

other than those necessary for the winding up of its affairs.

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

[Rel. No. IC-22680; File No. 812-10362]

United Investors Life Insurance Company, et al.

May 22, 1997.

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

ACTION: Notice of Application for an Exemption Pursuant to the Investment Company Act of 1940 (the "Act").

APPLICANTS: United Investors Life Insurance Company ("United Investors"), RetireMAP Variable Account (the "Variable Account"), and MAP Investments Incorporated ("MAP").

RELEVANT ACT SECTIONS: Order requested pursuant to Section 6(c) of the Act, granting exemptions from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek exemptive relief to the extent necessary to permit United Investors, with respect to the Variable Account and any other separate accounts which United Investors may establish in the future ("Other Account"), to deduct prorated death benefit charges, upon surrender of a variable annuity policy, under an optional death benefit rider (the "Optional Death Benefit Rider") to the variable annuity policies currently offered through the Variable Account ("Policies") and future variable annuity policies that are similar in all material respects to the Policies ("Future Policies"). Exemptive relief also is requested to the extent necessary to permit the offer and sale of Policies and Future Policies for which certain broker-dealers other than MAP serve as the principal underwriter.

FILING DATE: The application was filed on September 23, 1996, and amended on January 31, 1997, and March 7, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC 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 SEC by 5:30 p.m. on June 16, 1997, 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, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o James L. Sedgwick, Esq., United Investors Life Insurance Company, 2001 Third Avenue South, Birmingham, Alabama 35233.

FOR FURTHER INFORMATION CONTACT: Michael B. Koffler, Staff Attorney, or Kevin M. Kirchoff, 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 is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. United Investors is a stock life insurance company that was incorporated in the State of Missouri on August 17, 1981. United Investors is a wholly-owned subsidiary of United Investors Management Company (formerly TMK/United, Inc.), which in turn is indirectly owned by Torchmark Corporation. United Investors is principally engaged in offering life insurance and annuity contracts and is admitted to do business in the District of Columbia and all states except New York.

2. The Variable Account was established on September 20, 1996, to fund tax-qualified and non-tax-qualified variable annuity policies. The Variable Account will be divided into a number of divisions ("Investment Divisions"), each of which will invest exclusively in a portfolio ("Portfolio") of a designated mutual fund ("Fund").

3. MAP is the principal underwriter and the distributor of the Policies. MAP is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. ("NASD"). MAP is not affiliated with United Investors.

4. Applicants reserve the right to designate the shares of another Portfolio of the Funds or of other management investment companies of the series type

as the exclusive investment vehicle for each new Investment Division that may be created in the future.

5. The Policies may be purchased and used in connection with pension plans that qualify or do not qualify for favorable federal income tax treatment.

6. An owner of a variable annuity issued by United Investors ("Policyowner") determines in the application for the Policy how the initial net purchase payment will be allocated among the Investment Divisions of the Variable Account and a fixed account of United Investors ("Fixed Account"). The Policyowner may allocate any whole percentage of net purchase payments, from 0% to 100%, to each Investment Division and the Fixed Account. The value of the policy will vary with the investment performance of the Investment Divisions selected, and the Policyowner bears the entire risk for amounts allocated to the Variable Account.

7. The Policyowner may transfer all or part of the policy value attributed to each investment Division to one or more of the other Investment Divisions at any time prior to the retirement date. The Policyowner may transfer all or a part of the policy value attributed to the Fixed Account to one or more of the Investment Divisions once per policy year prior to the retirement date. This restriction will not apply to automatic monthly transfers of a pre-selected dollar amount from the Fixed Account to the Investment Divisions.

8. Prior to the retirement date, the Policyowner may authorize automatic transfers of a fixed dollar amount from the Fixed Account or the money market Investment Division to up to four of the other Investment Divisions. Automatic transfers will be made on a monthly basis at the unit values determined on the date of each transfer. The Policyowner may surrender the Policy or make a partial withdrawal from the policy value and time prior to the retirement date.

9. The Policy pays a death benefit to the beneficiary if the Policyowner dies prior to the retirement date while the Policy is in force. The regular death benefit ("Basic Death Benefit") payable on the death of the Owner through attained age 75 is the greatest of: (a) The policy value; (b) the total purchase payments made, adjusted for any amount withdrawn and any withdrawal charges on the amounts withdrawn; and (c) the highest policy values on the 2nd, 4th, or 6th anniversaries that the policy went into effect ("Policy Anniversaries"), and every 6th Policy Anniversary thereafter. Purchase payments made after the Policy

Anniversary having the highest policy value will be added to the Basic Death Benefit, and adjustments will be made for any amounts withdrawn and any withdrawal charges since that anniversary. Withdrawal and withdrawal charges will result in a reduction of the Basic Death Benefit in the same proportion that the amount reduced the policy value on the date of the withdrawal.

10. Under the Optional Death Benefit Rider the death benefit payable on the death of the Policyowner ("Optional Death Benefit") through attained age 75 will be the greater of: (a) the policy value; and (b) the total purchase payments made, less withdrawals and withdrawal charges, accumulated at an annual effective rate of 5%, subject to a cap of 200% of purchase payments less withdrawals and withdrawal charges. The Optional Death Benefit payable on the death of the Policyowner after attained age 75 will be equal to the amount of the Optional Death Benefit on the Policy Anniversary on which age 76 is attained and will not increase thereafter.

11. The Policyowner has the sole right to elect (in the application for the Policy) or change (at least 30 days before the retirement date) an annuity payment option during the lifetime of the Policyowner. The first annuity payment will be made as of the retirement date. The Policyowner may select the retirement date in the application for the Policy. The Policyowner may change the retirement date at any time at least 30 days prior to the new retirement date. The retirement date may be changed to the first day of any calendar month commencing 30 days after the first Policy Anniversary. The amount of each annuity payment under the annuity payment options will depend on the sex and age of the annuitant at the time the first payment is due. The payment options currently available all involve life contingencies.

12. There will be a charge made each year ("Optional Death Benefit Rider Charge") for expenses related to the Optional Death Benefit available under the terms of the Optional Death Benefit Rider. United Investors deducts this charge through the cancellation of accumulation units at each Policy Anniversary and at surrender to compensate it for the increased risk associated with providing the Optional Death Benefit. The charge at full surrender will be a pro rata portion of the annual charge. United Investors guarantees that this charge will never exceed the annual rate of 0.17% of the average death benefit amount, which is

the mean of the death benefit amount on the current Policy Anniversary (or date of surrender) and the death benefit amount on the immediately preceding Policy Anniversary.

Applicants' Legal Analysis

1. Section 2(a)(32) of the Act defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

2. Rule 22c-1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in such security, and the principal underwriter of, or dealer in, any such security from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security.

3. Section 27(i)(2)(A) of the Act, in pertinent part, makes it unlawful for any registered separate account funding variable insurance contracts, or for the sponsoring insurance company of such account, to sell any such contract unless such contract is redeemable security.

4. The optional death benefit represents an optional insurance benefit that United Investors may provide through the life of the Policy. United Investors assesses the Optional Death Benefit Rider Charge to compensate it for the increased risk it bears if a Policyowner elects the Optional Death Benefit Rider. Normally, the Optional Death Benefit Rider Charge accrues each policy year and is deducted retroactively on each Policy Anniversary, for the prior policy year. By paying a prorated Optional Death Benefit Rider Charge upon a surrender of the policy, the Policyowner compensates United Investors for the additional risk the company bears during the period between the last Policy Anniversary and the date of surrender.

5. Applicants submit that the assessment of a prorated Optional Death Benefit Rider Charge upon a Policyowner's surrender, which is fully disclosed in the prospectus for the Policy, should not be construed as a restriction on redemption. Applicants maintain that the imposition of the prorated Optional Death Benefit Rider Charge upon surrender represents nothing more than the proportionate deduction of an insurance charge that could otherwise be deducted daily

through the life of the Policy. Moreover, the Optional Death Benefit Rider Charge is assessed only if the Policyowner has elected it.

6. Accordingly, Applicants request that the Commission issue an order pursuant to Section 6(c) of the Act exempting them from Sections 2(a)(32), 22(c), and 27(i)(2)(A) thereof and Rule 22c-1 thereunder to the extent necessary to permit the Applicants to assess a prorated Optional Death Benefit Rider Charge upon surrender of a Policy where the Policyowner has elected the Optional Death Benefit Rider. Applicants assert that the requested relief is substantially the same as exemptive relief the Commission has granted to other applicants.

7. Applicants seek relief not only with respect to the Policies, but also with respect to Future Policies issued by the Variable Account or Other Accounts. Applicants also seek relief with respect to Future Underwriters, which will be members of the NASD.

8. Applicants state that, without the requested class relief, exemptive relief for Future Policies, any Other Account, or any Future Underwriter would have to be requested and obtained separately. Applicants assert that such additional requests for exemptive relief would not present additional issues under the Act. Applicants state that if they were to repeatedly seek exemptive relief, investors would not receive additional protection or benefit, and investors and the Applicants could be disadvantaged by increased costs resulting from such additional requests for relief. Applicants argue that the requested class relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the need for United Investors to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. Elimination of the delay and the expense of repeatedly seeking exemptive relief would, Applicants assert, enhance their ability to effectively take advantage of business opportunities as such opportunities arise.

Conclusion

For the reasons summarized above, Applicants believe that the requested exemptions are necessary and 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.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-14123 Filed 5-29-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of June 2, 1997.

A closed meeting will be held on Tuesday, June 3, 1997, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 3, 1997, at 11:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: May 28, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97-14282 Filed 5-28-97; 11:38 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38670 File No. SR-NASD-97-29]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments No. 1 and No. 2 Thereto by the National Association of Securities Dealers, Inc. Relating to Prohibition on Members Receiving any Payment to Publish a Quotation, Make a Market in an Issuer's Securities or Submit an Application to Make a Market in an Issuer's Securities

May 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4 thereunder,² notice is hereby given that on April 18, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On May 19, 1997 and May 21, 1997, NASD submitted two amendments ("Amendment No. 1") and "Amendment No. 2"), respectively, to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The NASD is proposing Rule 2460 to prohibit members from receiving any payment to publish a quotation, make a market in an issuer's securities, or submit an application to make a market.⁴ Below is the text of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter from Alden Adkins, Vice President and General Counsel, NASD Regulation, to Elaine Darroch, Attorney, Division of Market Regulation, SEC (May 16, 1997) ("Amendment No. 1"). In Amendment No. 1, NASD Regulation made technical corrections to the text of the rule, provided an explanation for not expressly prohibiting member-to-member payments of making a market, and added an explanatory footnote concerning the rule's coverage. Letter from Alden Adkins, Vice President and General Counsel, NASD Regulation, to Elaine Darroch, Division of Market Regulation, SEC (May 21, 1997) ("Amendment No. 2"). Amendment No. 2 corrected a minor omission in Amendment No. 1.

⁴ The proposed rule change was approved by the Board of Directors of the NASD Regulation at its meeting on March 12, 1997, which authorized the filing of the rule change with the SEC. The NASD, Inc., Board of Governors declined to review the proposed rule change at its meeting on April 10, 1997. No other action is necessary to approve the proposed rule change. See Amendment No. 1, *supra* note 3.

proposed rule change. Proposed new language is in italics.

2460. Payments for Market Making

(a) *No member or person associated with a member shall accept any payment or other consideration, directly or indirectly, from an issuer of a security, or any affiliate or promoter thereof, for publishing a quotation, acting as market maker in a security, or submitting an application in connection therewith.*

(b) *The provisions of paragraph (a) shall not preclude a member from accepting:*

(1) *payment for bona fide services, including, but not limited to, investment banking services (including underwriting compensation and fees); and*

(2) *reimbursement of any payment for registration imposed by the Securities and Exchange Commission or state regulatory authorities and for listing of an issue of securities imposed by a self-regulatory organization.*

(c) *For Purposes of this rule, the following terms shall have the stated meanings:*

(1) *"affiliate" shall have the same definition as used in Rule 2720 of the business Conduct Rules of the Association;*

(2) *"promoter" means any person who founded or organized the business of enterprise of an issuer, is a director or employee of an issuer, acts or has acted as a consultant, advisor, accountant, or attorney to an issuer, is the beneficial owner of any of an issuer's securities that are considered "restricted securities" under Rule 144, or is the beneficial owner of five percent (5%) or more of the public float of any class of an issuer's securities, and any other person with a similar interest in promoting the entry of quotations or market marking in an issuer's securities; and*

(3) *"quotation" shall mean any bid or offer at a specified price with respect to a security, or any indication of interest by a member in receiving bids or offers from others for a security, or an indication by a member that he wishes to advertise his general interest in buying or selling a particular security.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements