

SECURITIES AND EXCHANGE COMMISSION

Investment Company Act Release No. 33201; File No. 812-14831

AXA Equitable Life Insurance Company, et al.

August 15, 2018

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice.

Notice of application for an order approving the substitution of certain securities pursuant to section 26(c) of the Investment Company Act of 1940, as amended (the “Act”) and an order of exemption pursuant to section 17(b) of the Act from section 17(a) of the Act.

Applicants: AXA Equitable Life Insurance Company (“AXA Equitable”), MONY Life Insurance Company of America (“MONY America”), Separate Account 70 of AXA Equitable (“Separate Account 70”), Separate Account A of AXA Equitable (“Separate Account A”), Separate Account FP of AXA Equitable (“Separate Account FP”), MONY America Variable Account K (“MONY America Separate Account K”) and together with Separate Account 70, Separate Account A and Separate Account FP, the “Separate Accounts”) (collectively, the “Section 26 Applicants”); and Separate Account 65 of AXA Equitable (“Separate Account 65”) and EQ Advisors Trust (the “EQ Trust” and collectively with Separate Account 65 and the Section 26 Applicants, the “Section 17 Applicants”).<sup>1</sup>

Summary of Application: The Section 26 Applicants seek an order pursuant to section 26(c) of the Act, approving the substitution of shares issued by certain investment portfolios of registered investment companies (the “Removed Portfolios”) for shares of certain investment portfolios of the EQ Trust (the “Replacement Portfolios”), held by the Separate Accounts (except for Separate

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<sup>1</sup> For purposes of this Notice, Separate Account 65 is also a “Separate Account” and collectively with Separate Account 70, Separate Account A, Separate Account FP and MONY America Separate Account K, the “Separate Accounts.”

Account 65) to support certain variable annuity contracts and/or variable life insurance contracts (the “Contracts”). The Section 17 Applicants seek an order pursuant to section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to permit them to engage in certain in-kind transactions.

Filing Date: The application was filed on October 4, 2017 and was amended on February 8, 2018 and August 10, 2018.

Hearing or Notification of Hearing: An order granting the requested relief 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 the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 10, 2018 and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, 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 Commission’s Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090. Applicants: Steven M. Joenk, Managing Director and Chief Investment Officer, AXA Equitable Life Insurance Company, 1290 Avenue of the Americas, New York, New York 10104; Patricia Louie, Esq., Managing Director and Associate General Counsel, AXA Equitable Life Insurance Company, 1290 Avenue of the Americas, New York, New York 10104; and Mark C. Amorosi, Esq., K&L Gates LLP, 1601 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Jennifer O. Palmer, Senior Counsel, at (202)

551-5786, or David J. Marcinkus, Branch Chief at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an Applicant using the Company name box, at <http://www.sec.gov.search/search.htm>, or by calling (202) 551-8090.

Applicants' Representations:

1. AXA Equitable is a New York stock life insurance company licensed to conduct insurance business in all fifty states of the United States, the District of Columbia, Puerto Rico and the Virgin Islands. AXA Equitable is wholly-owned by AXA Financial, Inc. ("AXA Financial"), a holding company.

2. MONY America is an Arizona stock life insurance company licensed to conduct insurance business in in all fifty states of the United States, the District of Columbia, Puerto Rico and the Virgin Islands. MONY America is an indirect wholly-owned subsidiary of AXA Financial.

3. Each Separate Account meets the definition of "separate account," as defined in section 2(a)(37) of the Act and rule 0-1(e) thereunder. With the exception of Separate Account 65, the Separate Accounts are registered under the Act as unit investment trusts. Separate Account 65 is excluded from registration under the Act pursuant to section 3(c)(11) of the Act and is not a Section 26 Applicant. The assets of the Separate Accounts support the Contracts and interests in the Separate Accounts offered through such Contracts. AXA Equitable and MONY America are the legal owners of the assets in their respective Separate Accounts. The Separate Accounts are segmented into subaccounts, and each subaccount invests in an

underlying registered open-end management investment company or series thereof.

4. The Contracts are each registered under the Securities Act of 1933, as amended (the “1933 Act”) on Form N-4 or Form N-6, as applicable. Each Contract has particular fees, charges, and investment options, as described in the Contracts’ respective prospectuses.

5. The Contracts include individual and group variable annuity contracts or flexible premium, scheduled premium and single premium individual, second to die and corporate variable life policies. As set forth in the prospectuses for the Contracts, each Contract provides that AXA Equitable or MONY America, as applicable, reserves the right to substitute shares of the underlying investment options in which the Separate Accounts invest for shares of any underlying investment options already held or to be held in the future by the Separate Accounts.

6. AXA Equitable and MONY America, on behalf of themselves and their respective Separate Accounts, propose to exercise their contractual rights to substitute shares of the Removed Portfolios for shares of the Replacement Portfolios (“Substitutions”), as shown in the table below:

<b>Substitution No.</b>	<b>Removed Portfolio</b>	<b>Replacement Portfolio</b>
1	American Century VP Mid Cap Value Fund (Class II)	EQ/American Century Mid Cap Value Portfolio (Class IB)
2	Fidelity® VIP Contrafund® (Initial Class, Service Class 2)	EQ/Fidelity Institutional AM <sup>SM</sup> Large Cap Portfolio (Class K, Class IB)
3	Franklin Rising Dividends VIP Fund (Class 2)	EQ/Franklin Rising Dividends Portfolio (Class IB)
4	Franklin Strategic Income VIP Fund (Class 2)	EQ/Franklin Strategic Income Portfolio (Class IB)

<b>Substitution No.</b>	<b>Removed Portfolio</b>	<b>Replacement Portfolio</b>
5	Goldman Sachs VIT Mid Cap Value Fund (Service Class)	EQ/Goldman Sachs Mid Cap Value Portfolio (Class IB)
6	Invesco V.I. Global Real Estate Fund (Series II Class)	EQ/Invesco Global Real Estate Portfolio (Class IB)
7	Invesco V.I. International Growth Fund (Series II Class)	EQ/Invesco International Growth Portfolio (Class IB)
8	Ivy VIP Energy (Class II)	EQ/Ivy Energy Portfolio (Class IB)
9	Ivy VIP Mid Cap Growth (Class II)	EQ/Ivy Mid Cap Growth Portfolio (Class IB)
10	Ivy VIP Science and Technology (Class II)	EQ/Ivy Science and Technology Portfolio (Class IB)
11	Lazard Retirement Emerging Markets Equity Portfolio (Service Class)	EQ/Lazard Emerging Markets Equity Portfolio (Class IB)
12	MFS International Value Portfolio (Service Class)	EQ/MFS International Value Portfolio (Class IB)
13	MFS Technology Portfolio (Service Class)	EQ/MFS Technology Portfolio (Class IB)
14	MFS Utilities Series (Initial Class, Service Class)	EQ/MFS Utilities Series Portfolio (Class K, Class IB)
15	PIMCO Real Return Portfolio (Advisor Class)	EQ/PIMCO Real Return Portfolio (Class IB)
16	PIMCO Total Return Portfolio (Advisor Class)	EQ/PIMCO Total Return Portfolio (Class IB)
17	T. Rowe Price Health Sciences Portfolio (II Class)	EQ/T. Rowe Price Health Sciences Portfolio (Class IB)

7. The Replacement Portfolios are series of the EQ Trust, a Delaware statutory trust registered as an open-end management investment company under the Act (File No. 811-07953) and whose shares are registered under the 1933 Act (File No. 333-17217). The

Replacement Portfolios are currently available only as investment allocation options under variable insurance contracts issued by AXA Equitable and MONY America.

8. AXA Equitable Funds Management Group, LLC (“FMG”), a wholly-owned subsidiary of AXA Equitable and an affiliate of MONY America, serves as the investment adviser of each Replacement Portfolio. FMG is a Delaware limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940. Each Replacement Portfolio is sub-advised by a registered investment adviser that is unaffiliated with the Section 26 Applicants, the Section 17 Applicants or FMG.

9. Applicants state that the proposed Substitutions are part of an ongoing effort by AXA Equitable and MONY America to make their Contracts more attractive to existing and prospective Contract owners. Applicants note that the proposed Substitutions are intended to improve portfolio manager selection<sup>2</sup> and simplify fund lineups while reducing costs and maintaining a menu of investment options that would offer a similar diversity of investment options after the proposed Substitutions as is currently available under the Contracts.

Applicants believe that the Replacement Portfolios have investment objectives, as described in their prospectuses, which are identical, and principal investment strategies and principal risks, as described in their prospectuses, which are identical or substantially similar to the

corresponding Removed Portfolios, making those Replacement Portfolios appropriate

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<sup>2</sup> The EQ Trust and FMG may rely on an order from the Commission that permits FMG, subject to certain conditions, including approval of the EQ Trust’s board of trustees but without the approval of shareholders, to select certain wholly-owned and non-affiliated investment sub-advisers to manage all or a portion of the assets of each portfolio of the EQ Trust pursuant to an investment sub-advisory agreement with FMG, and to materially amend sub-advisory agreements with FMG. *See* EQ Advisors Trust and EQ Financial Consultants, Inc., Investment Company Act Release Nos. 23093 (Mar. 30, 1998) (notice) and 23128 (April 24, 1998) (the “Manager of Managers Order”). After the Substitution Date (defined below), FMG will not change a Replacement Portfolio’s sub-adviser, add a new sub-adviser, or otherwise rely on the Manager of Managers Order or any replacement order from the Commission with respect to any Replacement Portfolio without first obtaining shareholder approval of the change in sub-adviser, the new sub-adviser, or the Replacement Portfolio’s ability to rely on the Manager of Managers Order or any replacement order from the Commission, at a shareholder meeting, the record date for which will be after the proposed Substitution has been effected.

candidates as substitutes. Information for each Removed Portfolio and Replacement Portfolio, including investment objectives, principal investment strategies, principal risks, and comparative performance history, can be found in the application.

10. The Section 26 Applicants agree that, for a period of two years following the implementation of the proposed Substitution (the “Substitution Date”), and for those Contracts with assets allocated to the Removed Portfolio on the Substitution Date, AXA Equitable, MONY America or an affiliate thereof (other than the EQ Trust) will reimburse, on the last business day of each fiscal quarter, the Contract owners whose subaccounts invest in the applicable Replacement Portfolio to the extent that the Replacement Portfolio’s net annual operating expenses (taking into account fee waivers and expense reimbursements) for such period exceeds, on an annualized basis, the net annual operating expenses of the Removed Portfolio for the most recent fiscal year preceding the date of the most recently filed application. Neither AXA Equitable nor MONY America will increase the Contract fees and charges that would otherwise be assessed under the terms of the Contracts for a period of at least two years following the Substitution Date. Importantly, for each Substitution, the combined current management fee and rule 12b-1 fee of the Replacement Portfolio at all asset levels will be no higher than that of the corresponding Removed Portfolio at corresponding asset levels.

11. Applicants represent that as of the Substitution Date, the Separate Accounts will redeem shares of the Removed Portfolios for cash or in-kind. Redemption requests and purchase orders will be placed simultaneously so that Contract values will remain fully invested at all times.

12. Each Substitution will be effected at the relative net asset values of the

respective shares of the Replacement Portfolios in conformity with section 22(c) of the Act and rule 22c-1 thereunder without the imposition of any transfer or similar charges by the Section 26 Applicants. The Substitutions will be effected without change in the amount or value of any Contracts held by affected Contract owners.<sup>3</sup>

13. Contract owners will not incur any fees or charges as a result of the proposed Substitutions. The obligations of the Section 26 Applicants and the rights of the affected Contract owners, under the Contracts of affected Contract owners will not be altered in any way. AXA Equitable, MONY America and/or their affiliates (other than the EQ Trust) will pay all expenses and transaction costs of the Substitutions, including legal and accounting expenses, any applicable brokerage expenses and other fees and expenses. No fees or charges will be assessed to the affected Contract owners to effect the Substitutions. The proposed Substitutions will not cause the Contract fees and charges currently being paid by Contract owners to be greater after the proposed Substitution than before the proposed Substitution. In addition, the Substitutions will in no way alter the tax treatment of affected Contract owners in connection with their Contracts, and no tax liability will arise for Contract owners as a result of the Substitutions.

14. From the date of the Pre-Substitution Notice (defined below) through 30 days following the Substitution Date, Contract owners may make at least one transfer of Contract value from the subaccount investing in a Removed Portfolio (before the Substitution) or the

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<sup>3</sup> The Section 26 Applicants state that, because the Substitutions will occur at relative net asset value, and the fees and charges under the Contracts will not change as a result of the Substitutions, the benefits offered by the guarantees under the Contracts will be the same immediately before and after the Substitutions. The Section 26 Applicants also state that what effect the Substitutions may have on the value of the benefits offered by the Contract guarantees would depend, among other things, on the relative future performance of the Removed Portfolios and Replacement Portfolios, which the Section 26 Applicants cannot predict. Nevertheless, the Section 26 Applicants note that at the time of the Substitutions, the Contracts will offer a comparable variety of investment options with as broad a range of risk/return characteristics.



Replacement Portfolio (after the Substitution) to any other available subaccount under the Contract without charge and without imposing any transfer limitations. Further, on the Substitution Date, Contract values attributable to investments in each Removed Portfolio will be transferred to the corresponding Replacement Portfolio without charge and without being subject to any transfer limitations. Moreover, except as described in the disruptive transfer or market timing provisions of the relevant prospectus, AXA Equitable and MONY America will not exercise any rights reserved under the Contracts to impose restrictions on transfers between the subaccounts under the Contracts , including limitations on the future number of transfers, for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date.

15. At least 30 days prior to the Substitution Date, Contract owners will be notified via prospectus supplements that the Section 26 Applicants received or expect to receive Commission approval of the applicable proposed Substitutions and of the anticipated Substitution Date (the “Pre-Substitution Notice”). Pre-Substitution Notices sent to Contract owners will be filed with the Commission pursuant to rule 497 under the 1933 Act. The Pre-Substitution Notice will advise Contract owners that from the date of the Pre-Substitution Notice through the date 30 days after the Substitutions, Contract owners may make at least one transfer of Contract value from the subaccounts investing in the Removed Portfolios (before the Substitutions) or the Replacement Portfolios (after the Substitutions) to any other available subaccount without charge and without imposing any transfer limitations. Among other information, the Pre-Substitution Notice will inform affected Contract owners that, except as described in the disruptive transfers or market timing provisions of the relevant prospectus, AXA Equitable and MONY America will not exercise any rights reserved under the Contracts

to impose additional restrictions on transfers out of a Replacement Portfolio subaccount from the date of the Pre-Substitution Notice, including limitations on the future number of transfers, until at least 30 days after the Substitution Date. Additionally, all affected Contract owners will be sent prospectuses of the applicable Replacement Portfolios at least 30 days before the Substitution Date.

16. In addition to the Supplements distributed to the Contract owners, within five business days after the Substitution Date, Contract owners whose assets are allocated to a Replacement Portfolio as part of the proposed Substitutions will be sent a written notice (each, a “Confirmation”) informing them that the Substitutions were carried out as previously notified. The Confirmation also will restate the information set forth in the Pre-Substitution Notice. The Confirmation will also reflect the values of the Contract owner’s positions in the Removed Portfolio before the Substitution and the Replacement Portfolio after the Substitution.

Legal Analysis:

1. The Section 26 Applicants request that the Commission issue an order pursuant to section 26(c) of the Act approving the proposed Substitutions. Section 26(c) prohibits any depositor or trustee of a unit investment trust that invests exclusively in the securities of a single issuer from substituting the securities of another issuer without the approval of the Commission. Section 26(c) provides that such approval shall be granted by order from the Commission if the evidence establishes that the substitution is consistent with the protection of investors and the purposes of the Act.

2. The Section 26 Applicants submit that the Substitutions meet the standards set forth in section 26(c) and that, if implemented, the Substitutions would not raise any of the

concerns that Congress intended to address when the Act was amended to include this provision. Applicants state that each Substitution protects the Contract owners who have Contract value allocated to a Removed Portfolio by providing Replacement Portfolios with identical investment objectives and identical or substantially similar strategies and risks, and providing Contract owners with investment options that have net annual operating expense ratios that are lower than, or equal to, their corresponding investment options before the Substitutions.

3. AXA Equitable and MONY America have reserved the right under the Contracts to substitute shares of another underlying portfolio for one of the current portfolios offered as an investment option under the Contracts. The Contracts and the Contracts' prospectuses disclose this right.

4. The Section 26 Applicants submit that the ultimate effect of the proposed Substitutions will be to simplify the investment line-ups that are available to Contract owners while reducing expenses and continuing to provide Contract owners with a wide array of investment options. The Section 26 Applicants state that the proposed Substitutions will not reduce in any manner the nature or quality of the available investment options and the proposed Substitutions also will permit AXA Equitable and MONY America to present information to their Contract owners in a simpler and more concise manner. The Section 26 Applicants also state it is anticipated that after the proposed Substitutions, Contract owners will be provided with disclosure documents that contain a simpler presentation of the available investment options under the Contracts. The Section 26 Applicants also assert that the proposed Substitutions are not of the type that section 26 was designed to prevent because they will not result in costly forced redemption, nor will they affect other aspects of the Contracts. In addition, the proposed Substitutions will not adversely affect any features or riders under the Contracts because none of

the features or riders will change as a result of the Substitutions. Accordingly, no Contract owner will involuntarily lose his or her features or riders as a result of any proposed Substitution. Moreover, the Section 26 Applicants will offer Contract owners the opportunity to transfer amounts out of the affected subaccounts without any cost or other penalty (other than those necessary to implement policies and procedures designed to detect and deter disruptive transfers and other “market timing” activities) that may otherwise have been imposed for a period beginning on the date of the Pre-Substitution Notice (which supplement will be delivered to the Contract owners at least 30 days before the Substitution Date) and ending no earlier than 30 days after the Substitution Date. The proposed Substitutions are also unlike the type of substitution that section 26(c) was designed to prevent in that the Substitutions have no impact on other aspects of the Contracts.

5. The Section 17 Applicants request an order under section 17(b) exempting them from the provisions of section 17(a) to the extent necessary to permit the Section 17 Applicants to carry out some or all of the proposed Substitutions. The Section 17 Applicants state that because the proposed Substitutions may be effected, in whole or in part, by means of in-kind redemptions and purchases, the proposed Substitutions may be deemed to involve one or more purchases or sales of securities or property between affiliated persons.

6. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the Act generally prohibits the persons described above, acting as principals, from knowingly purchasing any security or other property from the registered investment company.

7. The Section 17 Applicants state that the proposed transactions may involve a

transfer of portfolio securities by the Removed Portfolios to the Separate Accounts. Immediately thereafter, the Separate Accounts would purchase shares of the Replacement Portfolios with the portfolio securities received from the Removed Portfolios. Accordingly, the Section 17 Applicants provide that to the extent AXA Equitable, MONY America and the Removed Portfolios, and AXA Equitable, MONY America and the Replacement Portfolios, are deemed to be affiliated persons of one another under section 2(a)(3) or section 2(a)(9) of the Act, it is conceivable that this aspect of the proposed Substitutions could be viewed as being prohibited by section 17(a). Accordingly, the Section 17 Applicants have determined to seek relief from section 17(a).

8. The Section 17 Applicants submit that the terms of the proposed in-kind purchases of shares of the Replacement Portfolios by the Separate Accounts, including the consideration to be paid and received, as described in the application, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Section 17 Applicants submit that the terms of the proposed in-kind transactions, including those considered to be paid to each Removed Portfolio and received by each Replacement Portfolio involved, are reasonable, fair and do not involve overreaching principally because the transactions will conform with all but one of the conditions enumerated in rule 17a-7 under the Act. The proposed transactions will take place at relative net asset value in conformity with the requirements of section 22(c) of the Act and rule 22c-1 thereunder without the imposition of any transfer or similar charges by the Section 26 Applicants. The Substitutions will be effected without change in the amount or value of any Contract held by the affected Contract owners. The Substitutions will in no way alter the tax treatment of affected Contract owners in connection with their Contracts, and no tax liability will arise for Contract owners as a result of the Substitutions. The fees and charges under the

Contracts will not increase because of the Substitutions. Even though the Separate Accounts, AXA Equitable, MONY America and the EQ Trust may not rely on rule 17a-7, the Section 17 Applicants believe that the rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching in connection with an investment company by its affiliated persons.

9. The Section 17 Applicants also submit that the proposed in-kind purchases by the Separate Accounts are consistent with the policies of the EQ Trust and the Replacement Portfolios, as provided in the EQ Trust's registration statement and reports filed under the Act. Finally, the Section 17 Applicants submit that the proposed Substitutions are consistent with the general purposes of the Act.

Applicants' Conditions:

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Substitutions will not be effected unless AXA Equitable or MONY America determines that: (i) the Contracts allow the substitution of shares of registered open-end investment companies in the manner contemplated by the application; (ii) the Substitutions can be consummated as described in the application under applicable insurance laws; and (iii) any regulatory requirements in each jurisdiction where the Contracts are qualified for sale have been complied with to the extent necessary to complete the Substitutions.

2. After the Substitution Date, FMG will not change a sub-adviser, add a new sub-adviser, or otherwise rely on the Multi-Manager Order, or any replacement order from the Commission, with respect to any Replacement Portfolio without first obtaining shareholder approval of the change in sub-adviser, the new sub-adviser, or the Replacement Portfolio's

ability to rely on the Multi-Manager Order, or any replacement order from the Commission, at a shareholder meeting, the record date for which shall be after the proposed Substitution has been affected.

3. AXA Equitable, MONY America or an affiliate thereof (other than the EQ Trust) will pay all expenses and transaction costs of the Substitutions, including legal and accounting expenses, any applicable brokerage expenses and other fees and expenses. No fees or charges will be assessed to the affected Contract owners to effect the Substitutions. The proposed Substitutions will not cause the Contract fees and charges currently being paid by Contract owners to be greater after the proposed Substitution than before the proposed Substitution.

4. The Substitutions will be effected at the relative net asset values of the respective shares of the Replacement Portfolios in conformity with section 22(c) of the Act and rule 22c-1 thereunder without the imposition of any transfer or similar charges by the Section 26 Applicants. The Substitutions will be effected without change in the amount or value of any Contracts held by affected Contract owners.

5. The Substitutions will in no way alter the tax treatment of affected Contract owners in connection with their Contracts, and no tax liability will arise for Contract owners as a result of the Substitutions.

6. The obligations of the Section 26 Applicants, and the rights of the affected Contract owners, under the Contracts of affected Contract owners will not be altered in any way.

7. Affected Contract owners will be permitted to make at least one transfer of Contract value from the subaccount investing in the Removed Portfolio (before the Substitution Date) or the Replacement Portfolio (after the Substitution Date) to any other available investment option under the Contract without charge for a period beginning at least 30 days

before the Substitution Date through at least 30 days following the Substitution Date. Except as described in any market timing/short-term trading provisions of the relevant prospectus, the Section 26 Applicants will not exercise any rights reserved under the Contracts to impose restrictions on transfers between the subaccounts under the Contracts, including limitations on the future number of transfers, for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date.

8. All affected Contract owners will be notified, at least 30 days before the Substitution Date about: (i) the intended Substitution of Removed Portfolios with the Replacement Portfolios; (ii) the intended Substitution Date; and (iii) information with respect to transfers as set forth in Condition 7 above. In addition, the Section 26 Applicants will also deliver to affected Contract owners, at least 30 days before the Substitution Date, a prospectus for each applicable Replacement Portfolio.

9. The Section 26 Applicants will deliver to each affected Contract owner within five business days of the Substitution Date a written confirmation which will include: (i) a confirmation that the Substitutions were carried out as previously notified; (ii) a restatement of the information set forth in the Pre-Substitution Notice; and (iii) values of the Contract owner's positions in the Removed Portfolio before the Substitution and the Replacement Portfolio after the Substitution.

10. For a period of two years following the Substitution Date, for Contract owners who were Contract owners as of the Substitution Date, AXA Equitable, MONY America or an affiliate thereof (other than the EQ Trust) will reimburse, on the last business day of each fiscal quarter, the Contract owners whose subaccounts invest in the applicable Replacement Portfolio to the extent that the Replacement Portfolio's net annual operating expenses (taking into account



fee waivers and expense reimbursements) for such period exceed, on an annualized basis, the net annual operating expenses of the Removed Portfolio for the most recent fiscal year preceding the date of this application. In addition, the Section 26 Applicants will not increase the Contract fees and charges that would otherwise be assessed under the terms of the Contracts for affected Contract owners for a period of at least two years following the Substitution Date.

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

Eduardo A. Aleman  
Assistant Secretary