

[Release No. IC-21025; 812-9198]

**Integrity Life Insurance Company, et al.**

April 24, 1995.

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

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** Integrity Life Insurance Company ("Integrity"), National Integrity Life Insurance Company ("National Integrity") (Integrity and National Integrity shall be referred to hereinafter as the "Companies"), Integrity Life Insurance Company Separate Account III (the "Integrity Separate Account"), National Integrity Life Insurance Company Separate Account III (the "National Integrity Separate Account") (the Integrity Separate Account and the National Integrity Separate Account shall be referred to collectively hereinafter as the "Separate Accounts"), and Integrity Financial Services ("IFS").

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof.

**SUMMARY OF APPLICATION:** Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Accounts under certain flexible premium variable annuity contracts (the "Contracts") and under any materially similar contracts offered in the future by such Separate Accounts (the "Future Contracts") or from the assets of any other separate account established by either of the Companies in the future to support variable annuity contracts which are materially similar to the Contracts, and for which any National Association of Securities Dealers, Inc. ("NASD") member broker-dealer other than IFS—which is wholly-owned by the ARM Financial Group, Inc. and registered with the Commission under the Securities Exchange Act of 1934—may in the future serve as the principal underwriter.

**FILING DATES:** The application was filed on August 24, 1994, and amended on March 31, 1995.

**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 Commission's Secretary 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 May 19, 1995, and must be

accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests must state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549.

Applicants: c/o Jordan Burt & Berenson, 1025 Thomas Jefferson Street NW., Suite 400 East, Washington, DC 20007-0805, Attention: Michael Berenson, Esq.

**FOR FURTHER INFORMATION CONTACT:** Joseph G. Mari, Senior Special Counsel, or Patrice M. Pitts, Special Counsel, 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 is available for a fee from the Commission's Public Reference Branch.

**Applicants' Representations**

1. Integrity was organized in 1966 as an Arizona stock life insurance company and has redomesticated as an Ohio stock life insurance company. National Integrity was organized in 1968 as a New York stock life insurance company. Each of the Companies is principally engaged in offering life insurance policies and annuity contracts. National Integrity is a subsidiary of Integrity and both Companies are indirectly wholly-owned by The ARM Financial Group, Inc., an insurance holding company. The ARM Financial Group, Inc. is a holding company in the business of owning and managing life insurance companies that specialize in the design, marketing, and management of accumulation products.

2. The Integrity Separate Account is a distinct investment account of Integrity, and the National Integrity Separate Account is a distinct investment account of National Integrity. Each of the Separate Accounts acts as a funding vehicle for the Contracts.

3. Each Separate Account invests solely in the Schabacker Select Fund (the "Portfolio"), currently the only investment portfolio of United Services Insurance Funds ("USIF"), a diversified, open-end management investment company that has filed a registration statement with the SEC under the 1940 Act. The Portfolio primarily invests in a broad range of other open-end and closed-end investment companies ("underlying funds"). An investor in the Portfolio may have the option of investing directly in the underlying

funds, rather than indirectly through the Portfolio which will duplicate some operating expenses. As a result of this duplication of expenses, an investor not only will bear the investor's proportionate share of the expenses of the Portfolio, including operation costs and management fees, but also will indirectly share in a portion of similar expenses of the underlying funds. The shares of the Portfolio are purchased by each Company for the Company's Separate Account at net asset value, without a sales load.

4. The board of directors of each of the Companies may, in the future, establish additional subaccounts within the same Separate Account ("Subaccounts"), which may invest in other portfolios of USIF as and when such portfolios are registered, or in other investments. Each Company may, in the future, establish other contracts which are funded by the Company's Separate Account and which are materially similar to the Contracts. In addition, each Company may, in the future, establish other separate accounts which issue contracts which are materially similar to the Contracts.

5. IFS, a wholly-owned subsidiary of The ARM Financial Group, Inc. which is registered as a broker-dealer under the Securities Exchange Act of 1934, is the distributor of the Contracts.

6. The Contracts are intended to be used in connection with retirement plans that qualify for Federal tax advantages and for plans that do not so qualify. The Contracts are flexible premium variable annuity contracts which provide for an initial contribution and allow for additional contributions at any time before the annuity payments begin, as long as the annuitant is living and subject to certain limitations.

7. No sales load is deducted from the initial contribution or any additional contributions, and there are no sales charges imposed upon withdrawals.

8. The Contracts are subject to an annual maintenance fee of \$35 which will be deducted on the last business day of each Contract year. The annual maintenance fee will be waived in any year that the account value of the Contract is \$50,000 or more on the last business day of the Contract year.

9. Prior to the retirement date, an administrative charge equal to 0.15% annually of the net asset value of the Separate Account of each Company is assessed daily and will be deducted from the accumulation unit value of the Contract. The administrative charge is intended to cover the Company's ongoing administrative expenses. This charge and the annual maintenance fee

will not in the aggregate exceed the cost of services to be provided over the life of the Contract defined in accordance with the applicable standards in Rule 26a-1 under the 1940 Act. The deductions for the administrative charge and annual maintenance fee represent reimbursement for the costs expected to be incurred by each Company over the life of the Contract for issuing and maintaining each Contract and the Company's Separate Account.

10. The Contract owner will pay premium taxes, where such taxes are imposed by state law, and which taxes currently range up to 3.5%. These taxes will be deducted from the account value or contributions, as incurred by each Company. Any other taxes levied by any government entity regarding the Contracts or the Separate Accounts will be paid by each of the Companies.

11. Each Company will impose a charge as compensation for bearing certain mortality and expense risks under the Contract. The annual charge is assessed daily and is based on the net asset value of each Separate Account. The annual mortality and expense risk charge will not exceed an effective annual rate of 0.50% of the net asset value of each Separate Account, where 0.40% is allocated to the mortality risk and 0.10% is allocated to the expense risk. Likewise, for Future Contracts, the annual mortality and expense risk charge will not exceed an effective annual rate of 0.50% of the net asset value of the Separate Account attributable to such contracts, where 0.40% is allocated to the mortality risk and 0.10% is allocated to the expense risk.

12. The mortality risk borne by each Company under the Contract arises from the Company's obligation to make annuity payments regardless of how long an annuitant may live. Each Company also assumes mortality risk as a result of death benefits which may be paid under the Contract and which guarantee a minimum payment in the event that the annuitant dies prior to the annuity date. The expense risk borne by each Company under the Contract is the risk that the charges for administrative expenses, which charges are guaranteed for the life of the Contract, may be insufficient to cover the actual costs of issuing and administering the Contract.

13. If the mortality and expense risk charges deducted are insufficient to cover the actual cost of the mortality and expense risk, each Company will bear the loss. Conversely, if the mortality and expense risk charges deducted exceed the costs, the excess will be added to each Company's surplus and will be used for any lawful

purpose, including any shortfalls on the costs of distributing the Contracts.<sup>1</sup>

#### Applicants' Legal Analysis and Conditions

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the 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 1940 Act.

2. Sections 26(a)(2) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust, and any depositor or underwriter thereof, from selling periodic payment plan certificates unless the proceeds of all payments are deposited with a qualified trustee or custodian and are held under arrangements which prohibit any payment to the depositor or principal underwriter except for a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

3. Applicants request an order under Section 6(e) exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account funding the Contracts and Future Contracts. Applicants also request that the order permit the deduction of a mortality and expense risk charge from the assets of any other separate account established by either of the Companies in the future to support variable annuity contracts which are materially similar to the Contracts, and for which any NASD member broker-dealer other than IFS may in the future serve as the principal underwriter. Any such future principal underwriter will be wholly-owned, directly or indirectly, by the ARM Financial Group, Inc., and be registered with the Commission under the Securities Exchange Act of 1934.

4. Applicants submit that the requested relief is appropriate in the public interest because such an order would promote competitiveness in the variable annuity contract market by eliminating the need for the Companies to file redundant exemptive applications, which reduces each Company's resources. Applicants further submit that investors would not

receive any benefit or additional protection by the Company being required repeatedly to seek exemptive relief regarding the same issues addressed in this application.

5. Applicants represent that the mortality and expense risk charges under the Contracts are within the range of industry practice for comparable variable annuity contracts. Applicants base this representation on their review of publicly available information regarding the aggregate level of the mortality and expense risk charges under variable annuity contracts currently being offered in the insurance industry which are comparable to the Contracts. In this regard, Applicants have taken into consideration such factors as current charge levels, the manner in which charges are imposed, the presence of charge-level or annuity-rate guarantees, and the markets in which the Contracts will be offered. Applicants will maintain and make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

6. Similarly, prior to making available any Future Contracts and prior to making available any materially similar contracts through other separate accounts established by either of the Companies in the future, Applicants will represent that the mortality and expense risk charges under any such contracts will be within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

7. The Contracts do not provide for a sales charge to cover the costs incurred in distributing the Contracts, and there are no sales charges imposed upon surrender or partial withdrawal of a Contract. Applicants represent that the costs related to the distribution of the Contracts will be paid from the assets of the general account of the Company, which amounts will be derived in part from gains from operations regarding the Contracts and from the mortality and expense risk charge. Each Company has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts and the Future Contracts will benefit the Company's Separate Account and the Contract owners. The Companies will maintain and make available to the Commission upon request a

<sup>1</sup> Applicants represent that, during the notice period, the application will be amended to reflect this representation.

memorandum setting forth the basis for this representation.

8. Applicants further represent that each Separate Account, and other separate accounts established in the future, will invest only in underlying funds which have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of any such funds, formulate and approve any plan under Rule 12b-1 under the 1940 Act to finance distribution expenses.

#### Applicants' Conclusion

Applicants assert that, for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

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

Margaret H. McFarland,  
*Deputy Secretary.*

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## DEPARTMENT OF STATE

### [Public Notice 2191]

#### Notice Convening an Accountability Review Board for the Attack on the Consulate Shuttle Bus in Karachi in Which Two Americans Were Killed

Pursuant to section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831 *et seq.*), I have determined that the March 8, 1995, terrorist attack on the Consulate shuttle bus in Karachi, Pakistan, involved loss of life related to a U.S. mission abroad. Therefore, I am convening an Accountability Review Board, as required by that statute, to examine the facts and circumstances of the attack and report to me such findings and recommendations as it deems appropriate, in keeping with the attached mandate.

I have appointed former Ambassador Jane Coon as chairperson of the board. She will be assisted by former Ambassador Peter Sebastian, former Ambassador Peter Moffat, Mr. James Higham, and Mr. George Murphy. Mr. Douglas Watson will act as Executive Secretary. The members will bring to their deliberations distinguished backgrounds in government service and private life.

I have asked the Board to submit its conclusions and recommendations to

the Secretary within sixty days of its first meeting, unless the Chairperson determines a need for additional time. Appropriate action will be taken and reports submitted to Congress on any recommendations made by the board.

Anyone with information relevant to the board's examination of this incident should contact the board promptly on (202) 647-9403.

Strobe Talbott,

*Deputy Secretary of State.*

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### [Public Notice 2196]

#### Bureau of Consular Affairs; Visa Office Meeting of U.S. Government Regulators and Outside Interested Parties; Notice

**SUMMARY:** Pursuant to a Presidential directive, agencies of the U.S. government are convening meetings of the government regulators with representatives of groups whose activities are so regulated. The Visa Office of the State Department will hold such a meeting on May 23, 1995.

**FOR FURTHER INFORMATION CONTACT:** Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, Department of State, Washington, D.C. 20522-0113; (PHONE) (202) 663-1204; (FAX) (202) 663-3898.

**DATES:** Interested parties are requested to communicate with the Visa Office by letter addressed to Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, (phone) (202) 663-1204; (FAX) (202) 663-3898 to make reservations for the meeting.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to discuss means of establishing better communication between those performing the visa function and interested parties. Additionally, as the Visa Office is in the process of preparing regulations to revamp the immigrant visa form under section 222(a) of the Immigration and Nationality Act pursuant to section 205 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, comments will be solicited from the participants in this regard. Persons interested in attending the meeting should FAX or telephone the Visa Office two weeks prior to the meeting to indicate their interest in attending. A letter confirming your interest in participating in the meeting, addressed to Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, Department of State, Washington, D.C. 20522-0113; (phone) (202) 663-1204;

(FAX); (202) 663-3898, must be received two weeks prior to the meeting to make reservations for the meeting. Letters may be faxed to ensure timely receipt. The Visa Office will confirm your participation and provide the time and location of the meeting. The number of representatives per group will be determined by the number of persons responding to this notice.

Dated: April 24, 1995.

Mary A. Ryan,

*Assistant Secretary for Consular Affairs.*

[FR Doc. 95-10500 Filed 4-27-95; 8:45 am]  
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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Approval of Noise Compatibility Program; General Mitchell International Airport Milwaukee, WI

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Milwaukee County under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On September 23, 1994 the FAA determined that the noise exposure maps submitted by Milwaukee County under part 150 were in compliance with applicable requirements. On March 22, 1995, the Administrator approved the General Mitchell International Airport noise compatibility program. Most of the recommendations of the program were approved.

**EFFECTIVE DATE:** The effective date of the FAA's approval of the General Mitchell International Airport noise compatibility program is March 22, 1995.

**FOR FURTHER INFORMATION CONTACT:** William J. Flanagan, Federal Aviation Administration, Airports District Office, room 102, 6020 28th Avenue South, Minneapolis, Minnesota 55450, (612) 725-4463. Documents reflecting this FAA action may be reviewed at this location.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has given its overall approval to the noise compatibility program for General