a corporation, partnership, or other company and filed with the Commission, shall contain a concise statement of the applicable provisions of the articles of incorporation, bylaws, or similar documents, relating to the right of the person signing and filing such application to take such action on behalf of the applicant, and a statement that all such requirements have been complied with and that the person signing and filing the same is fully authorized to do so. If such authorization is dependent on resolutions of stockholders, directors, or other bodies, such resolutions shall be attached as an exhibit to, or the pertinent provisions thereof shall be quoted in, the application.

(2) If an amendment to any such application shall be filed, such amendment shall contain a similar statement or, in lieu thereof, shall state that the authorization described in the original application is applicable to the individual who signs such amendment and that such authorization still remains in effect.

(3) When any such application or amendment is signed by an agent or attorney, the power of attorney evidencing his authority to sign shall contain similar statements and shall be filed with the Commission.

(d) *Verification of applications and statements of fact.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed and every amendment to such application, and every statement of fact formally filed in support of, or in opposition to, any application or declaration shall be verified by the person executing the same. An instrument executed on behalf of a corporation shall be verified in substantially the following form, but suitable changes may be made in such form for other kinds of companies and for individuals:

The undersigned states that he or she has duly executed the attached \_\_\_\_\_ dated

\_\_\_\_\_, 20 \_\_\_\_ for and on behalf of (name of company); that he or she is (title of officer) of such company; and that all action by stockholders, directors, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that he or she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of his or her knowledge, information and belief.

(Signature)

(e) *Statement of grounds for application.* Each application should contain a brief statement of the reasons why the applicant is deemed to be entitled to the action requested with a reference to the provisions of the act and of the rules and regulations under which application is made.

(f) *Name and address.* Every application shall contain the name and address of each applicant and the name and address of any person to whom any applicant wishes any question regarding the application to be directed.

(g) The manually signed original (or in the case of duplicate originals, one duplicate original) of all registrations, applications, statements, reports, or other documents filed under the Investment Company Act of 1940, as amended, shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed, or other legible form of notation from the facing page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a numbered original shall be set forth on the first page of the document.

[Rule N-2, 5 FR 4316, Oct. 31, 1940, as amended at 33 FR 9391, June 27, 1968; 33 FR 23325, Aug. 29, 1973; 44 FR 4666, Jan. 23, 1979; 47 FR 58239, Dec. 30, 1982; 48 FR 17065, Apr. 21, 1983; 58 FR 14859, Mar. 18, 1993; 73 FR 65525, Nov. 4, 2008]

§ 270.0-3 Amendments to registration statements and reports.

Registration statements filed with the Commission pursuant to section 8 (54 Stat. 803; 15 U.S.C. 80a-8) and reports filed with the Commission pursuant to section 30 (54 Stat. 836; 15 U.S.C. 80a-35) may be amended in the following manner: