without regard to the proposed In-Kind Transaction, none of the parties will be in a position to ''dump'' undesirable securities on either the Phoenix-Federated Fund or the Federated Fund or to transfer desirable securities to other advisory clients. Nor can the Phoenix Insurance Companies (or any of their affiliates) effect the proposed In-Kind Transaction at a price that is disadvantageous to the Phoenix-Federated Fund or the Federated Fund.

12. Applicants submit that the proposed redemption of shares of the Phoenix-Federated Fund will be consistent with the investment policies of the Phoenix-Federated Fund, as recited in the current registration statement of the Phoenix Trust, provided that the shares are redeemed at their net asset value in conformity with Rule 22c–1 under the 1940 Act. Likewise, the proposed sale of shares of the Federated Fund for investment securities is consistent with the investment policy of the Federated Fund, as recited in the registration statement of the Federated Trust, provided that: (i) the shares are sold at their net asset value; and (ii) the investment securities are of the type and quality that the Federated Fund could have acquired with the proceeds from the sale of its shares had the shares been sold for cash. The second of these conditions is met for the proposed In-Kind Transaction because the Federated Fund is compatible with or similar to the Phoenix-Federated Fund.

13. Applicants assert that the In-Kind Transaction is consistent with the general purposes of the 1940 Act and that the In-Kind Transaction does not present any of the conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons stated above, the requested order approving the Substitution and exempting the In-Kind Transaction should be granted.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21953 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25716; 812–12514]

USAllianz Variable Insurance Products Trust and USAllianz Advisers, LLC; Notice of Application

August 22, 2002.

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

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF THE APPLICATION: USAllianz Variable Insurance Products Trust (the ''Fund'') and USAllianz Advisers, LLC (the ''Manager'') (together, ''Applicants'') request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval.

FILING DATES: The application was filed on May 2, 2001, and amended on August 19, 2002. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected 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 Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 16, 2002, and should 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549–0609. Applicants: the Fund, c/o BISYS Fund Services, 3435 Stelzer Road, Columbus, OH 43219; the Manager, 5701 Golden Hills Drive, Minneapolis, MN 55416.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Fund, a Delaware business trust, is registered under the Act as an open-end management investment company. The Fund currently is comprised of multiple series (each a ''Portfolio,'' and collectively, the ''Portfolios''), each with its own investment objectives and policies.[1] The Portfolios currently serve as the investment medium for variable life insurance policies and variable annuity contracts issued by Allianz Life Insurance Company of North America or its insurance company affiliate, Preferred Life Insurance Company of New York.

2. The Manager, registered under the Investment Advisers Act of 1940 (the ''Advisers Act''), serves as the investment adviser to the Portfolios pursuant to an investment advisory agreement with the Fund (''Management Agreement'') that was approved by the board of trustees of the Fund (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), and by each Portfolio's initial shareholder.[2] Under the terms of the Management Agreement, the Manager

[1] Applicants also request relief with respect to future series of the Fund and any other registered open-end management investment companies and their series that: (a) Are advised by the Manager or any entity controlling, controlled by, or under common control with the Manager; (b) use the manager of managers structure described in the application; and (c) comply with the terms and conditions in the application (''Future Portfolios,'' included in the term ''Portfolios''). The Fund is the only existing registered open-end management investment company that currently intends to rely on the requested order. If the name of any Portfolio contains the name of a Portfolio Manager (as defined below), it will be preceded by the name of the Manager or the name ''USAZ,'' which is an abbreviation of the name ''USAllianz Advisers, LLC.''

[2] One of the Portfolios, the USAZ Money Market Fund, was recently restructured. The former investment adviser of the USAZ Money Market Fund, Allianz of America, Inc., an affiliate of the Manager, currently serves as its Portfolio Manager (as defined below) and the Manager serves as its investment adviser. The restructuring to permit the USAZ Money Market Fund to operate under the manager of managers structure will require the approval of its shareholders. A shareholder meeting of the USAZ Money Market Fund is scheduled to take place on August 30, 2002, for that purpose, as well as the ratification of its Management Agreement with the Manager and its Portfolio Management Agreement (as defined below) with the Portfolio Manager.

provides investment management services for each Portfolio and may hire one or more subadvisers (''Portfolio Managers'') to exercise day-to-day investment discretion over the assets of the Portfolio pursuant to separate investment sub-advisory agreements (''Portfolio Management Agreements''). All current and future Portfolio Managers will be registered under the Advisers Act. Portfolio Managers are recommended to the Board by the Manager and selected and approved by the Board, including a majority of the Independent Trustees. The Manager compensates each Portfolio Manager out of the fees paid to the Manager by the applicable Portfolio.

3. Subject to Board review, the Manager selects Portfolio Managers for the Portfolios, monitors and evaluates Portfolio Manager performance, and oversees Portfolio Manager compliance with the Portfolios' investment objectives, policies, and restrictions. The Manager recommends Portfolio Managers based upon a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives. The Manager also recommends to the Board whether a Portfolio Management Agreement should be renewed, modified or terminated.

4. Applicants request relief to permit the Manager, subject to Board approval, to enter into and materially amend Portfolio Management Agreements without shareholder approval.[3] The requested relief will not extend to a Portfolio Manager that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Fund or the Manager, other than by reason of serving as a Portfolio Manager to one or more of the Portfolios (an ''Affiliated Portfolio Manager'').

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard for the reasons discussed below.

3. The investment structure of the Portfolios is different from that of traditional investment companies. Applicants assert that investors are relying on the Manager's experience to select one or more Portfolio Managers best suited to achieve a Portfolio's desired investment objectives. Applicants assert that, from the perspective of the investor, the role of the Portfolio Managers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of the Portfolio Management Agreements would impose unnecessary costs and delays on the Portfolios, and may preclude the Manager from acting promptly in a manner considered advisable by the Board. Applicants note that the Management Agreement will remain subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Future Portfolio, that does not currently have an effective registration statement and whose public shareholders will purchase shares on the basis of a prospectus containing the disclosures contemplated by condition number 2 below, may rely on the order requested herein, the operation of the Future Portfolio in the manner described in the application will be approved by its initial shareholder(s) before shares of such Future Portfolio are offered to the public.

2. The prospectus of each Portfolio relying on the requested relief will disclose the existence, substance and effect of any order granted pursuant to the application. In addition, each Portfolio relying on the requested relief will hold itself out to the public as employing the manager of managers structure described in the application. A Portfolio's prospectus will prominently disclose that the Manager has ultimate responsibility to oversee the Portfolio Managers and recommend their hiring, termination and replacement.

3. The Manager will provide general management services to each of the Portfolios, including overall supervisory responsibility for the general management and investment of each Portfolio's assets, and, subject to the review and approval by the Board will: (i) Set each Portfolio's overall investment strategies; (ii) evaluate, select, and recommend Portfolio Managers to manage all or part of a Portfolio's assets; (iii) when appropriate, allocate and reallocate a Portfolio's assets among multiple Portfolio Managers; (iv) monitor and evaluate the investment performance of Portfolio Managers; and (v) implement procedures reasonably designed to ensure that the Portfolio Managers comply with the relevant Portfolio's investment objectives, policies, and restrictions.

4. At all times, a majority of the Board will be persons who are Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

5. The Manager will not enter into a Portfolio Management Agreement on behalf of a Portfolio with any Affiliated Portfolio Manager, unless such agreement, including the compensation to be paid thereunder, has been approved by the shareholders of the applicable Portfolio.

6. When a Portfolio Manager change is proposed for a Portfolio with an Affiliated Portfolio Manager, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the minutes of the meeting of the Board, that such change is in the best interests of the applicable Portfolio and its shareholders and does not involve a conflict of interest from which the Manager or the Affiliated Portfolio Manager derives an inappropriate advantage.

7. No trustee or officer of the Fund or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that director, trustee, or officer) any interest in a Portfolio Manager except for: (i) ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Portfolio Manager or an entity that controls, is

[3] The term ''shareholders'' includes variable contract owners, as applicable. The Fund's prospectus has disclosed with respect to each Portfolio, except in the case of the USAZ Money Market Fund, since the effective date of its registration statement, that the Fund would seek an exemptive order from the Commission permitting changes in Portfolio Managers without submitting the Portfolio Management Agreements to a vote of the applicable Portfolio's shareholders.

controlled by, or is under common control with a Portfolio Manager.

8. Within 90 days of the hiring of any new Portfolio Manager, the Manager will furnish the shareholders of the applicable Portfolio all the information about the new Portfolio Manager that would be included in a proxy statement. This information will include any changes in such disclosure caused by the addition of a new Portfolio Manager. To meet this obligation, the Manager will provide the shareholders of the applicable Portfolio with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 (''the 1934 Act''), as well as the requirements of Item 22 of Schedule 14A under the 1934 Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21954 Filed 8–27–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46379; File No. SR–Amex–2002–69]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Correct an Improperly Numbered Rule

August 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 14, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Amex has designated this proposal as one concerned solely with the administration of the Amex pursuant to section 19(b)(3)(A)(iii) of the Act,[3] and Rule 19b–4(f)(3)[4] thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to change the rule number originally assigned to Amex Rule 431 (Anti-Money Laundering Compliance Program) to Amex Rule 432. The text of the proposed rule change is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to replace the rule number originally assigned to Amex Rule 431 (Anti-Money Laundering Compliance Program), and replace it with Amex Rule 432. The Amex chose the wrong rule number inadvertently when it filed SR-Amex-2002–52.[6] At that time, there already existed an Amex Rule 431. The Amex proposes to make no other changes to the rule at this time.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act[7] in general and furthers the objectives of section 6(b)(1) of the Act[8] in particular in that it is designed to enforce compliance by its members and persons associated with its members, with the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(3) of Rule 19b–4 thereunder,[10] because it is concerned solely with the administration of the Amex. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-2002–69 and should be submitted by September 18, 2002.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

[5] Despite inconsistencies in the proposed rule change, the Amex confirmed that the proposed rule change is filed pursuant to section 19(b)(3)(A)(iii) and Rule 19b–4(f)(3) thereunder, because it makes no substantive changes, and is concerned solely with the administration of the Amex. 15 U.S.C. 78s(b)(3)(A)(iii), 17 CFR 240.19b–4(f)(3). August 19, 2002 telephone conversation between Ivonne Natal, Assistant General Counsel, Amex, and Joseph Morra, Special Counsel, Division of Market Regulation, Commission.

[6] *See* Securities Exchange Act Release No. 46258 (July 25, 2002), 67 FR 49715 (July 31, 2002) (approval order).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(1).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(3).