

Date until at least thirty (30) days following the substitution.

26. Existing and prospective contract owners have been provided with current prospectuses for the Replacement Funds.

27. Contract owners will be notified of the impending Exchange Date. Contract owners with interests remaining in the Existing Funds will be advised that the Existing Funds will be replaced with the Replacement Funds on the Exchange Date. Contract owners will be given notice prior to the substitutions and will have thirty (30) days after the Exchange Date to reallocate unit values among other sub-accounts without imposition of any transfer charge or limitation, or the transfer counting against any limit on the number of transfers each year. All necessary forms and other information necessary for contract owners to effectuate exchanges among investment options will continue to be provided.

28. On the Exchange Date, all shares held by the Separate Account in the Existing Funds will be redeemed in cash, resulting in a complete liquidation of the sub-accounts. Contemporaneously with this redemption, cash proceeds received from the Existing Funds will be used to purchase shares in the corresponding Replacement Funds. All shares will be purchased and redeemed at prices based on the current net asset value per share next computed after receipt of the redemption request and in a manner consistent with Rule 22c-1 under the 1940 Act.

29. Nationwide asserts that it is likely that unit values (which include both accumulation unit values and annuity unit values) of the Existing Funds and the Replacement Funds will be different on the Exchange Date. In order to keep each contract owner's contract value the same after the Exchange Date as immediately prior to the Exchange Date, the number of units held by beneficial shareholders in the Existing Funds are likely to be different than the number of units held by beneficial shareholders in the corresponding Replacement Funds when the exchange takes place.

30. Within five (5) days of the Exchange Date, all contract owners affected by the transaction will receive a written confirmation of the transaction in accordance with Rule 10b-10 under the Securities Exchange Act of 1934. The confirmation will state that contract owners may transfer all cash value under an annuity contract in the affected sub-accounts to any other available sub-accounts. The notice will also reiterate that Nationwide will not exercise any right reserved by it under the contracts to impose any restrictions

or fees on transfers until at least thirty (30) days after the Exchange Date.

#### Applicants' Legal Analysis

1. Section 26(c) of the 1940 Act requires the depositor or trustee of a registered unit investment trust holding the securities of a single issuer to obtain Commission approval before substituting securities held by the trust. The section further provides that the Commission shall issue an order approving such substitution if the evidence establishes that the substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants represent that the proposed substitution, in accordance with the standards set forth under section 26(c) of the 1940 Act, is in the best interest of contract owners. With respect to management and fund objectives, the Replacement Funds, as has been demonstrated, are closely comparable to the corresponding Existing Fund. Accordingly, the proposed substitution should not create incentives for contract owners to surrender contracts and seek out other investment opportunities (incurring additional sales charges) in order to maintain a desired investment strategy. On the contrary, the close comparability of the funds proposed as a substitute for the Existing Funds ensures that investment strategies currently employed by contract owners may be maintained after the substitution.

3. Each of the Replacement Funds currently has greater assets than the Existing Fund being substituted into it. This will create the opportunity for better performance between the Existing Funds and Replacement Funds, which have similar management and investment objectives. The benefits of economies of scale will be passed to contract owners.

4. The Applicants maintain that the substitutions will not result in the type of costly forced redemption that section 26(c) was intended to guard against and, for the following reasons, are consistent with the protection of investors and the purposes fairly intended by the 1940 Act:

a. Each Replacement Fund has investment objectives that are similar to those of the corresponding Existing Fund, and permits contract owners continuity of their investment objectives and expectations;

b. The costs of the substitutions, including any brokerage costs, will be borne by Nationwide and will not be borne by contract owners and no

charges will be assessed to effect the substitutions.

c. The substitutions will be effected at the net asset value of the respective sub-accounts of the Existing Funds and Replacements Funds in conformity with section 22(c) of the 1940 Act and Rule 22c-1 thereunder, without the imposition of any transfer or similar charge by Applicants, and with no change in the amount of any contract owner's contract value or in the dollar value of his or her investment in such contract.

d. The substitutions will not cause the fees and charges under the contracts currently being paid by contract owners to be greater after the substitutions than before the substitutions.

e. The contract owners will be given notice prior to the substitutions and will have an opportunity to reallocate unit values among other sub-accounts without imposition of any transfer charge or limitation, or the transfer counting against any limit on the number of transfers each year, for thirty (30) days after the Exchange Date.

f. Within five (5) days after the substitutions, Nationwide will send to the affected contract owners written confirmation that the substitutions have occurred.

g. The substitutions will in no way alter the insurance benefits to contract owners or the contractual obligations of Nationwide.

h. The substitutions will have no adverse tax consequences to contract owners and will in no way alter the tax benefits to contract owners.

5. Applicants assert, for the reasons stated above, that the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act and the requested Order approving the substitution should be granted.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25313; File No. 812-12616]

#### United Investors Life Insurance Company, et al.

December 7, 2001.

**AGENCY:** Securities and Exchange Commission (the "Commission").

**ACTION:** Notice of an application for an Order of Approval pursuant to section 26(c) of the Investment Company Act of 1940, as amended (the "Act").

*Applicants:* United Investors Life Insurance Company ("United Investors"), Titanium Annuity Variable Account of United Investors Life Insurance Company ("Annuity Account"), and Titanium Universal Life Variable Account of United Investors Life Insurance Company ("Life Account"), (all collectively, the "Applicants").

*Summary of Application:* Applicants seek an order of the Commission, pursuant to section 26(c) of the Act, approving the substitution of shares of the AIM V.I. Capital Appreciation Fund portfolio of the AIM Variable Insurance Funds for shares of the Strong Discovery Fund II portfolio of the Strong Variable Insurance Funds, Inc. held by the Annuity Account and Life Account (together, the "Accounts") to support variable annuity and life insurance policies issued by United Investors.

*Filing Date:* The application was filed on August 28, 2001 and amended and restated on December 3, 2001 and on December 7, 2001.

*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 must be received by the Commission by 5:30 p.m. on December 28, 2001, 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 requester'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, Commission, 450 Fifth Street NW, Washington, DC 20549-0609. Applicants, c/o John H. Livingston, Esq., United Investors Life Insurance Company, 2001 Third Avenue South, Birmingham, Alabama 35233. Copies to Frederick R. Bellamy, Esq., Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW, Washington, DC 20004-2415.

**FOR FURTHER INFORMATION CONTACT:** Kenneth C. Fang, Attorney, or Keith E. Carpenter, Branch Chief, at (202) 942-0670, Office of Insurance Products, Division of Investment Management.

**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 20549-0102 (tel. (202) 942-8090).

#### **Applicants' Representations**

1. United Investors is a stock life insurance company originally incorporated under the laws of Missouri on August 17, 1981, as a successor to a company of the same name established in Missouri on September 27, 1961. United Investors is engaged in the sale of life insurance and annuity products and is admitted to do business in the District of Columbia and all states except New York. United Investors is an indirect subsidiary of Torchmark Corporation, a publicly traded life insurance and diversified financial services company. For purposes of the Act, United Investors is the depositor and sponsor of the Annuity Account and the Life Account, as those terms have been interpreted by the Commission, with respect to variable annuity and variable life separate accounts.

2. United Investors established the Annuity Account on September 15, 1999 as a segregated investment account under Missouri law. Under Missouri law, the assets of the Annuity Account are owned by United Investors but are held separately from all other assets of United Investors for the benefit of the owners of, and the persons entitled to payment under, the variable annuity policies. Assets in the Annuity Account attributable to the policy values are not chargeable with liabilities arising out of any other business that United Investors may conduct. The Annuity Account currently has 32 subaccounts, each of which invests in shares of a single mutual fund portfolio. Income, if any, and gains and losses, realized or unrealized, arising from the assets of each subaccount shall be credited to or charged against the amounts allocated to that subaccount without regard to the income, gains or losses of any other subaccount or any other business of United Investors. The Annuity Account is a "separate account" as defined by Rule 0-1(e) under the Act, and is registered with the Commission as a unit investment trust (File No. 811-10035). The variable annuity policies have been registered as securities under the Securities Act of 1933, as amended (the "1933 Act") on Form N-4 (File No. 333-43022).

3. United Investors established the Life Account on September 15, 1999 as a segregated investment account under Missouri law. Under Missouri law, the

assets of the Life Account are owned by United Investors but are held separately from all other assets of United Investors for the benefit of the owners of, and the persons entitled to payment under, the variable life policies. Assets in the Life Account attributable to the variable life policy values are not chargeable with liabilities arising out of any other business that United Investors may conduct. The Life Account currently has 32 subaccounts, each of which invests in shares of a single mutual fund portfolio. Income, if any, and gains and losses, realized or unrealized, arising from the assets of each subaccount shall be credited to or charged against the amounts allocated to that subaccount without regard to the income, gains or losses of any other subaccount or any other business of United Investors. The Life Account is a "separate account" as defined by Rule 0-1(e) under the Act, and is registered with the Commission as a unit investment trust (File No. 811-09657). The variable life policies have been registered as securities under the 1933 Act on Form S-6 (File No. 333-89875).

4. Strong Variable Insurance Funds, Inc. (the "Strong Fund") is a series investment company as defined by Rule 18f-2 under the Act and is registered under the Act as an open-end management investment company (File No. 811-6553). The Strong Fund issues a separate series of shares of stock in connection with each series and has registered these shares under the 1933 Act on Form N-1A (File No. 33-45321). Strong Fund Capital Management, Inc. serves as investment adviser to the Strong Funds. One of the subaccounts of each of the Annuity Account and the Life Account invests in shares of the Strong Discovery Fund II ("Discovery Fund").

5. The Discovery Fund seeks capital growth. The Discovery Fund's May 1, 2001 prospectus explains its principal investment strategies as follows:

The Discovery Fund II invests, under normal conditions, in securities that its manager believes offer attractive opportunities for growth. The fund usually invests in a diversified portfolio of common stocks from small-, medium-, and large-capitalization companies. These are chosen through a combination of in-depth fundamental analysis of a company's financial reports and direct, on-site research during company visits. When the manager believes market conditions favor fixed-income investments, the manager has the flexibility to invest a significant portion of the fund's assets in bonds. The fund would primarily invest in intermediate- and long-term investment grade bonds. To a limited extent, the fund may also invest in foreign securities. The manager may sell a holding if

its growth potential or fundamental qualities change. The fund's active trading approach may increase the fund's costs, which may reduce the fund's performance. The fund's active trading approach may also increase the amount of capital gains tax that you pay on the fund's returns.

The manager may invest without limitation in cash or cash-type securities (high-quality, short-term debt securities issued by corporations, financial institutions, the U.S. government, or foreign governments) as a temporary defensive position during adverse market, economic, or political conditions if the fund's manager determines that a temporary defensive position is advisable. This could reduce the benefit to the fund if the market goes up. In this case, the fund may not achieve its investment goals.

6. AIM Variable Insurance Funds ("AIM Fund") is a series investment company as defined by Rule 18f-2 under the Act and is registered under the Act as an open-end diversified management investment company (File No. 811-7452). The AIM Fund issues a separate series of shares of beneficial interest in connection with each series and has registered these shares under the 1933 Act on Form N-1A (File No. 33-57340). A I M Advisors, Inc. serves as investment adviser to the AIM Fund. One of the subaccounts of each of the Annuity Account and the Life Account invests in the AIM V.I. Capital Appreciation Fund Series I shares ("AIM Capital Appreciation Fund"). United Investors is not affiliated with the AIM Fund or A I M Advisors, Inc., except to the extent that it might be an "affiliated person" of the AIM Fund solely by record ownership of more than 5% of a class of shares of the AIM Fund (*i.e.*, ownership of shares held in the Accounts for the benefit of policy owners).

7. The AIM Capital Appreciation Fund's investment objective is growth of capital. The AIM Capital Appreciation Fund's May 1, 2001 prospectus explains its principal investment strategies as follows:

The fund seeks to meet its objective by investing principally in common stocks of companies the portfolio managers believe are likely to benefit from new or innovative products, services or processes as well as those that have experienced above-average, long-term growth in earnings and have excellent prospects for future growth. The portfolio managers consider whether to sell a particular security when any of those factors materially changes. The fund may also invest up to 25% of its total assets in foreign securities.

In anticipation of or response to adverse market conditions, for cash management purposes, or for defensive purposes, the fund may temporarily hold all or a portion of its assets in cash, money market instruments, shares of affiliated money market funds, bonds or other debt securities. As a result,

the fund may not achieve its investment objective.

8. The policies are individual and group flexible premium variable life and deferred variable annuity policies. The variable annuity policies provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and for settlement or annuity payment options on a variable basis, fixed basis, or both. The variable life insurance policies provide for the accumulation of values on a variable basis, fixed basis, or both and for death benefit options and other life insurance features. Under the policies and as disclosed in the prospectuses, United Investors reserves the right to substitute shares of one fund for shares of another, including a fund of a different management investment company.

9. A policy owner may transfer all or part of the policy value from one subaccount to another or the fixed account, up to twelve times per year free of charge (for the annuity policies, before the annuity benefit date). Owners of variable annuities may transfer policy value once per year after the annuity benefit date. Each transfer must be for at least \$100 or, if less, the entire subaccount value. United Investors charges \$25 per transfer for each additional transfer after twelve per year.

10. United Investors, on its behalf and on behalf of the Accounts, proposes to substitute shares of the AIM Capital Appreciation Fund for shares of the Discovery Fund. Applicants believe that by making the proposed substitution, they can better serve the interests of the policy owners.

11. On April 5, 2001, the board of directors of the Strong Fund (the "Board") voted to close the Discovery Fund to new separate account investors effective April 6, 2001. Subsequently, on June 1, 2001, Strong Capital Management, Inc. notified United Investors of the Board's intention to terminate the Strong Fund's participation agreements with United Investors effective December 1, 2001 and cease the Discovery Fund's operations soon thereafter. The Board indicated that it decided to close the Discovery Fund because of the Discovery Fund's small asset base, lack of expected asset growth, and lack of economies of scale. The Board also requested that all of the insurance companies currently having separate accounts invested in the Discovery Fund, including United Investors, seek an order from the Commission approving the substitution of other securities for shares of the Discovery

Fund currently held by these separate accounts.

12. Applicants had no influence or control over the Board's decision to terminate United Investors' relationship with Discovery Fund. Indeed, United Investors was not even consulted. Further, Applicants believe that some or all of these other insurance companies will seek an order from the Commission to substitute shares of certain securities for shares of Discovery Fund. Accordingly, Applicants believe that the resulting decrease in the assets of Discovery Fund would likely result in higher expenses and less favorable performance, to the detriment of the policy owners.

13. Applicants submit that the AIM Capital Appreciation Fund is a very suitable and appropriate substitute for the Discovery Fund. The AIM Capital Appreciation Fund and the Discovery Fund have the same objective of capital growth. Their investment strategies are very similar, as evidenced from the language quoted above from their prospectuses. They are both stock funds that use a "growth" style of stock selection (as opposed to a "value" style); both can invest in any size company (small, medium, or large capitalization companies); both can invest, to a limited extent, in foreign stocks; both can invest substantially in debt securities for defensive purposes.

14. The AIM Capital Appreciation Fund is an attractive fund to investors, and Applicants believe that policy owners should actually be better off with the proposed substitution because the AIM Capital Appreciation Fund has more assets, better performance, a substantially lower portfolio turnover rate, and substantially lower expenses than the Discovery Fund. Over the last five years, the AIM Capital Appreciation Fund has grown over 400%. Conversely, the Discovery Fund has declined by approximately 41% in asset size over the last five years. The AIM Capital Appreciation Fund's growing asset base of \$1.5 billion allows it to achieve and maintain reasonable economies of scale as evidenced by an expense ratio that at 0.82% is considerably lower than the Discovery Fund's expense ratio of 1.2% (figures are for calendar year 2000). The AIM Capital Appreciation Fund also has a substantially lower management fee.

15. The AIM Capital Appreciation Fund has performed comparably to its benchmark index, the S&P 500 Index, since its inception. Whereas the AIM Capital Appreciation Fund has an average annual total return of 17.37% since its inception on May 5, 1993, its benchmark index has returned 17.72% in that period. For the five-year period

ended December 31, 2000, the AIM Capital Appreciation Fund's average annual total return was 15.45%; the Discovery Fund's annual return for that period was only 5.73%.

16. The AIM Capital Appreciation Fund is also managed efficiently. Its

portfolio turnover rate has never been above 100% in the last five years. The Discovery Fund, on the other hand, has a high portfolio turnover rate ranging from 194% to 970% in the last five years.

17. The following charts show the approximate year-end size (in net assets), expense ratio (ratio of operating expenses as a percentage of average net assets), portfolio turnover rate, and annual total returns for each of the past five years for both of the Funds.

Strong discovery fund II	Net assets at year-end (millions)	Expense ratio (before imposition of expense caps) (percent)	Actual expense ratio (percent)	Management fee (percent)	Portfolio turnover rate (percent)	Total return (percent)
1996 .....	\$229	1.2	1.2	1.00	970	0.8
1997 .....	214	1.2	1.2	1.00	198	11.4
1998 .....	196	1.2	1.2	1.00	194	7.3
1999 .....	152	1.2	1.1	1.00	235	5.1
2000 .....	136	1.3	1.2	1.00	480	4.4

  

AIM V.I. Capital appreciation fund	Net assets at year-end (millions)	Expense ratio (before imposition of expense caps) (percent)	Actual expense ratio (percent)	Management fee (percent)	Portfolio turnover rate (percent)	Total return (percent)
1996 .....	\$370	0.73	0.73	0.64	59	17.58
1997 .....	523	0.68	0.68	0.63	65	13.50
1998 .....	647	0.67	0.67	0.62	83	19.30
1999 .....	1,131	0.73	0.73	0.62	65	44.61
2000 .....	1,534	0.82	0.82	0.61	98	-10.91

Neither the AIM Capital Appreciation Fund nor the Discovery Fund imposes a Rule 12b-1 fee, and no Rule 12b-1 Plan has been authorized for the AIM Capital Appreciation Fund.

18. Prior to the date the substitution is effected, by supplements to the various prospectuses for the policies and the Accounts, United Investors notified all owners of the policies invested in the Discovery Fund of their intention to take the necessary actions, including seeking the order requested by this Application, to substitute shares of the AIM Capital Appreciation Fund as described herein. The supplements advised policy owners that from the date of the supplement until 30 days after the date of the proposed substitution, owners are permitted to make one transfer (free of charge) of all amounts under a policy invested in the Discovery Fund to any other subaccount available under the policy without that transfer counting as a "free" transfer permitted under a policy. The supplements also informed policy owners that United Investors will not exercise any rights reserved under any policy to impose additional restrictions on transfers until at least 30 days after the proposed substitution.

19. United Investors will redeem the shares of Discovery Fund for cash and use the redemption proceeds to purchase shares of the AIM Capital Appreciation Fund. The proposed

substitution will take place at relative net asset value with no change in the amount of any policy owner's policy value in either of the Accounts. The number of subaccount units credited to the affected policy owners will, of course, be adjusted to reflect the differences in subaccount unit values between the Discovery Fund and the AIM Capital Appreciation Fund subaccounts on the date of the substitution. As a result, policy owners will remain fully invested. Policy owners will not incur any fees or charges as a result of the proposed substitution, nor will their rights or United Investors' obligations under the policies be altered in any way. All expenses incurred in connection with the proposed substitution, including legal, accounting, and other fees and expenses, will be paid by United Investors. Any brokerage expenses relating to or resulting from the proposed substitution will be borne by United Investors or Strong Capital Management, Inc., so they will not be borne directly or indirectly by policy owners. In addition, the proposed substitution will not impose any tax liability on policy owners. The proposed substitution will not cause the policy fees and charges currently being paid by existing policy owners to be greater after the proposed substitution than before the proposed substitution. United Investors will not exercise any

right they may have under the policies to impose additional restrictions on transfers under any of the policies for a period of at least 30 days following the substitution. Any transfers of amounts involved in the substitution made during the 30 days following the proposed substitution will be free of charge and will not count as a "free" transfer.

20. Within five days after the proposed substitution, any policy owners who were affected by the substitution will be sent a written notice informing them that the substitution was carried out, and that until 30 days after the substitution they may make one transfer, free of charge, of all policy value under a policy affected by the substitution to another subaccount or separate account available under their policy without that transfer counting as one of any limited number of transfers permitted in a policy year or as one of a limited number of transfers permitted in a policy year free of charge. The notice will also reiterate the fact that United Investors will not exercise any rights reserved by them under the policies to impose additional restrictions on transfers until at least 30 days after the proposed substitution. The notice as delivered in certain states also may explain any other rights they may have under state insurance regulations.

## Legal Analysis

1. Applicants request that the Commission issue an order pursuant to section 26(c) of the Act approving the proposed substitution. section 26(c) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive Commission approval before substituting the securities held by the trust. Specifically, Section 26(c) states:

It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. The 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. Section 26(c) was added to the Act by the Investment Company Amendments of 1970 (it was originally section 26(b)). Prior to the enactment of the 1970 amendments, a depositor of a unit investment trust could substitute new securities for those held by the trust by notifying the trust's security holders of the substitution within five days of the substitution. In 1966, the Commission, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted fund, recommended that Section 26 be amended to require that a proposed substitution of the underlying investments of a trust receive prior Commission approval.

3. Congress responded to the Commission's concerns by enacting section 26(c) to require that the Commission approve all substitutions by the depositor of investments held by unit investment trusts. The Senate Report on the bill explained the purpose of the amendment as follows:

The proposed amendment recognizes that in the case of the unit investment trust holding the securities of a single issuer notification to shareholders does not provide adequate protection since the only relief available to shareholders, if dissatisfied, would be to redeem their shares. A shareholder who redeems and reinvests the proceeds in another unit investment trust or in an open-end company would under most circumstances be subject to a new sales load. The proposed amendment would close this gap in shareholder protection by providing for Commission approval of the substitution. The Commission would be required to issue an order approving the substitution if it finds the substitution consistent with the protection of investors and provisions of the Act.

4. The proposed substitution appears to involve the substitution of securities within the meaning of section 26(c) of the Act. Applicants therefore request an order from the Commission pursuant to section 26(c) approving the proposed substitution.

5. The policies expressly reserve for United Investors the right, subject to compliance with applicable law, to substitute shares of another management company for shares of a management company held by a subaccount of the Accounts. The prospectuses for the policies contain appropriate disclosure of this right.

6. United Investors reserved this right of substitution both to protect itself and its policy owners in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of their separate accounts and to afford the opportunity to replace such shares where to do so could benefit themselves and policy owners.

7. The proposed substitution is necessary because the Board decided to close down and liquidate the Discovery Fund. Allowing the proposed substitution will effortlessly transition policy owners into a fund that closely approximates their current investment in terms of investment objective and policies but with lower expenses and better long-term performance.

8. In addition to the foregoing, Applicants generally submit that the proposed substitution meets the standards that the Commission and its staff have applied to similar substitutions that have been approved in the past.

9. The proposed substitution is not the type of substitution that section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the policies provide each policy owner with the right to exercise his or her own judgment and transfer policy or cash values into other subaccounts. Moreover, the policies will offer policy owners the opportunity to transfer amounts out of the affected subaccounts into any of the remaining subaccounts without cost or other disadvantage. The proposed substitution, therefore, will not result in the types of costly forced redemption that section 26(c) was designed to prevent.

10. The proposed substitution also is unlike the type of substitution that section 26(c) was designed to prevent in that by purchasing a policy, policy

owners select much more than a particular investment company in which to invest their account values. They also select the specific type of insurance coverage offered by United Investors under its policies as well as numerous other rights and privileges set forth in the policies. Policy owners may also have considered United Investors' size, financial condition, type, and reputation for service in selecting their policy. These factors will not change as a result of the proposed substitution.

11. United Investors does not currently receive (and will not receive for three years from the date of the Commission order requested herein) any direct or indirect benefit from the AIM Capital Appreciation Fund or AIM Advisors, Inc., or any of its affiliates, that would exceed the amount that United Investors has received from the Discovery Fund or Strong Capital Management Inc., or any of its affiliates, including without limitation Rule 12b-1 fees, shareholder service or administrative or other service fees, revenue sharing or other arrangements, either with specific reference to the AIM Capital Appreciation Fund or as part of an overall business arrangement.

## Conclusion

Applicants request an order of the Commission pursuant to section 26(c) of the Act approving the proposed substitution by United Investors. Applicants submit that, for all the reasons stated above, the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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