

use of the same separate account to fund both types of contracts should not prejudice the owners of any contracts.

28. Applicants also assert that the requested relief is appropriate and in the public interest because the relief will promote competitiveness in the variable life insurance market. Various factors have limited the number of insurance companies that offer Variable Contracts. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management, and the lack of name recognition by the public of certain insurers as investment experts to whom the public feels comfortable entrusting their investment dollars. Applicants argue that use of Portfolios as common investment vehicles for Variable Contracts helps to alleviate these concerns because Participating Insurance Companies benefit not only from the investment and administrative expertise of the Trust's investment adviser, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Making the Portfolios available for mixed and shared funding may encourage more insurance companies to offer Variable Contracts and, accordingly, could result in increased competition with respect to both Variable Contract design and pricing, which can be expected to result in more product variation and lower charges. Mixed and shared funding also would benefit Variable Contract owners by eliminating a significant portion of the costs of establishing and administering separate mutual funds. Furthermore, Applicants assert that the sale of shares of the Trust to Qualified Plans, in addition to Separate Accounts of Participating Insurance Companies, would result in an increased amount of assets available for investment by the Trust. This may benefit Variable Contract owners by promoting economies of scale, by permitting increase safety of investments through greater diversification, and by making the addition of new Portfolios more feasible.

Applicants' Conditions

The Applicants have consented to the following conditions:

1. A majority of the Board of the Trust ("Board") shall consist of persons who are not "interested persons" of the Trust as defined by section 2(a)(19) of the 1940 Act and rules thereunder, and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of death, disqualification, or bona fide resignation of any director(s), then the operation of

this conditions shall be suspended: (i) for a period of 45 days, if the vacancy or vacancies may be filled by the Board; (ii) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. The Board will monitor the Portfolios for the existence of any material irreconcilable conflict between the interests of the Variable Contract owners of all Separate Accounts investing in any of the Portfolios. A material irreconcilable conflict may arise for a variety of reasons, including: (a) state insurance regulatory authority action; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of a Portfolio are being managed; (e) a difference among voting instructions given by Variable Contract owners; or (f) a decision by a Participating Insurance Company to disregard Variable Contract owners' voting instructions.

3. Participating Insurance Companies and Asset Manager (or any other investment manager of the Trust) and any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of any underlying Portfolio of the Trust ("Participants") will report any potential or existing conflicts, of which they become aware, to the Board. Participants will be obligated to assist the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for it to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participant to inform the Board whenever Variable Contract owners' or Plan participants' voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all Participants investing in a Portfolio under their participation agreements, and those participation agreements shall provide that such responsibilities will be carried out with a view only to the interests of the Variable Contract owners or Plan participants.

4. If a majority of the Board, or a majority of the independent trustees of the Board ("Independent Trustees"), determine that a material irreconcilable

conflict exists, the relevant Participant shall, at its expense and to the extent reasonably practicable (as determined by a majority of Independent Trustees), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) withdrawing the assets allocable to some or all of the Separate Accounts or Plans, as appropriate, from the Portfolios and reinvesting those assets in a different investment medium (including another Applicant, if any) or submitting the question whether such segregation should be implemented to a vote of all affected Variable Contract owners or Plan participants and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contract owners, life insurance contract owners, Variable Contract owners, or Plan participants) that votes in favor of such segregation, or offering to the affected Variable Contract owners or Plan participants, as appropriate the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participant's decision to disregard Variable Contract owners' or Plan participants' voting instructions, and that decision represents a minority position or would preclude a majority vote, the Participant may be required, at the election of the relevant Portfolio, to withdraw its Separate Account's Investment therein, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a determination by the Board that an irreconcilable material conflict exists and to bear the cost of such remedial action shall be a contractual obligation of all Participants under their participation agreements governing participation in the Portfolios and these responsibilities will be carried out with a view only to the interests of the Variable Contract owners or Plan participants.

For purposes of this condition, a majority of Independent Trustees shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Trust or Asset Manager be required to establish a new funding medium for any Variable Contract or Plan investment. No Participant shall be required by this condition to establish a new funding medium for any Variable Contract or Plan investment if an offer to do so has been declined by a vote of a majority of Variable Contract owners materially