

ACTION: Notice of availability for public comment.

SUMMARY: The Nuclear Regulatory Commission is announcing the completion and availability of Draft NUREG-1778, "Knowledge Base for Post-Fire Safe-Shutdown Analysis," January, 2004. The NRC is seeking comment from interested parties on the clarity and utility of the draft NUREG. The NRC will consider comments received in its final issue of NUREG-1778.

DATES: Comment period expires March 29, 2004. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Draft NUREG-1778 is available for inspection and copying for a fee at the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland. As of January 30, 2004, you may also electronically access NUREG-series publications and other NRC records at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm.html>.

Submit written comments to the Chief, Rules Review and Directive Branch, Mail Stop: T6-D59 U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

A free single copy of Draft NUREG-1778, to the extent of supply, may be requested by writing to Office of the Chief Information Officer, Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Printing and Graphics Branch, Washington, DC 20555-0001 facsimile: 301-415-2289; e-mail: DISTRIBUTION@nrc.gov.

Some publications in NUREG-series that are posted at NRC's Web site address <http://www.nrc.gov/NRC/NUREGS/indexnum.html> are updated regularly and may differ from the last printed version.

FOR FURTHER INFORMATION CONTACT: Mark H. Salley, Office of Nuclear Reactor Regulation, Mail Stop O11 A11, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. E-mail MXS3@nrc.gov. Telephone: 301-415-2840 FAX: 301-415-2300.

SUPPLEMENTARY INFORMATION: As a result of a major fire that occurred at the Browns Ferry Nuclear Power Plant in 1975, the U.S. Nuclear Regulatory Commission (NRC) significantly revised its regulatory framework to enhance fire protection programs (FPPs) at operating nuclear power plants (NPPs). The revised criteria used in this framework had three main objectives to (1) prevent

significant fires, (2) ensure the capability to shutdown the reactor and maintain it in a safe-shutdown condition, and (3) minimize radioactive releases to the environment in the event of a significant fire.

Recent Sandia National Laboratories (SNL) studies have shown that the revised criteria are beneficial to safety. Plant design changes required by the new regulatory framework have been effective in preventing a recurrence of a fire event of the severity experienced at Browns Ferry. In addition, according to a 1989 study performed by SNL plant modifications made in response to the new requirements have reduced the core damage frequencies (CDFs) at some plants by a factor of 10.

The NRC's regulatory framework provides several options for ensuring that structures, systems, and components (SSCs) important to safe shutdown are adequately protected from the effects of fire. Because of the potentially unacceptable consequences that an unmitigated fire may have on plant safety, each operating plant must perform a documented evaluation to demonstrate that, in the event a fire were to initiate and continue to burn (in spite of prevention and mitigation features), the performance of essential shutdown functions will be preserved and radioactive releases to the environment will be minimized. The document that describes this evaluation process and its results is commonly referred to as a "safe-shutdown analysis" (SSA).

Fire protection for NPPs is a complex subject. The purpose of this document is to facilitate understanding of the regulatory framework of the Fire Protection Program by compiling the related knowledge into a single document. This document assumes that the reader has had little or no involvement in the development and/or implementation of fire protection criteria, post-fire safe-shutdown analysis, or any of its related engineering disciplines. The criteria and assumptions described in this document are based on the NRC's regulatory framework for fire protection, as it was in place at the time of this writing. This document only clarifies existing criteria. This document does not contain any new or different staff positions and does not impose any new requirements. The knowledge base documented in this NUREG-series report must be used within the context of the licensing basis of each individual plant and with due consideration for the NRC's Backfit rule, as specified in Title 10, Section 50.109, Code of Federal Regulations (10 CFR 50.109).

Date at Rockville, Maryland, this 20 day of January, 2004.

For the Nuclear Regulatory Commission.

John N. Hannon,

Chief, Plant Systems Branch, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 04-1899 Filed 1-28-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-26338; File No. 812-13022]

IDS Life Insurance Company, et al., Notice of Application

January 22, 2004.

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

ACTION: Notice of an application for an order pursuant to Section 6(c) of the Investment Company Act of 1940, as amended (the "Act") granting exemptions from the provisions of Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

Applicants: IDS Life Insurance Company ("IDS Life"), IDS Life Insurance Company of New York ("IDS Life of New York"), American Enterprise Life Insurance Company ("American Enterprise Life"), American Centurion Life Assurance Company ("American Centurion Life") (each, an "Insurance Company" and collectively, the "Insurance Companies"), American Express Financial Advisors Inc. ("AEFA"), IDS Life Variable Account 10 ("IDS Life Account"), IDS Life of New York Variable Annuity Account ("IDS Life of New York Account"), American Enterprise Variable Annuity Account ("American Enterprise Life Account") and ACL Variable Annuity Account 2 ("American Centurion Life Account") (each, an "Account" and collectively, the "Accounts") (collectively, the "Applicants").

Summary of Application: Applicants seek an order to amend an Existing Order (described below) to grant exemptions from the provisions of Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the recapture of certain credits applied to contributions made under: (i) Certain additional, amended deferred variable annuity contracts, described herein, that IDS Life proposes to issue through the IDS Life Account (the contracts, including certain data pages and endorsements, are collectively referred to herein as the "Amended Contracts"), and (ii) certain additional, amended

contracts that the Insurance Companies may in the future issue through the Accounts or any Future Account that are substantially similar in all material respects to the Amended Contracts described in the application ("Future Amended Contracts") (Amended Contracts and Future Amended Contracts are collectively referred to herein as the "New Contracts"). Applicants also request that the order being sought extend to any other National Association of Securities Dealers, Inc. ("NASD") member broker-dealer controlling or controlled by, or under common control with the Insurance Companies, whether existing or created in the future, that serves as distributor or principal underwriter of the New Contracts offered through the Accounts or any Future Account (collectively, the "Affiliated Broker-Dealers").

Filing Date: The application was filed on September 24, 2003 and amended and restated on December 23, 2003.

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 on February 17, 2004 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 who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, Mary Ellyn Minenko, Vice President and Group Counsel, American Express Financial Advisors Inc., 50607 AXP Financial Center, Minneapolis, MN 55474.

FOR FURTHER INFORMATION CONTACT: Mark A. Cowan, Senior Counsel, or Zandra Y. 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 SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942-8090).

Applicants' Representations

1. On January 19, 2000 the Commission issued an order exempting certain transactions of Applicants from the provisions of Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder (the "Existing Order"). The Existing Order permits, under specified circumstances, as described in the application for the Existing Order (the "Prior Application"), the recapture of certain Credits applied to contributions made under: (i) Certain deferred variable annuity contracts that IDS Life and American Enterprise Life issued through the Accounts (the contracts, including certain data pages and endorsements, were referred to therein as the "Contracts"), and (ii) contracts that are substantially similar in all material respects to the Contracts that the Insurance Companies may issue in the future (referred to therein as the "Future Contracts") (Contracts and Future Contracts are collectively referred to herein as the "Existing Contracts") through the Accounts or any other separate account of the Insurance Companies currently existing or established in the future by the Insurance Companies (the "Future Accounts").

2. The Existing Order permits the recapture of Credits, as defined in the Prior Application, under Existing Contracts. Specifically, the Existing Order permits the recapture of these Credits: (i) If the owner returns the Existing Contract to the Insurance Company for a refund during the free look period; (ii) if the Credits were applied within twelve months preceding the date of death that results in a lump sum death benefit; or (iii) if the Credits were applied within twelve months preceding a request for a surrender due to a Contingent Event, as defined in the Prior Application.

3. IDS Life and American Enterprise Life offered Contracts as described in the Prior Application. The Insurance Companies currently offer contracts that constitute Future Contracts covered by the Existing Order. At the appropriate time after effectiveness of the amended registration statement describing the Amended Contracts, IDS Life will begin offering the Amended Contracts.

4. In view of certain differences in the Amended Contracts from these Existing Contracts, Applicants filed an application to extend the relief under the Existing Order with respect to the recapture of Credits under the New Contracts. This recapture will occur under circumstances substantially similar to those described in the Prior

Application as well as under certain additional circumstances.

5. IDS Life proposes to offer two new Amended Contracts, American Express Retirement Advisor Advantage Plussm Variable Annuity ("RAVA Advantage Plus") and American Express Retirement Advisor Select Plussm Variable Annuity ("RAVA Select Plus"). RAVA Advantage Plus and RAVA Select Plus are available as nonqualified annuities for after-tax contributions only, or as qualified annuities under certain retirement plans. RAVA Advantage Plus—Band 3 and RAVA Select Plus—Band 3 are available to current or retired employees of AEFC and their spouses; current or retired American Express financial advisors and their spouses; or individuals who, with IDS Life's approval, invest an initial purchase payment of \$1,000,000 or more (collectively, the "Band 3 Contracts"). These Amended Contracts reflect certain differences from the IDS Life Account Existing Contracts. The primary differences between the IDS Life Account Existing Contracts and the Amended Contracts are as follows:

a. Purchase Payments

Under the Existing Contracts, the owner may allocate initial and subsequent additional payments ("Purchase Payments") to the subaccounts or fixed account in even 1% increments. Under the Amended Contracts, the Owner may allocate Purchase Payments to the subaccounts, fixed account and/or special dollar-cost averaging account in even 1% increments. IDS Life reserves the right to not accept Purchase Payments allocated to the fixed account for twelve months following either: a partial surrender from the fixed account; or a lump sum transfer from the fixed account to a subaccount.

b. Credits

Under the Existing Contracts, the Credits are 1% of each Purchase Payment received if the owner selected the ten-year contingent deferred sales charge ("CDSC") schedule and the initial Purchase Payment is under \$100,000 or if the owner selected the seven-year CDSC schedule and the initial Purchase Payment is at least \$100,000; 2% of each Purchase Payment received if the owner selected the ten-year CDSC schedule and the initial Purchase Payment is at least \$100,000. For RAVA Advantage Plus, the Credits are 1% of each Purchase Payment received if the owner selected the ten-year CDSC schedule and the initial Purchase Payment is under \$100,000 or if the owner selected the seven-year

CDSC schedule and the initial Purchase Payment is at least \$100,000 but less than \$1,000,000; 2% of each Purchase Payment received if the owner selected the ten-year CDSC schedule and the initial Purchase Payment is at least \$100,000 but less than \$1,000,000. For RAVA Advantage Plus—Band 3 Contracts, the Credits are 2% of each Purchase Payment received if the owner selected the seven-year CDSC schedule; 3% of each Purchase Payment received if the owner selected the ten-year CDSC schedule. For RAVA Select Plus, the Credits are 1% of each Purchase Payment received in the first contract year if the initial Purchase Payment is at least \$250,000 but less than \$1,000,000. For RAVA Select Plus—Band 3 Contracts, the Credits are 2% of each Purchase Payment received in the first contract year.

c. Recapture of Credits

Under the Existing Contracts, IDS Life may recapture Credits if: (i) The owner returns the Existing Contract during the free look period which is the period during which an owner may return an Existing Contract after it has been delivered and receive a full refund of the contract value, less the amount of any Credits; (ii) credits were applied within twelve months preceding the date of death that results in a lump sum death benefit; or (iii) credits were applied within twelve months preceding a request for surrender due to the following Contingent Events where no CDSC is incurred: (a) Owner's or annuitant's confinement to a nursing home when IDS Life waives surrender charges that normally are assessed upon a full or partial surrender if the owner provides satisfactory proof that, as of the date of the surrender request, the owner or annuitant is confined to a nursing home or hospital and has been for the prior 90 days, and the confinement began after the contract date; (b)

terminal illness when IDS Life would waive surrender charges that normally are assessed upon a full or partial surrender if the owner or annuitant is diagnosed, in the second or later contract years, as disabled with a medical condition that with reasonable medical certainty will result in death within twelve months or less from the date of a licensed physician's statement; (c) disability when IDS Life would waive surrender charges that normally are assessed upon a full or partial surrender if the owner or annuitant becomes disabled, within the meaning of the Internal Revenue Code Section 72(m)(7), after the contract date; or (d) unemployment when IDS Life would waive surrender charges that normally are assessed upon a full or partial surrender if the owner or annuitant becomes unemployed at least one year after the contract date.

Under the Amended Contracts, IDS Life proposes to recapture Credits if: (i) The owner returns the Amended Contract during the free look period which is the period during which an owner may return an Amended Contract after it has been delivered and receive a full refund of the contract value, less the amount of any Credits; (ii) credits were applied within twelve months preceding the date of death that results in a lump sum death benefit; (iii) credits were applied within twelve months preceding settlement under an annuity payout plan; or (iv) credits were applied within twelve months preceding a request for surrender due to either of the following Contingent Events where no CDSC is incurred: (a) Owner or owner's spouse's confinement to a nursing home when IDS Life waives surrender charges that normally are assessed upon a full or partial surrender if the owner provides satisfactory proof that, as of the date of the surrender request, the owner or owner's spouse is confined to a nursing home or hospital and has been

for the prior 60 days, and the confinement began after the contract date or (b) terminal illness when IDS Life would waive surrender charges that normally are assessed upon a full or partial surrender if the owner is diagnosed, in the second or later contract years, as disabled with a medical condition that with reasonable medical certainty will result in death within twelve months or less from the date of a licensed physician's statement.

With respect to settlement of the Amended Contracts under an annuity payout plan, to the extent the settlement amount includes Credits applied within twelve months preceding the settlement under an annuity payout plan, IDS Life proposes to assess a charge, similar to a surrender charge, equal to the amount of the Credits. Under the current Amended Contracts, the settlement amount available to the owner to purchase payouts under an annuity payout plan is the full contract value on the settlement date (less any applicable premium tax). IDS Life respectfully requests that the exemptive relief for recapture of certain Credits upon settlement under an annuity payout plan be extended to include Future Amended Contracts that may permit partial settlement under an annuity payout plan in addition to full settlement under an annuity payout plan as provided for in the current Amended Contracts.

d. Investment Funds

The Existing Contracts have between 47 and 56 Investment Funds from 21 fund families (depending on the Existing Contract) to which owners may allocate their contract values. The Amended Contracts have 54 Investment Funds from 18 fund families.

e. CDSC Schedules

The Existing Contracts have the following CDSC Schedules:

[Contingent deferred sales load as a percentage of purchase payment surrendered]

Seven-year schedule		Ten-year schedule	
Number of completed years from date of each purchase payment		Surrender charge percentage	Surrender charge percentage
		Number of completed years from date of each purchase payment	
0	7	0	8
1	7	1	8
2	7	2	8
3	6	3	7
4	5	4	7
5	4	5	6
6	2	6	5
7+	0	7	4
		8	3

[Contingent deferred sales load as a percentage of purchase payment surrendered]

Seven-year schedule		Ten-year schedule	
Number of completed years from date of each purchase payment	Surrender charge percentage	Number of completed years from date of each purchase payment	Surrender charge percentage
		9	2
		10+	0

Under the Amended Contracts, the RAVA Advantage Plus Contracts have the same seven-year and ten-year CDSC

schedules as the Existing Contracts noted above.

The RAVA Select Plus Contracts have the following CDSC schedules:

CDSC SCHEDULE FOR RAVA SELECT PLUS (EXCEPT TEXAS)

[Contingent deferred sales load as a percentage of purchase payment surrendered]

Years from contract date	Surrender charge percentage
1	7
2	7
3	7
Thereafter	0

CDSC SCHEDULE FOR RAVA SELECT PLUS IN TEXAS

[Contingent deferred sales load]

	1	2	3	Thereafter
Payments made in contract year	Surrender charge percentage (as a percentage of purchase payments surrendered in contract year)			
1	8%	7%	6%	0%
2		8	7	0
3			8	0
Thereafter				0

f. Transfers

Under both the Existing Contracts and the Amended Contracts, the owner may transfer contract values between the subaccounts, or from the subaccounts to the fixed account at any time. Certain restrictions apply with respect to the timing of transfers from the fixed account. However, under the Amended Contracts, IDS Life reserves the right to limit transfers to the fixed account if the current interest crediting rate is equal to the minimum interest rate stated in the Amended Contract. Currently transfers out of the fixed account are limited to the greater of 30% of the fixed account value at the beginning of the contract year or the amount transferred out of the fixed account in the previous contract year, excluding automated transfers.

g. All Standard and Optional Death Benefits

Under the Existing Contracts, payment to the beneficiary occurs upon the earlier of the owner or annuitant's

death and benefits are based on the age of both the owner and annuitant. Under the Amended Contracts, payment to the beneficiary occurs upon the owner's death and benefits are based on the age of the owner.

h. Standard Death Benefit

Under the Existing Contracts, if the owner and annuitant are age 80 or younger on the date of death, the death benefit is the greatest of: the contract value; the contract value as of the most recent sixth contract anniversary plus subsequent Purchase Payments less adjusted partial surrenders; or Purchase Payments less adjusted partial surrenders. If the owner or annuitant is age 81 or older on the date of death, the death benefit is the greatest of: the contract value; or Purchase Payments less adjusted partial surrenders. Under the Amended Contracts, if the owner is age 75 or younger at contract issue, the death benefit is the greater of: the contract value, less Credits subject to

recapture and less a pro-rata portion of any rider fees; or Purchase Payments less adjusted partial surrenders. If the owner is age 76 or older at contract issue, the death benefit is the contract value less Credits subject to recapture and less a pro-rata portion of any rider fees.

i. Optional Return of Purchase Payment ("ROPP") Death Benefit

The ROPP Death Benefit is not available under the Existing Contracts. Under the Amended Contracts, the ROPP Death Benefit is available (in approved states) if the owner is age 76 or older at contract issue. The ROPP Death Benefit is included in the standard death benefit if the owner is age 75 or younger at contract issue at no additional cost. The ROPP Death Benefit states that, upon the owner's death, before annuity payouts begin and while the Amended Contract is in force, IDS Life will pay the designated beneficiary the greater of: (i) The contract value, less

Credits subject to recapture and less a pro-rata portion of any rider fees; or (ii) Purchase Payments minus adjusted partial surrenders. The current cost of the ROPP Death Benefit is 0.20%. IDS Life reserves the right to increase the cost after the tenth rider anniversary to a maximum of 0.30%.

j. Optional Maximum Anniversary Value ("MAV") Death Benefit

The optional MAV death benefit is available under both the Existing and the Amended Contracts. Under the Existing Contracts, the MAV Death Benefit is available (in approved states) if both the owner and annuitant are age 75 or younger at contract issue. The MAV death Benefit states that, upon the earlier of the owner or annuitant's death, before annuity payouts begin and while the Existing Contract is in force, IDS Life will pay the designated beneficiary the MAV. On the first contract anniversary, IDS Life sets the MAV equal to the highest of the (i) current contract value; or (ii) total Purchase Payments minus adjusted partial surrenders. Every contract anniversary after that, through the earlier of the owner's or annuitant's age 80, IDS Life compares the previous anniversary's MAV plus subsequent Purchase Payments less subsequent adjusted partial surrenders to the current contract value and resets the MAV to the higher of these values. IDS Life stops resetting the MAV after the owner or annuitant reaches age 81. However, IDS Life continues to add subsequent Purchase Payments and subtract adjusted partial surrenders from the MAV. The current cost of the optional MAV Death Benefit under the Existing Contracts is 0.25% (0.15% for Existing Contracts purchased prior to May 1, 2003). IDS Life reserves the right to increase this cost on new Existing Contracts up to a maximum of 0.45%.

Under the Amended Contracts, the MAV Death Benefit is available (in approved states) if the owner is age 75 or younger at contract issue. On the first contract anniversary after the rider effective date, IDS Life sets the MAV equal to the highest of the (i) current contract value; or (ii) total Purchase Payments minus adjusted partial surrenders. Every contract anniversary after that through age 80, IDS Life compares the previous anniversary's MAV plus subsequent Purchase Payments less subsequent adjusted partial surrenders to the current contract value and resets the MAV to the higher of these values. IDS Life stops resetting the MAV after the owner reaches age 81. However, IDS Life continues to add subsequent Purchase Payments and

subtract adjusted partial surrenders from the MAV. The MAV Death Benefit states that, upon the owner's death, before annuity payouts begin and while the Amended Contract is in force, IDS Life will pay the designated beneficiary the greatest of (i) contract value, less Credits subject to recapture and less a pro-rata portion of any rider fees; (ii) Purchase Payments minus adjusted partial surrenders; or (iii) the MAV value as calculated on the most recent contract anniversary plus subsequent Purchase Payments made to the Amended Contract and minus adjustments for partial surrenders since that contract anniversary. The current cost of the optional MAV death benefit under the Amended Contracts is 0.25%. IDS Life reserves the right to increase this cost after the tenth rider anniversary to a maximum of 0.35%. A fee discount of 0.10% applies if the owner purchases the MAV Death Benefit with either the EEB or EEP.

k. Optional Maximum Five-Year Anniversary Value ("5-Year MAV") Death Benefit

The Amended Contracts also contain a new optional benefit that currently is not available under the Existing Contracts. The 5-Year MAV Death Benefit is available (in approved states) if the owner is age 75 or younger at contract issue. On the fifth contract anniversary after the rider effective date, IDS Life sets the MAV equal to the highest of the (i) current contract value; or (ii) total Purchase Payments minus adjusted partial surrenders. Every fifth contract anniversary after that through age 80, IDS Life compares the previous 5-Year anniversary's MAV plus subsequent Purchase Payments less subsequent adjusted partial surrenders to the current contract value and resets the MAV to the higher of these values. IDS Life stops resetting the MAV after the owner reaches age 81. However, IDS Life continues to add subsequent Purchase Payments and subtract adjusted partial surrenders from the MAV. The 5-Year MAV Death Benefit states that, upon the owner's death, before annuity payouts begin and while the Amended Contract is in force, IDS Life will pay the designated beneficiary the greatest of (i) contract value, less Credits subject to recapture and less a pro-rata portion of any rider fees; or (ii) Purchase Payments minus adjusted partial surrenders; or (iii) the MAV as calculated on the most recent fifth contract anniversary plus subsequent Purchase Payments made to the Amended Contract minus adjustments for partial surrenders since that contract anniversary. The current cost of the 5-

Year MAV Death Benefit is 0.10%. IDS Life reserves the right to increase this cost after the tenth rider anniversary to a maximum of 0.20%. A fee discount of 0.05% applies if the owner purchases the 5-Year MAV Death Benefit with either the EEB or EEP.

l. Optional Enhanced Earnings Death Benefit ("EEB")

The optional EEB is available under both the Existing Contracts and the Amended Contracts. Under the Existing Contracts, the EEB is available (in approved states) if both the owner and annuitant are age 75 or younger at the rider effective date. The EEB states that, upon the earlier of the owner's or annuitant's death, after the first contract anniversary but before annuity payouts begin and while the Existing Contract is in force, IDS Life will pay the designated beneficiary the standard death benefit or the MAV Death Benefit, if applicable, plus: (i) 40% of earnings at death if the owner and the annuitant were under age 70 on the rider effective date, up to a maximum of 100% of Purchase Payments not previously surrendered that are one or more years old; or (ii) 15% of earnings at death if the owner or the annuitant were age 70 to 75 on the rider effective date, up to a maximum of 37.5% of Purchase Payments not previously surrendered that are one or more years old. The current cost of the EEB under the Existing Contracts is 0.30%. IDS Life reserves the right to increase this cost on new Existing Contracts up to a maximum of 0.90%.

Under the Amended Contracts, the EEB is available (in approved states) if the owner is age 75 or younger at the rider effective date. The EEB states that, upon the owner's death, after the first contract anniversary but before annuity payouts begin and while the Amended Contract is in force, IDS Life will pay the designated beneficiary the standard death benefit or the MAV Death Benefit, if applicable, or 5-Year MAV Death Benefit, if applicable, plus: (i) 40% of earnings at death if the owner was under age 70 on the rider effective date, up to a maximum of 100% of Purchase Payments not previously surrendered that are one or more years old; or (ii) 15% of earnings at death if the owner was age 70 to 75 on the rider effective date, up to a maximum of 37.5% of Purchase Payments not previously surrendered that are one or more years old. The current cost of the EEB under the Amended Contracts is 0.30%. IDS Life reserves the right to increase this cost after the tenth rider anniversary to a maximum of 0.40%. A fee discount of 0.10% applies if the owner purchases

the MAV Death Benefit with the EEB and a fee discount of 0.05% applies if the owner purchases the 5-Year MAV Death Benefit with the EEB.

m. Optional Enhanced Earnings Plus Death Benefit ("EEP")

The optional EEP is available under both the Existing Contracts and the Amended Contracts. Under the Existing

Contracts, the EEP is available (in approved states) if both the owner and annuitant are age 75 or younger at contract issue. The EEP is available only under Existing Contracts purchased through an exchange. The EEP states that, upon the earlier of the owner's or annuitant's death, after the first contract anniversary but before annuity payouts begin and while this Existing Contract is

in force, IDS Life will pay the designated beneficiary: (i) EEP Part I benefits, which equal the benefits payable under the EEB described above; plus (ii) EEP Part II benefits, which equal a percentage of exchanged Purchase Payments identified at issue and not previously surrendered as follows:

Contract year	Percentage if owner and annuitant are under age 70 on the rider effective date	Percentage if owner or annuitant are age 70–75 on the rider effective date
One and Two	0	0
Three and Four	10	3.75
Five or more	20	7.5

Additional death benefits payable under the EEP are not included in the adjusted partial surrender calculation. The current cost of the EEP under the Existing Contracts is 0.40%. IDS Life reserves the right to increase this cost on new Existing Contracts up to a maximum of 1.25%.

Under the Amended Contracts, the EEP is available (in approved states) if the owner is age 75 or younger at contract issue. The EEP states that, upon the owner's death, after the first contract anniversary but before annuity payouts begin and while the Amended Contract is in force, IDS Life will pay the

designated beneficiary: (i) EEP Part I benefits, which equal the benefits payable under the EEB described above; plus (ii) EEP Part II benefits, which equal a percentage of exchanged Purchase Payments identified at issue and not previously surrendered as follows:

Contract year	Percentage if owner is under age 70 on the rider effective date	Percentage if owner is age 70–75 on the rider effective date
One and Two	0	0
Three and Four	10	3.75
Five or more	20	7.5

Additional death benefits payable under the EEP are not included in the adjusted partial surrender calculation. The current cost of the EEP under the Amended Contracts is 0.40%. IDS Life reserves the right to increase this cost after the tenth rider anniversary to a maximum of 0.50%. A fee discount of 0.10% applies if the owner purchases the MAV Death Benefit with the EEP and a fee discount of 0.05% applies if the owner purchases the 5-Year MAV Death Benefit with the EEP.

n. Other Charges

The Existing Contracts contain the following additional charges: (i) A mortality and expense risk fee of 0.95% for nonqualified annuities and 0.75% for qualified annuities; (ii) a \$30 annual contract administrative charge that IDS Life waives when the contract value, or total Purchase Payments less any Purchase Payments surrendered, is \$50,000 or more on the current contract anniversary, except at full surrender; and (iii) a premium tax charge of up to 3.5% depending on the owner's state of

residence or the state in which the Existing Contract was sold. In addition, assets invested in Investment Funds are charged with the annual operating expenses of those Funds.

The Amended Contracts contain the following additional charges: (i) A mortality and expense risk fee for RAVA Advantage Plus of 0.95% for nonqualified annuities, 0.75% for qualified annuities and 0.55% for Band 3 Contracts and a mortality and expense risk fee for RAVA Select Plus of 1.20% for nonqualified annuities, 1.00% for qualified annuities and 0.75% for Band 3 Contracts; (ii) a current \$30 annual contract administrative charge (which IDS Life reserves the right to increase after the first contract anniversary to a maximum of \$50) that IDS Life waives when the contract value, or total Purchase Payments less any Purchase Payments surrendered, is \$50,000 or more on the current contract anniversary, except at full surrender; and (iii) a premium tax charge of up to 3.5% depending on the owner's state of

residence or the state in which the Amended Contract was sold. In addition, assets invested in Investment Funds are charged with the annual operating expenses of those Funds.

o. Other Contract Features

The Existing Contracts and the Amended Contracts provide for the same surrender options, annuity payout options, dollar-cost averaging program and asset-rebalancing program. In addition, the Amended Contracts provide for a special dollar-cost averaging program. The Insurance Companies reserve the right to add new Contract features, including asset allocation programs, to Future Contracts and/or Future Amended Contracts.

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated thereunder if and to the extent that such

exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicants request that the Commission issue an amended order pursuant to Section 6(c) from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent deemed necessary to permit the Insurance Companies to recapture certain Credits under substantially the same circumstances described in the Prior Application as well as certain additional circumstances, specifically: (i) Any Credits applied when an owner returns a New Contract to an Insurance Company for a refund during the free look period; (ii) Credits applied within twelve months preceding the date of death that results in a lump sum death benefit (including death benefits under optional death benefit riders); (iii) Credits applied within twelve months preceding a request for a surrender charge waiver due to Contingent Events described in the New Contracts; and (iv) Credits applied within twelve months preceding the owner's full settlement of the Amended Contract or full or partial settlement of a Future Amended Contract under an annuity payout plan. The amount an Insurance Company pays under these circumstances will always equal or exceed the surrender value.

3. Applicants represent that it is not administratively feasible to track the Credit amount in the Accounts after the Credit is applied. Accordingly, the asset-based charges applicable to the Accounts will be assessed against the entire amounts held in the respective Accounts, including the Credit amount, during the free look period and the twelve-month recapture periods. As a result, during such periods, the aggregate asset-based charges assessed against an owner's contract value will be higher than those that would be charged if the owner's contract value did not include the Credit.

4. Subsection (i) of Section 27 of the Act provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) defines "redeemable security" as any security, other than short-term paper,

under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

5. Applicants submit that the recapture of the Credit amount in the circumstances set forth in the application would not deprive an owner of his or her proportionate share of the issuer's current net assets. An owner's interest in the Credit amount allocated to his or her contract value upon receipt of an initial Purchase Payment is not vested until the applicable free look period has expired without return of the New Contract. Similarly, an owner's interest in the Credit amounts allocated to his or her New Contract within twelve months preceding a Contingent Event or settlement under an annuity payout plan also is not vested. Applicants submit that until the right to recapture has expired and any Credit amount is vested, the Insurance Companies retain the right and interest in the Credit amount, although not in the earnings attributable to that amount. Thus, when the Insurance Companies recapture any Credit, they are merely retrieving their own assets, and the owner has not been deprived of a proportionate share of the applicable Account's assets because his or her interest in the Credit amount has not vested.

6. In addition, Applicants believe that permitting an owner to retain a Credit amount under a New Contract upon the exercise of the free look period would not only be unfair, but also would encourage individuals to purchase a New Contract with no intention of keeping it and returning it for a quick profit. Applicants submit that the recapture of Credit amounts within twelve months preceding a Contingent Event and within twelve months of settlement under an annuity payout plan is designed to provide the Insurance Companies with a measure of protection against anti-selection. The anti-selection risk is that an owner can collect a Credit shortly before death, a Contingent Event or settlement under an annuity payout plan thereby leaving the Insurance Companies little time to recover the cost of the Credit. As noted earlier, the amounts recaptured equal the Credits provided by the Insurance Companies from their general account assets, and any gain would remain a part of the owner's contract value. In addition, the amount the owner receives in any of the circumstances where Credits are recaptured will always equal or exceed the surrender value of the New Contract.

7. For the foregoing reasons, Applicants submit that the provisions for recapture of any Credit under the Amended Contracts does not, and any Future Amended Contract provisions will not, violate Section 2(a)(32) and 27(i)(2)(A) of the Act. Applicants believe that a contrary conclusion would be inconsistent with a stated purpose of the National Securities Markets Improvement Act of 1996 ("NSMIA"), which is to amend the Act to "provide more effective and less burdensome regulation." Sections 26(e) and 27(i) were added to the Act to implement the purposes of NSMIA and Congressional intent. To avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from Section 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Credit under the circumstances described in the application with respect to New Contracts, without the loss of relief from Section 27 provided by Section 27(i).

8. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by Section 22(a). Rule 22c-1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

9. Applicants represent that the Insurance Companies' recapture of the Credit might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Accounts. Applicants contend, however, that the recapture of the Credit does not violate Section 22(c) and Rule 22c-1.

10. Applicants submit that the recapture of the Credit does not involve either of the evils that Rule 22c-1 was intended to eliminate or reduce as far as reasonably practicable, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or

redemption or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices. These evils were the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day. Backward pricing allowed investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, thereby diluting the values of outstanding mutual fund shares.

11. Applicants submit that the proposed recapture of the Credit does not pose such a threat of dilution. To effect a recapture of a Credit, the Insurance Companies will redeem interests in an owner's account at a price determined on the basis of the current net asset value of that account. The amount recaptured will equal the amount of the Credit that the Insurance Companies paid out of their general account assets. Although the owner will be entitled to retain any investment gain attributable to the Credit, the amount of that gain will be determined on the basis of the current net asset value of the Account. Thus, no dilution will occur upon the recapture of the Credit. Applicants also submit that the second harm that Rule 22c-1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit.

12. Applicants submit that because neither of the harms that Rule 22c-1 was meant to address is found in the recapture of the Credit, Rule 22c-1 and Section 22(c) should not apply to any Credit. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c-1 to the extent deemed necessary to permit them to recapture the Credit under the New Contracts.

13. Applicants request an amended order pursuant to Section 6(c) from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent deemed necessary to permit the Insurance Companies to issue the New Contracts, allowing the Insurance Companies to offer and, where applicable, to recapture any Credits as described herein. Applicants represent that the Credit will be attractive to and in the interest of investors because it will permit owners to put up to 103% of their Purchase Payments to work for them in the selected Investment Funds. In addition, the owner will retain any earnings attributable to the Credit, as well as the principal Credit amount

once vested after the twelve-month recapture period.

14. Applicants further submit that the recapture of any Credit only applies in relation to the risk of anti-selection against the Insurance Companies. In the context of the Contingent Events described in the Prior Application or Contingent Events or settlement under an annuity payout plan described in the application, anti-selection can generally be described as a risk that New Contract owners obtain an undue advantage based on elements of fairness to the Insurance Companies and the actuarial and other factors they take into account in designing the New Contracts. Applicants submit that there is no difference in the risk of anti-selection arising from settlement under an annuity payout plan as described in the application and the risk of anti-selection discussed in the Prior Application with respect to Contingent Events. The Insurance Companies provide the Credits from their general account on a guaranteed basis. Thus, the Insurance Companies undertake a financial obligation that contemplates the retention of the New Contracts by their owners for at least the duration of the CDSC period. The Insurance Companies generally expect to recover their costs, including Credits, over an anticipated duration while a New Contract is in force. The right to recapture Credits applied to Purchase Payments made within twelve months preceding settlement under an annuity payout plan protects the Insurance Companies against the risk that an owner will make additional Purchase Payments or purchase a New Contract with the knowledge that he or she is about to settle the New Contract under an annuity payout plan.

15. Applicants represent that with respect to refunds paid upon the return of the New Contracts within the free look period, the amount payable by the Insurance Companies must be reduced by the Credit amount. Otherwise, purchasers could apply for New Contracts for the sole purpose of exercising the free look provision and making a quick profit.

Conclusion

Applicants submit that their request for an amended order that applies to the Accounts or any other Future Accounts established by the Insurance Companies in connection with the issuance of Amended Contracts and Future Amended Contracts that are substantially similar in all material respects to the Amended Contracts described herein (including the Contingent Events and settlement under

an annuity payout plan described in the application), and underwritten or distributed by IDS Life, AEFA, or Affiliated Broker-Dealers is appropriate in the public interest. Such an amended order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in the application. Having Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in the application, investors would not receive any benefit or additional protection thereby.

Applicants undertake that Future Amended Contracts funded by the Accounts, or by Future Accounts, which seek to rely on the amended order will be substantially similar in all material respects to the Amended Contracts.

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act, or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit, for the reasons stated herein, that their exemptive requests meet the standards set out in Section 6(c) and that an amended order should, therefore, be granted.

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

Margaret H. McFarland,

Deputy Secretary.

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