products from Gen's facilities and procured by Gen under its certain contracts. Applicants state that they are seeking approval from the FERC for the proposed market-based rates provided for by the PSA. Under the PSA, Reorganized PG&E would have the right to dispatch (*i.e.*, direct the timing and level of operation) the facilities within legal and contractual constraints so that the output is delivered primarily when Reorganized PG&E needs it to serve its customers. The GenSub LLCs may also be public-utility companies by virtue of their direct ownership of generating facilities,[14] in which case Gen would also be a ''holding company'' as a result of its ownership of all the outstanding ownership interests in the GenSub LLCs.[15] Applicants also state that Gen would claim exemption by rule 2 from registration under section 3(a)(1) of the Act. Applicants state that, after the Reorganization, the FERC would have license and operating jurisdiction over most of the hydroelectric facilities and rate jurisdiction over the sale of the output of Gen and its subsidiaries, and the NRC would continue its jurisdiction over the operations of the Diablo Canyon Power Plant. Applicants project, on a *pro forma* basis, that the common equity of Gen, as a percentage of its total capitalization, would be −97.2% as of December 31, 2002.

ETrans would be a public-utility company as a result of its ownership and operation of transmission assets. Applicants state that the FERC would continue to have jurisdiction over the rates, terms and conditions for all transmission and transmission-related services provided by ETrans. They also state that the FERC would have jurisdiction over ETrans' participation in the Cal–ISO or any future FERC-approved Western regional transmission organizations that would have operating control over ETrans' transmission assets under FERC tariffs. Applicants project, on a *pro forma* basis, that the common equity of ETrans, as a percentage of its total capitalization, would be 33.8% as of December 31, 2002.

PG&E Corp. and Newco would also be ''holding companies,'' within the meaning of the Act, as a result of holding ownership interests in ETrans, Gen, the GenSub LLCs and, in the case of PG&E Corp., Newco. Applicants state that PG&E Corp. would continue to claim exemption,[16] and Newco would claim exemption, from registration by rule 2 under section 3(a)(1) of the Act. Applicants state that, with the exception of GTrans,[17] PG&E Corp. would continue to own its existing nonutility businesses through PG&E NEG.

Reorganized PG&E would continue to provide gas and electric distribution services using assets that it currently owns. PG&E's preferred stock would remain in place as the preferred stock of Reorganized PG&E. Applicants state that the CPUC would continue to have jurisdiction over Reorganized PG&E's retail electric and gas distribution assets, rates, and services. Applicants project, on a *pro forma* basis, that the common equity of Reorganized PG&E, as a percentage of its total capitalization, would be 44.4% as of December 31, 2002.

IV. Summary of Proposed Transactions

Applicants request authority for: (1) Gen to acquire directly the GenSub LLCs; (2) Newco to acquire directly Gen and ETrans, and to acquire indirectly the GenSub LLCs; and (3) PG&E Corp. to acquire directly Newco, and acquire indirectly ETrans, Gen, and the GenSub LLCs.[18] If necessary, Applicants also request authority for PG&E to acquire Newco, ETrans and Gen on an interim basis, between the time that utility assets are transferred to ETrans and Gen and the Reorganization is completed.[19]

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–27516 Filed 10–28–02; 8:45 am]

BILLING CODE 8010–01–P

[14] Applicants argue that the GenSub LLCs would not be ''public-utility companies'' within the meaning of the Act but, alternatively, request authority for Gen to acquire them directly and Newco and PG&E Corp. to acquire them indirectly.

[15] *See supra*, at n.8.

[16] On July 5, 2001, the California Attorney General filed a petition requesting that the Commission terminate PG&E Corp.'s claimed exemption and require that PG&E Corp. register under section 5 of the Act or modify the company's exemption to ensure compliance with California law.

[17] GTrans would not be a public-utility company within the meaning of the Act because, according to Applicants, it would provide only gas transmission services.

[18] *See supra*, at n.8.

[19] Applicants also state that, if necessary, PG&E will claim exemption from registration by rule 2 under the Act for the interim period during which it will hold all of the ownership interests in Newco.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25784; File No. 812–12847]

The Equitable Life Assurance Society of the United States, *et al.*; Notice of Application

October 23, 2002.

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

ACTION: Notice of application for an order of approval pursuant to section 26(c) of the Investment Company Act of 1940 (the ''1940 Act'') and an order of exemption pursuant to section 17(b) of the 1940 Act from section 17(a) of the 1940 Act.

APPLICANTS: For purposes of the order requested pursuant to section 26(c), The Equitable Life Assurance Society of the United States (''Equitable''), Separate Account A of Equitable (''Separate Account A''), Separate Account FP of Equitable (''Separate Account FP''), Separate Account No. 45 of Equitable (''Separate Account 45''), Separate Account No. 301 of Equitable (''Separate Account 301''), The American Franklin Life Insurance Company (''American Franklin''), Separate Account VUL of American Franklin, Integrity Life Insurance Company (''Integrity''), Separate Account VUL of Integrity, National Integrity Life Insurance Company (''National Integrity'') and Separate Account VUL of National Integrity (collectively, the ''section 26 Applicants'').[1] For purposes of the order pursuant to section 17(b), Equitable, Separate Account A, Separate Account FP, Separate Account 45, Separate Account 66 and Separate Account 301 and EQ Advisors Trust (the ''Trust'') (collectively with Equitable and its Separate Accounts, the ''section 17 Applicants'').

SUMMARY OF APPLICATION: Applicants request an order (a) approving the proposed substitution by certain insurance company separate accounts of Class 1A shares of the EQ/Alliance International Portfolio for Class 1A shares of the EQ/Alliance Global Portfolio and Class 1B shares of the EQ/Alliance International Portfolio for Class

[1] Separate Account A, Separate Account FP, Separate Account 45, Separate Account No. 66 of Equitable (''Separate Account 66''), Separate Account 301, Separate Account VUL of American Franklin, Separate Account VUL of Integrity and Separate Account VUL of National Integrity are referred to herein collectively as the ''Separate Accounts'' and individually as a ''Separate Account.'' Separate Account A, Separate Account FP, Separate Account 45, Separate Account 66 and Separate Account 301 are referred to herein collectively as the ''EQ Separate Accounts'' and individually as an ''EQ Separate Account.''

1B shares of the EQ/Alliance Global Portfolio (the ''Substitution'') and (b) to permit certain in-kind transactions in connection with the proposed Substitution. Each of these portfolios serves as an underlying investment option for certain variable annuity contracts and/or variable life insurance policies (''Contracts'') issued by Equitable, American Franklin, Integrity and National Integrity (collectively, the ''Insurance Companies'' and individually, an ''Insurance Company''). (The EQ/Alliance International Portfolio is referred to herein as the ''Replacement Portfolio.'' The EQ/Alliance Global Portfolio is referred to herein as the ''Removed Portfolio.'').

FILING DATE: The application was filed on July 3, 2002 and amended and restated on October 23, 2002.

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 Secretary of the Commission 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 November 13, 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 Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants: c/o Peter D. Noris, Executive Vice President and Chief Investment Officer, The Equitable Life Assurance Society of the United States, 1290 Avenue of the Americas, New York, New York 10104; G. Stephen Wastek, Esq., Integrity Life Insurance Company, National Integrity Life Insurance Company, 515 West Market Street, Louisville, Kentucky 40202; Lauren W. Jones, Esq., The American Franklin Life Insurance Company, 2929 Allen Parkway, Houston, Texas 77019; and Arthur J. Brown, Esq., Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Mark Cowan, Senior Counsel, or Zandra Bailes, 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 Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. Equitable is a New York stock life insurance company that has been in business since 1859. Equitable is a wholly owned subsidiary of AXA Financial, Inc., which is a wholly owned subsidiary of the AXA Group, the holding company for an international group of insurance and related financial services companies. Equitable serves as depositor for each of the EQ Separate Accounts. Separate Account A, Separate Account 45 and Separate Account 301 fund certain variable annuity contracts. Separate Account FP funds certain variable life insurance policies. Separate Account 66 funds group pension and profit-sharing plans under group annuity contracts issued by Equitable. Each EQ Separate Account is a segregated asset account of Equitable and, with the exception of Separate Account 66, is registered with the Commission as a unit investment trust under the 1940 Act. Separate Account 66 is excluded from registration under the 1940 Act pursuant to section 3(c)(11) of the 1940 Act. Separate Account 66 is not a section 26 Applicant. Units of interest in the EQ Separate Accounts under the Contracts issued by Equitable are registered under the Securities Act of 1933, as amended (''1933 Act'').

2. American Franklin is a legal reserve stock life insurance company organized under the laws of the State of Illinois in 1981. American Franklin is an indirect, wholly owned subsidiary of American International Group, Inc. (''AIG''). AIG, a Delaware corporation, is a holding company which through its subsidiaries is primarily engaged in a broad range of insurance and insurance-related activities and financial services in the United States and abroad. American Franklin serves as depositor for Separate Account VUL of American Franklin, which funds certain variable life insurance policies. Separate Account VUL of American Franklin is a segregated asset account of American Franklin and is registered with the Commission as a unit investment trust under the 1940 Act. Units of interest in this Separate Account under the Contracts issued by American Franklin are registered under the 1933 Act.

3. Integrity is an Ohio stock life insurance company that has been in business since 1966. Integrity is a wholly owned subsidiary of The Western and Southern Life Insurance Company (''W&S''), a mutual life insurance company originally organized under the laws of the state of Ohio in 1888. Integrity serves as depositor for Separate Account VUL of Integrity, which funds certain variable life insurance policies. Separate Account VUL of Integrity is a segregated asset account of Integrity and is registered with the Commission as a unit investment trust under the 1940 Act. Units of interest in this Separate Account under the Contracts issued by Integrity are registered under the 1933 Act.

4. National Integrity is a New York stock life insurance company that has been in business since 1968. National Integrity is a wholly owned subsidiary of Integrity, which in turn is a wholly-owned subsidiary of W&S. National Integrity serves as depositor for Separate Account VUL of National Integrity, which funds certain variable life insurance policies. Separate Account VUL of National Integrity is a segregated asset account of National Integrity and is registered with the Commission as a unit investment trust under the 1940 Act. Units of interest in this Separate Account under the Contracts issued by National Integrity are registered under the 1933 Act.

5. The Trust is organized as a Delaware business trust and registered as an open-end management investment company under the 1940 Act. Its shares are registered under the 1933 Act. The Trust is a series investment company and currently has 39 separate series (each a ''Portfolio'' and collectively, the ''Portfolios''). Equitable currently serves as investment manager (''Manager'') of each of the Portfolios. Both the Removed and Replacement Portfolios are series of the Trust. The Trust does not impose sales charges for buying and selling its shares. All dividends and other distributions with respect to a Portfolio's shares are reinvested in full and fractional shares of the Portfolio to which they relate. The Trust currently offers two classes of shares, Class IA and Class IB shares, which differ only in that Class IB shares are subject to a distribution plan adopted and administered pursuant to Rule 12b–1 under the 1940 Act. Under that distribution plan, up to 0.50% of the average daily net assets attributable to the Class IB shares of each Portfolio may be used to pay for distribution and shareholder services. The distributors for the Class IA and Class IB shares of each Portfolio are AXA Advisors, LLC (''AXA Advisors'') and AXA Distributors, LLC (''AXA Distributors''). Under the Distribution Agreements with respect to the promotion, sale and servicing of shares of each Portfolio,

payments to AXA Advisors and AXA Distributors, with respect to activities under the distribution plan, are currently limited to payments at an annual rate equal to 0.25% of the average daily net assets of each Portfolio (including the Removed and Replacement Portfolios) attributable to its Class IB shares.

6. The Manager has retained investment sub-advisers (''Advisers'') to provide day-to-day investment advisory services for each of the 39 current Portfolios. The Trust has received an exemptive order from the Commission (''Multi-Manager Order'') that permits the Manager, or any entity controlling, controlled by, or under common control (within the meaning of Section 2(a)(9) of the 1940 Act) with the Manager, subject to certain conditions, including approval of the Board of Trustees of the Trust, and without the approval of shareholders to: (a) select new or additional Advisers for each Portfolio; (b) enter into new Investment Advisory Agreements with Advisers (''Advisory Agreements'') and/or materially modify the terms of any existing Advisory Agreement; (c) terminate any existing Adviser and replace the Adviser; and (d) continue the employment of an existing Adviser on the same contract terms where the Advisory Agreement has been assigned because of a change of control of the Adviser.

7. Each Insurance Company, on its own behalf and on behalf of its Separate Accounts, proposes to exercise its contractual right to substitute a different eligible investment fund for one of the current investment funds offered as a funding option under the Contracts. In particular, the Section 26 Applicants propose to substitute Class IA and Class IB shares of the Replacement Portfolio for Class IA and Class IB shares of the Removed Portfolio, respectively.

8. The Section 26 Applicants propose the Substitution as part of a continued and overall business plan by each of the Insurance Companies to make its Contracts more attractive to existing Contract owners or to prospective purchasers, as the case may be. Each of the Insurance Companies has carefully reviewed its Contracts and each investment option offered under its Contracts with the goal of providing a superior choice of investment alternatives. In certain cases, the Substitution is intended to simplify the prospectuses and related materials with respect to the Contracts and the investment options available through certain Separate Accounts. Additionally, in each case, the Substitution will substitute shares of the Replacement Portfolio for shares of the Removed Portfolio, which has an identical investment objective and similar investment policies and risks as the Replacement Portfolio. The Substitution also would replace a portfolio that has been experiencing a significant decline in Contract owner interest, evidenced by recent net cash outflows, with a portfolio that has generated more interest among Contract owners, evidenced by its modest net cash inflows in that same time period. Furthermore, the Substitution ultimately may enable an Insurance Company to reduce certain of the costs that it incurs in administering the Contracts by consolidating overlapping and duplicative Portfolios. Finally, the Substitution is designed to provide Contract owners with an opportunity to continue their investment in a similar Portfolio without interruption and without any cost to them. In this regard, the Insurance Companies have agreed to bear all expenses incurred in connection with the Substitution and related filings and notices, including legal, accounting, brokerage and other fees and expenses. On the effective date of the Substitution (''Substitution Date''), the amount of any Contract owner's or participant's Contract value or the dollar value of a Contract owner's or participant's investment in the relevant Contract will not change as a result of the Substitution.

9. The Replacement Portfolio has an identical investment objective and similar investment policies and risks as the Removed Portfolio. In addition, Alliance Capital Management, L.P. (''Alliance'') serves as the Adviser to both Portfolios. The investment objective of the Replacement and Removed Portfolios is to seek to achieve long-term growth of capital. To achieve this objective, Alliance invests the assets of the Replacement Portfolio primarily in both growth-oriented and value-oriented stocks of established non-U.S. companies. These non-U.S. companies may have operations in the U.S., in their country of incorporation and/or in other countries. The Replacement Portfolio also may invest in any type of investment grade fixed income security, including preferred stocks, convertible securities, bonds, notes and other evidences of indebtedness, including obligations of foreign governments. Although no particular proportion of stocks, bonds or other securities is required to be maintained, the Portfolio intends under normal market conditions to invest primarily in equity securities. The Portfolio is diversified for purposes of the 1940 Act.

10. The Removed Portfolio invests primarily in a diversified mix of equity securities of U.S. and established foreign companies that Alliance believes have prospects for growth. The Portfolio is diversified for purposes of the 1940 Act. Like the Replacement Portfolio, the Removed Portfolio may invest in any type of security, including common and preferred stocks, bonds and other evidences of indebtedness, and other securities of issuers wherever organized and governments and their political subdivisions. No particular proportion of stocks, bonds or other securities is required to be maintained, although the Removed Portfolio, like the Replacement Portfolio, intends under normal conditions to invest substantially all of its assets in equity securities. Although the Replacement Portfolio generally does not invest to a significant extent in the securities of U.S. issuers, the primary risks associated with an investment in the Replacement and Removed Portfolios are similar. In particular, the primary risks associated with an investment in the Replacement Portfolio include derivatives risk, equity risk, foreign securities risk, growth investing risk, leveraging risk, liquidity risk and value investing risk. The list of primary risks associated with an investment in the Removed Portfolio is the same.

11. Applicants believe that the Replacement Portfolio's investment policies are sufficiently similar to those of the Removed Portfolio that the essential objective and risk expectations of Contract owners can continue to be met. In particular, Applicants believe that the Removed Portfolio's ability to invest in foreign companies is the primary reason that Contract owners allocate value to that Portfolio. Thus, substituting the Replacement Portfolio, which invests primarily in foreign companies, for the Removed Portfolio is consistent with this investment approach. Contract owners that seek to pursue an asset allocation strategy that blends U.S. and foreign investments will continue to have access through their Contracts to a wide variety of Portfolios that invest primarily in U.S. companies, as well as in the Replacement Portfolio and other Portfolios that invest primarily in foreign companies. Applicants also note that there is no other Portfolio in the Trust that pursues a global investment strategy and invests primarily in equity securities that would be a more appropriate replacement portfolio. Applicants note, however, that the foreign companies in which the Removed and Replacement Portfolios

invest are very similar in that they are primarily large, established companies. In addition, most of the companies in which the Replacement Portfolio invests have significant operations in the U.S. Thus, Applicants believe that, after the proposed Substitution, a Contract owner would continue to have value allocated to a Replacement Portfolio with an identical investment objective and similar investment policies, and would have assumed similar risks.

12. The charts below compare the advisory fees, total expenses and asset sizes of the Class IA and Class IB shares of the Replacement Portfolio and the Removed Portfolio for the one year periods ended December 31, 2000, December 31, 2001, and September 30, 2002. The charts also show the *pro forma* expenses of the Replacement Portfolio assuming that the Substitution had been in effect for the year ended December 31, 2001. Although the management fee for the Replacement Portfolio is higher than that of the Removed Portfolio, as a condition of any order approving the proposed Substitution, Equitable will contractually reduce its management fee for the Replacement Portfolio by adopting the management fee schedule of the Removed Portfolio, which at all asset levels is lower than the management fee of the Replacement Portfolio. This proposed reduction is reflected in the *pro forma* information presented in the charts below. In addition, although the total expense ratio for each class of shares of the Replacement Portfolio was higher than the corresponding class of shares of the Removed Portfolio for each period, Equitable, as a condition to any order approving the proposed Substitution, will waive its management fee and reimburse expenses incurred by the Replacement Portfolio for a period of two years after the date of the Substitution to the extent necessary to ensure that the total expense ratio of each class of shares of the Replacement Portfolio after the Substitution is no higher than that of the corresponding class of shares of the Removed Portfolio for the one year period ended September 30, 2002. However, as shown below, it is expected that the total expense ratio of each class of shares of the Replacement Portfolio will be no higher than that of the corresponding class of shares of the Removed Portfolio as a result of the Substitution, absent any waivers or reimbursements.

	Replacement portfolio (class IA)			Removed portfolio (class IA)			Combined portfolio (class IA)
	One year period ended 12/31/2000	One year period ended 12/31/2001	One year period ended 09/30/2002	One year period ended 12/31/2000	One year period ended 12/31/2001	One year period ended 09/30/2002	One year period ended 12/31/2001
Net Assets	$228 million	$168 million	$164 million	$1.5 billion	$1.1 billion	$961 million	$1.268 billion
Management Fee [1]	0.87 percent	0.85 percent	0.85 percent	0.69 percent	0.73 percent	0.74 percent	0.73 percent
Rule 12b–1 Fee	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Other Expenses	0.29 percent	0.25 percent	0.36 percent	0.09 percent	0.12 percent	0.17 percent	0.12 percent
Total Expenses	1.16 percent	1.10 percent	1.21 percent	0.78 percent	0.85 percent	0.91 percent	0.85 percent

[1] The management fee for the Replacement Portfolio on an annual basis is equal to 0.850% of the first $1 billion; 0.800% of the next $1 billion; 0.775% of the next $3 billion; 0.750% of the next $5 billion; and 0.725% thereafter. The management fee for the Removed Portfolio on an annual basis is equal to 0.750% of the first $1 billion; 0.700% of the next $1 billion; 0.675% of the next $3 billion; 0.650% of the next $5 billion; and 0.625% thereafter.

	Replacement portfolio (class IB)			Removed portfolio (class IB)			Combined portfolio (class IB)
	One year period ended 12/31/2000	One year period ended 12/31/2001	One year period ended 09/30/2002	One year period ended 12/31/2000	One year period ended 12/31/2001	One year period ended 09/30/2002	One year period ended 12/31/2001
Net Assets $37 million	$36 million	$40 million	$198 million	$196 million	$179 million	$232 million.	
Management Fee	0.87 percent	0.85 percent	0.85 percent	0.69 percent	0.73 percent	0.74 percent	0.73 percent
Rule 12b–1 Fee	0.25 percent	0.25 percent	0.25 percent	0.25 percent	0.25 percent	0.25 percent	0.25 percent
Other Expenses	0.29 percent	0.25 percent	0.36 percent	0.09 percent	0.12 percent	0.17 percent	0.12percent
Total Expenses	1.41 percent	1.35 percent	1.46 percent	1.03 percent	1.10 percent	1.16 percent	1.10 percent

13. Applicants represent that the Trust's independent accountants will perform procedures, as agreed upon between the Trust and the independent accountants, relating to the total expense ratio for each class of shares of the Removed Portfolio for the one year period ended September 30, 2002. Within 90 days after the issuance of any order pursuant to this Application, the independent accountants will issue an agreed upon procedures report to management of the Trust (which consists entirely of persons who are officers or employees of Equitable) and the Board of Trustees of the Trust detailing the results of the procedures performed relating to the calculation of the total expense ratios based solely on the unaudited information provided by Equitable, the Trust's administrator, and JP Morgan Investors Services Co. (''JPMIS''), the Trust's sub-administrator. In conjunction with the procedures, Equitable and JPMIS will provide a certification that the unaudited information was prepared on a basis consistent with the audited financial statements of the Trust. Further, the certification will state that the information was produced under the same internal control environment that supports the Trust's audited financial statements and that to their knowledge there were no material deficiencies in such internal controls from October 1, 2001, through the date the procedures are performed. The procedures performed by the independent accountants will include reading the testing results of the control objectives applicable to expenses and net asset value calculations contained in the September 30, 2002, JPMIS Fund Accounting SAS 70 Report on Controls Placed in Operation and Test of Operating Effectiveness covering the period from October 1, 2001, through

September 30, 2002, and reporting on any exceptions that pertain to the expense accounting process and net asset value calculations. The independent accountants' procedures will also include testing, on a selection basis, of expenses and net asset value calculations during the period October 1, 2001, to September 30, 2002, and testing of all audit adjustments pertaining to the relevant portfolios recorded or proposed by the independent accountants and not recorded, if any, associated with each of the audits of the financial statements of the Trust for the years ended December 31, 2001 and 2002 to identify any which pertain to expense adjustments and net asset value calculations. Finally, based upon the December 31, 2002, audit of the Trust by the independent accountants, the independent accountants' report will indicate whether there were any matters noted involving internal control and its operation that would be considered material weaknesses as of December 31, 2002. This internal control consideration will be based upon the planning and performing of the December 31, 2002, audit of the financial statements of the Trust, which is for the purpose of determining the auditing procedures for expressing an opinion on the Trust's financial statements and not to provide assurance on internal control. If the Trust's independent accountants determine, based on the procedures performed, that the total expense ratios for the Removed Portfolio for the period October 31, 2001, to September 30, 2002, were lower than those shown above, Applicants will modify the Trust's fee waiver and reimbursement arrangement as of the date of the Substitution to conform to the calculation of the total expense ratio for each class of shares of the Removed Portfolio by the independent accountants. In addition, Equitable will reimburse the Replacement Portfolio for any amounts not previously reimbursed to that Portfolio to the extent necessary to ensure that the total expense ratios of the Class IA and Class IB shares of the Replacement Portfolio for the period from the date of the Substitution to the date of the modification of the Trust's fee waiver and reimbursement arrangement (on an annualized basis) do not exceed the independent accountants' calculation of the expense ratios for the Class IA and Class IB shares of the Removed Portfolio for the one year period ended September 30, 2002. Furthermore, the revised fee waiver and expense reimbursement arrangement will be in effect for the twenty-four month period beginning as of the date of the Substitution. The report will be treated by the Trust as part of its books and records available for inspection by the staff of the Commission. The report will be retained by the Trust for a period of not less than six years.

14. The chart below compares the average annual total returns of the Class IA shares of the Replacement Portfolio and the Removed Portfolio, as well as returns for their respective benchmarks, for the one year, three year, five year, ten year and since inception periods ended December 31, 2001. Although the Removed Portfolio's historical performance for the one, three and five year periods was more favorable than that of the Replacement Portfolio, the Removed Portfolio has not generated significant Contract owner interest recently, evidenced by its recent net cash outflows. The Replacement Portfolio, in contrast, has generated modest net cash inflows, indicating greater Contract owner interest. The Replacement Portfolio's recent performance also has been more favorable than that of the Removed Portfolio, although there is no guarantee that this will continue to be the case in the future.

[Amounts in percent]

Portfolio class IA, periods ended 12/31/2001	1 Year	3 Years	5 Years	10 Years	Since inception
EQ/Alliance International Portfolio	(22.88)	(6.48)	(2.60)	NA	1.03 (04/03/95)
MSCI EAFE	(21.44)	(5.05)	0.89	NA	2.87
EQ/Alliance Global Portfolio	(20.08)	(3.43)	4.12	8.71	9.01 (08/27/87)
MSCI World	(16.82)	(3.37)	5.37	8.06	6.72

15. In connection with the Substitution, Equitable, American Franklin and their respective Separate Accounts will file with the Commission prospectuses and/or prospectus supplements that notify Contract owners and participants of their respective Insurance Company's intention to substitute the Replacement Portfolio for the Removed Portfolio.[2] The prospectuses and prospectus supplements, as appropriate, also will describe the Substitution, the Replacement and Removed Portfolios and the impact of the Substitution on fees and expenses at the underlying fund level. The section 26 Applicants will send the appropriate prospectus or prospectus supplement (or other notice), as appropriate, containing this disclosure to all existing and new Contract owners and participants. Together with this disclosure, the section 26 Applicants will send to any of those existing Contract owners and participants who have not previously received a prospectus for the Replacement Portfolio a prospectus and/or prospectus supplement for the Replacement Portfolio. New purchasers of Contracts will be provided with a Contract prospectus and/or supplement containing disclosure regarding the Substitution, as well as a prospectus for the Replacement Portfolio. The Contract prospectus and/or supplement and the prospectus and/or prospectus supplement for the Trust, including the Replacement Portfolio, will be delivered to purchasers of new Contracts in accordance with all applicable legal requirements.

16. Contract owners and participants will be sent a notice of the Substitution before the Substitution Date (which notice may be in the form of a prospectus supplement as described above). The notice will inform Contract owners and participants that the Substitution will be effected on the Substitution Date and that they may transfer assets from the Removed Portfolio (or from the Replacement Portfolio following the Substitution Date) to another investment option available under their Contract without the imposition of any applicable transfer charges, limitations, fees, or other penalties that might otherwise be imposed for a period beginning 30 days

[2] Integrity, National Integrity and their respective Separate Accounts will prepare and distribute a notice of the Substitution, which will contain substantially the same information that would be contained in any prospectus supplement as described herein.

before the Substitution Date and ending no earlier than 30 days following the Substitution Date and such transfers will not count against the limit, if any, on the number of free transfers permitted under the Contracts. Within five days after the Substitution Date, the section 26 Applicants will mail: (a) a written notice to all Contract owners and participants affected by the Substitution informing them that the Substitution was completed and restating that they may transfer assets from the Replacement Portfolio to another investment option available under their Contract free of any applicable transfer charges, limitations, fees, or other penalties that might otherwise be imposed through a date at least 30 days following the Substitution Date and such transfers will not count against the limit, if any, on the number of free transfers permitted under the Contracts; and (b) a confirmation of the transactions.

17. The Substitution will be effected by redeeming shares of the Removed Portfolio partly in-kind and partly in cash on the Substitution Date at their net asset value and using the proceeds of those in-kind redemptions to purchase shares of the Replacement Portfolio at their net asset value on the same date (''In-Kind Transactions''). The in-kind redemptions and contributions will be done in a manner consistent with the investment objectives, policies and diversification requirements of the Replacement Portfolio and the Removed Portfolio. The Manager, in consultation with the Replacement Portfolio's Adviser, will review the In-Kind Transactions to ensure that the assets are suitable for the Replacement Portfolio. All assets and liabilities will be valued based on the normal valuation procedures of the Removed Portfolio and the Replacement Portfolio, as set forth in the Trust's registration statement

18. No transfer or similar charges will be imposed by the section 26 Applicants and, on the Substitution Date, all Contract values will remain unchanged and fully invested. Contract owners and participants will not incur any fees or charges as a result of the proposed Substitution, nor will their rights or the Insurance Companies' obligations under the Contracts be altered in any way. All expenses in connection with the proposed Substitution, including any brokerage, legal, accounting, and other fees and expenses will be paid by the Insurance Companies. The proposed Substitution will not impose any tax liability on Contract owners or participants or cause the Contract charges currently being paid by Contract owners and participants to be greater after the proposed Substitution than before the proposed Substitution. All Contract-level fees will remain the same after the proposed Substitution. The proposed Substitution will not alter in any way the benefits, including tax benefits to Contract owners and participants, or the Insurance Companies' obligations under the Contracts.

In addition, the proposed Substitution will not be treated as a transfer for purposes of assessing transfer charges or computing the number of permissible transfers under the Contracts.

19. The section 26 Applicants request that the Commission issue an order pursuant to section 26(c) of the 1940 Act approving the substitution of: (i) Class IA shares of the Replacement Portfolio for Class IA shares of the Removed Portfolio; and (ii) Class IB shares of the Replacement Portfolio for Class IB shares of the Removed Portfolio. The section 17 Applicants request that the Commission issue an order pursuant to section 17(b) of the 1940 Act granting an exemption from section 17(b) to the extent necessary to permit the In-Kind Transactions.

Applicable Law

Section 26(c) of the 1940 Act

1. Section 26(c) of the 1940 Act prohibits the depositor of a registered unit investment trust that invests in the securities of a single issuer from substituting the securities of another issuer without Commission approval. Section 26(c) provides that ''[t]he Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.''

2. Applicants represent that the proposed Substitution involves a substitution of securities within the meaning of section 26(c) of the 1940 Act. The Applicants, therefore, request an order from the Commission pursuant to section 26(c) approving the proposed Substitution.

3. Applicants state that the section 26 Applicants have reserved the right under the Contracts to substitute shares of another eligible investment fund for one of the current investment funds offered as a funding option under the Contracts. Applicants represent that the prospectuses for the Contracts and the Separate Accounts contain appropriate disclosure of this right. The section 26 Applicants have reserved this right of substitution both to protect themselves and their Contract owners in situations where either might be harmed or disadvantaged by events affecting the issuer of the securities held by a Separate Account and to preserve the opportunity to replace such shares in situations where a substitution could benefit the Insurance Companies and their respective Contract owners.

4. Applicants state that the Replacement Portfolio and the Removed Portfolio have identical investment objectives and similar investment policies and risks. In addition, the proposed Substitution retains for Contract owners the investment flexibility that is a central feature of the Contracts, and any impact on the investment programs of affected Contract owners, including the appropriateness of the available investment options, should therefore be negligible.

5. Applicants also maintain that the ultimate effect of the Substitution would be to consolidate overlapping and duplicative investment options in a single Portfolio. This consolidation will permit each Insurance Company to present information to its Contract owners and participants in a simpler and more concise manner. The anticipated streamlining of the disclosure documents should provide Contract owners and participants with a simpler presentation of the available investment options under their Contracts and related financial information.

6. Thus, Applicants state that the Substitution protects the Contract owners and participants who have allocated Contract value to the Removed Portfolio by: (a) Providing an underlying investment option for sub-accounts invested in the Removed Portfolio that is similar to the Removed Portfolio; (b) providing such Contract owners and participants with simpler and more focused disclosure documents; and (c) providing such Contract owners and participants with an investment option that would have an identical management fee schedule and a total expense ratio that is no higher than the current investment option.

7. Applicants assert that the proposed Substitution is not of the type that section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute investment securities in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner and participant with the right to exercise his or her own judgment, and transfer Contract values and cash values into and among other investment options available to Contract owners and

participants under their Contracts. Additionally, the Substitution will not, in any manner, reduce the nature or quality of the available investment options. Moreover, the section 26 Applicants will offer Contract owners and participants the opportunity to transfer amounts out of the affected sub-accounts without any cost or other penalty that may otherwise have been imposed for a period beginning 30 days before the Substitution Date and ending no earlier than 30 days after the Substitution Date. Applicants conclude that the Substitution will not result in the type of costly forced redemption that section 26(c) was designed to prevent.

8. Applicants assert that the proposed Substitution is also unlike the type of substitution that section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners and participants select much more than a particular underlying fund in which to invest their Contract values. They also select the specific type of insurance coverage offered by the section 26 Applicants under the applicable Contract, as well as numerous other rights and privileges set forth in the Contract. Contract owners also may have considered the Insurance Company's size, financial condition, and its reputation for service in selecting their Contract. These factors will not change as a result of the proposed Substitution.

9. Applicants state that the significant terms and conditions of the Substitution are as follows:

a. The Replacement Portfolio has an identical investment objective and similar investment policies and risks as the Removed Portfolio, providing Contract owners and participants with a means to continue their investment goals and risk expectations;

b. To ensure that the management fee of the Replacement Portfolio is no higher after the Substitution than that of the Removed Portfolio before the Substitution, Equitable will contractually reduce its management fee for the Replacement Portfolio by adopting the management fee schedule of the Removed Portfolio, which at all asset levels is lower than the management fee of the Replacement Portfolio;

c. Equitable will waive its management fee with respect to the Replacement Portfolio and/or reimburse expenses incurred by the Replacement Portfolio during the twenty-four months following the Substitution to the extent necessary to ensure that the total expense ratios for any period (not to exceed a fiscal quarter) of the Class IA and Class IB shares of the Replacement Portfolio do not exceed 0.91% and 1.16%, respectively, of the Replacement Portfolio's average daily net assets (on an annualized basis) (or the expense ratios determined after the procedures are performed by the Trust's independent accountants);

d. Investments in the Replacement Portfolio may be temporary investments for Contract owners and participants as each Contract owner and participant may exercise his or her own judgment as to the most appropriate investment alternative available. In this regard, the proposed Substitution retains for Contract owners and participants the investment flexibility which is a central feature of the Contracts. Additionally, for a period beginning at least 30 days before the Substitution Date, and ending no earlier than 30 days after the Substitution, Contract owners and participants directly affected by the Substitution will be permitted to transfer value from the Replacement Portfolio or the Removed Portfolio to another investment option available under their Contract free of any otherwise applicable transfer charges, limitations, fees, or other penalties that might otherwise be imposed and such transfers will not count against the limit, if any, on the number of free transfers permitted under the Contracts;

e. The Substitution will be effected at the relative net asset values of the shares of the Removed Portfolio and the Replacement Portfolio, without the imposition of any transfer or similar charge by the section 26 Applicants, and with no change in the amount of any Contract owner's or participant's Contract value or in the dollar value of his or her investment in such Contract;

f. Contract owners and participants will not incur directly or indirectly related fees or charges as a result of the Substitution. The Insurance Companies have agreed to bear all expenses incurred in connection with the Substitution and related filings and notices, including legal, accounting, brokerage and other fees and expenses. The Substitution will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the Substitution than before the Substitution;

g. The Substitution will not be counted as a new investment selection in determining the limit, if any, on the total number of Portfolios that Contract owners and participants can select during the life of a Contract;

h. The Substitution will not alter or affect the insurance benefits or rights of Contract owners or participants or the terms and obligations of the Contracts;

i. Contract owners and participants would not incur any adverse tax consequences as a result of the Substitution;

j. Contract owners and participants affected by the Substitution will be sent written confirmation of the Substitution that identifies the Substitution made on behalf of the Contract owner or participant within five days following the Substitution;

k. Contract owners and participants may withdraw amounts under the Contract or terminate their interest in a Contract, under the conditions that currently exist, including payment of any applicable withdrawal or surrender charge; and

l. For those Contract owners or participants who were Contract owners or participants on the date of the Substitution, each Insurance Company will not increase sub-account or Contract expenses for a period of 24 months following the Substitution Date.

Section 17(a) of the 1940 Act

1. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the 1940 Act generally prohibits the same persons, acting as principals, from knowingly purchasing any security or other property from the registered investment company.

2. Section 17(b) of the 1940 Act provides that the Commission may, upon application, issue an order exempting any proposed transaction from section 17(a) if: (a) The terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transactions are consistent with the policy of each registered investment company concerned; and (c) the proposed transactions are consistent with the general purposes of the 1940 Act.

3. The Section 17 Applicants request an order pursuant to section 17(b) of the 1940 Act exempting them from the provisions of section 17(a) to the extent necessary to permit them to carry out the In-Kind Transactions.

4. The section 17 Applicants submit that the terms of the proposed In-Kind 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. The In-Kind Transactions will be effected at the respective net asset values of the Removed Portfolio and the Replacement

Portfolio, as determined in accordance with the procedures disclosed in the registration statement for the Trust and as required by Rule 22c-1 under the 1940 Act. The In-Kind Transactions will not change the dollar value of any Contract owner's or participant's investment in any of the Separate Accounts, the value of any Contract, the accumulation value or other value credited to any Contract, or the death benefit payable under any Contract. After the proposed In-Kind Transactions, the value of a Separate Account's investment in the Replacement Portfolio will equal the value of its investments in the Removed Portfolio (together with the value of any pre-existing investments in the Replacement Portfolio) before the In-Kind Transactions.

5. Applicants state that the section 17 Applicants will assure themselves that the In-Kind Transactions will be in substantial compliance with the conditions of Rule 17a–7 under the 1940 Act. To the extent that the In-Kind Transactions do not comply fully with the provisions of paragraphs (a) and (b) of Rule 17a–7, the section 17 Applicants assert that the terms of the In-Kind Transactions provide the same degree of protection to the participating companies and their shareholders as if the In-Kind Transactions satisfied all of the conditions enumerated in Rule 17a–7. The section 17 Applicants also assert that the proposed In-Kind Transactions by the section 17 Applicants do not involve overreaching on the part of any person concerned. Furthermore, the section 17 Applicants represent that the proposed Substitution will be consistent with the policies of the Removed Portfolio and the Replacement Portfolio, as recited in the Trust's current registration statement.

6. Applicants also assert that the proposed In-Kind Transactions are consistent with the general purposes of the 1940 Act and that the proposed In-Kind Transactions do not present any conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

For the reasons set forth in the Application, the section 26 Applicants and the section 17 Applicants respectively state that the proposed Substitution and the related In-Kind Transactions meet the standards of section 26(c) of the 1940 Act and section 17(b) of the 1940 Act and respectfully request that the Commission issue an order of approval pursuant to section 26(c) of the 1940 Act and section 17(b) of the 1940 Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–27484 Filed 10–28–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46705; File No. SR–BSE–2002–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 by the Boston Stock Exchange, Inc. to Amend its Minor Rule Violation Plan

October 22, 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 May 17, 2002, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On August 23, 2002, the BSE amended the proposed rule change.[3] The BSE again amended the proposal on October 9, 2002.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to amend its Minor Rule Violation Plan (''Plan''). The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

Chapter XXXIV

Minor Rule Violations

Rule Violations

Sec. 1 No change.

Sec. 2(a) No change.

(b) [Failure to Confirm Open Orders (Ch. II, Sec. 15). Initial Offense—Written Warning; Second Offense—$100; Subsequent Offenses—$250.]

Failure to Maintain Proper Records (Ch. II, Sec. 15; Ch. XV, Sec. 8; Ch. XXII, Sec. 1):

Failure to maintain required records for annual examinations, surveillance, and other purposes. Initial offense—$500; Subsequent Offenses—$1,000

(c)—(e) No change

(f) Floor Order Facilitation (*Ch. II, Sec. 3; Ch. XV, Sec. 2; Ch. XV, Sec. 3;* Ch. XVIII, Sec. 1):

Conduct which may cause delays or interruptions in the orderly facilitation and/or confirmation of orders received on the Floor such as failure to record proper post locations or dilatory practices in handling orders received on the Floor[.], *as measured by the Exchange and in excess of three (3) instances over the preceding rolling thirty-day period.*

Initial Offense—Written Warning; Second Offense—$100; Subsequent Offenses—$250.

(g)—(j) No change.

(k) Trading in an Inactive Alternate and/or Trading Account (Ch. XXII, Sec. 2(m)):

Patterns of trading indicating abuse of inactive accounts, as measured by the Exchange, and in excess of three (3) instances over the preceding thirty-day period.

Initial Offense—$500; Subsequent Offenses—$2,500

(l)—(n) No change.

(o) Dealings Outside of Exchange Operating Hours (Ch. I–B, Sec. 2):

First offense—Written Warning; Second Offense—$50; Subsequent Offenses—$100

Policy Violations

Sec. 3 (a)—(g) No change.

(h) Floor Conduct:

Unprofessional or Disruptive Behavior.

Initial Offense—$100; Subsequent Offenses—$500

Extremely unprofessional or disruptive behavior, as determined by two floor officials.

All offenses—$1,000

(i)—(o) No change.

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

[2] 17 CFR 240.19b–4.

[3] *See* August 21, 2002 letter from John A. Boese, Assistant Vice President, Legal and Regulatory, BSE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), SEC, and attachments (''Amendment No. 1''). Amendment No. 1 completely replaces and supersedes the original filing.

[4] *See* October 8, 2002 letter from John A. Boese, Assistant Vice President, Legal and Regulatory, BSE, to Nancy Sanow, Assistant Director, Division, SEC (''Amendment No. 2''). In Amendment No. 2, the BSE added language to set a standard by which violations of certain provisions of the Minor Rule Violation Plan will be determined.