

where they will be processed through security prior to entering GSFC. Please provide the appropriate data, via fax 301-286-1230, noting at the top of the page "Public Admission to the NASA Advisory Council Meeting at GSFC". For security questions, please call Chuck Lombard at 301-286-1109.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

**P. Diane Rausch,**

*Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.*

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## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-27477; File No. 812-13244]

### National Life Insurance Company, et al.

September 7, 2006.

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

**ACTION:** Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the "Act"), approving a certain substitution of securities.

*Applicants:* National Life Insurance Company ("NLIC"), National Variable Annuity Account II ("Annuity Account"), and National Variable Life Insurance Account ("Life Account") (NLIC, Annuity Account and Life Account collectively, the "Applicants"). Summary of Application: Applicants have submitted an application for an order of the Commission, pursuant to Section 26(c) of the Act, permitting NLIC to substitute securities issued by Fidelity VIP Index 500 Portfolio ("Fidelity Fund"), a series of Variable Insurance Products Fund II, or DWS Equity Index 500 VIP ("DWS Fund"), a series of DWS Investments VIT Funds, to support variable annuity contracts or variable life insurance contracts (separately, "Contract", collectively, "Contracts") issued by NLIC, for securities issued by Sentinel Variable Products Growth Index Fund ("Sentinel Fund"), a series of Sentinel Variable Products Trust, held by both the Annuity Account or the Life Account (individually, "Account" and collectively, "Accounts").

*Filing Date:* The application was filed on October 28, 2005, amended on February 2, 2006, June 16, 2006, July 17, 2006, and September 1, 2006.

*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 the Applicants with a copy of the request in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on October 2, 2006 and should be accompanied by proof of service of 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 may request notification of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-0609. Applicants, c/o Kerry A. Jung, Esq., Senior Counsel, National Life Insurance Company, One National Life Drive, Montpelier, VT 05604.

**FOR FURTHER INFORMATION CONTACT:** Curtis A. Young, Senior Counsel, or Harry Eisentein, Branch Chief, Office of Insurance Products, Division of Investment Management, at 202-551-6795.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the amended and restated application. The complete application may be obtained for a fee from the Public Reference Room, 100 F Street, NE., Washington, DC 20549, or by calling (202) 551-8090.

#### Applicants' Representations

1. NLIC is a stock life insurance company, all the outstanding stock of which is indirectly owned by National Life Holding Company, a mutual insurance holding company. All owners of NLIC contracts, including the Contracts, are voting members of National Life Holding Company. NLIC is authorized to transact life insurance and annuity business in Vermont and 50 other jurisdictions. For purposes of the Act, NLIC is the depositor and sponsor of the Accounts as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

2. NLIC established the Annuity Account on November 1, 1996 and the Life Account on February 1, 1985, as segregated investment accounts under Vermont law. Under Vermont law, the assets of each Account attributable to the Contracts through which interests in that Account are issued are owned by NLIC but are held separately from all other assets of NLIC for the benefit of the owners of, and the persons entitled

to payment under, those Contracts. Consequently, such assets in each Account equal to the reserves and other liabilities with respect to such Account are not chargeable with liabilities arising out of any other business that NLIC may conduct. Income, gains and losses, realized and unrealized, from assets allocated to each Account are credited to or charged against that Account without regard to the other income, gains or losses of NLIC. Each Account is a "separate account" as defined by Rule 0-1(e) under the Act (File No. 811-08015 for the Annuity Account and File No. 811-09044 for the Life Account).

3. The Annuity Account is divided into forty-nine subaccounts. Each subaccount invests exclusively in a corresponding series of one of thirteen management investment companies. The assets of the Annuity Account support variable annuity contracts, and interests in the Account offered through the Contracts have been registered under the Securities Act of 1933, as amended ("1933 Act") on Form N-4 (File No. 333-19583).

4. The Life Account is divided into one hundred and twenty-nine subaccounts. Each subaccount invests exclusively in shares representing an interest in a corresponding series of one of thirteen management investment companies. The assets of the Life Account support variable life insurance contracts, and interests in this Account offered through the Contracts have been registered under the 1933 Act on Form N-6 (File Nos. 33-91938, 333-44723, and 333-67003).

5. The Sentinel Variable Products Trust was organized as a business trust in Delaware on March 14, 2000, and is currently registered under the Act as an open-end diversified management investment company. It is a series investment company as defined by Rule 18f-2 under the Act.

6. The Sentinel Fund's investment advisor, Sentinel Asset Management, Inc. ("SAM"), is an affiliated person of NLIC because it is controlled by NLIC.

7. The Variable Insurance Products Fund II was created under an initial declaration of trust dated March 21, 1988, and is currently registered under the Act as an open-end management investment company. It is a series investment company as defined by Rule 18f-2 under the Act.

8. The DWS Investments VIT Funds was organized on January 18, 1996, under the laws of the Commonwealth of Massachusetts, and is currently registered under the Act as an open-end management investment company. SVIT

is a series investment company as defined by Rule 18f-2 under the Act.

9. Neither NLIC nor the Accounts are affiliated with the Fidelity Fund or the DWS Fund. In consideration for administrative services provided by NLIC to the Fidelity and DWS Funds, NLIC is paid an annual fee of 0.05% and 0.13%, respectively, of each fund's average net assets that are attributable to the Accounts.

10. The Contracts are flexible premium variable life insurance Contracts and individual flexible premium deferred variable annuity Contracts. The Contracts provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and provide settlement or annuity payment options on a fixed basis. In each of the

prospectuses for the Contracts, NLIC reserves the right to substitute shares of one series of an investment company for shares of another series, including a series of a different investment company.

11. Contract owners may transfer among the subaccounts of the Variable Account and, subject to certain limitations, among the Variable Account, the fixed account and the guaranteed accounts. Contract owners may transfer among the subaccounts of the Life Account and between the Life Account and NLIC's general account, where available. Currently there is no charge for transfers. However, NLIC reserves the right to assess a \$25 charge for each transfer in excess of twelve in any Contract year. Each series of an investment company in which a

subaccount invests may also impose its own redemption fees.

12. NLIC proposes to substitute (a) The Fidelity Fund, which is currently offered as an investment option, for the Sentinel Fund in the Annuity Account and the VariTrak and Sentinel Estate Provider products of the Life Account and (b) the DWS Fund, which is currently offered as an investment option, for the Sentinel Fund in the Sentinel Benefit Provider product of the Life Account. NLIC believes that by making the proposed substitution in each of the Accounts they can better serve the interests of the Contracts owners.

13. The investment objective and principal investment strategies of each of the Sentinel Fund, the Fidelity Fund and the DWS Fund are as follows:

Fund	Objective	Principal strategies
Sentinel Fund	Seeks to match, as closely as possible before expenses, the performance of the S&P 500/ Citigroup Growth Index ("Index"), by investing in common stocks of the companies comprising the Index in approximately the same weightings as the Index.	Invests at all times at least 80% of its total assets in the common stocks of the companies that comprise the Index. Normally intends to invest substantially all its total assets in these common stocks, in approximately the same weightings as the Index. May hold up to 20% of its assets in money market instruments and stock index options and futures, which it intends to buy, if at all, only in anticipation of buying stocks. The Fund may not purchase or sell derivative instruments if, as a result, the aggregate initial margin and options premiums required to establish these positions exceed 5% of the Fund's total assets.
Fidelity Fund ..	Seeks investment results that correspond to the total return of common stocks publicly traded in the United States, as represented by the S&P 500.	Normally invests at least 80% of assets in common stocks included in the S&P 500. May buy and sell futures contracts, swaps, and exchange traded funds, to increase or decrease the Fund's exposure to changing security prices or other factors that affect security values. The Fund will not purchase any option if, as a result, more than 5% of its total assets would be invested in option premiums. Under normal conditions, the Fund will not enter into any futures contract, option, or swap agreement if, as a result, the sum of (i) the current value of assets hedged in the case of strategies involving the sale of securities, and (ii) the current value of the indices or other instruments underlying the fund's other futures, options, or swaps positions, would exceed 35% of the Fund's total assets. These limitations do not apply to options attached to, or acquired or traded together with their underlying securities, and do not apply to securities that incorporate features similar to futures, options or swaps.
DWS Fund .....	Seeks to replicate, as closely as possible, before the deduction of expenses, the performance of the S&P 500.	Lends securities to earn income for the Fund. Investments at least 80% of its assets in the securities of the companies included in the Standard & Poor's 500 Composite Stock Price Index ("S&P 500 Index") and derivative instruments such as futures contracts and options, relating to the benchmark. May not invest more than 15% of assets in options on securities indices and may not invest more than 5% of assets in futures on securities indices or on options on futures. Invests in a statistically selected sample of the securities found in the S&P 500 Index, using a process known as "optimization." May exclude or remove any S&P stock if its investment advisor believes that the stock is illiquid or that the merit of the investment has been impaired by financial conditions or other extraordinary events. May purchase a stock not included in the S&P 500 Index when it is believed to be a cost-efficient way of approximating the S&P 500 Index's performance. May hold assets in short-term debt securities or money market instruments for liquidity purposes. May lend its investment securities up to 30% of its total assets.

14. Projected advisory fees and expense ratios for the Fidelity Fund and DWS Fund are lower than the advisory

fees and net expense ratios of the Sentinel Fund as of December 31, 2005.

EXPENSE RATIOS FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2005

Fund	Management fee (percent)	12b-1 fee	Other expenses (percent)	Total annual expense ratio (percent)	Waivers and reimbursements (percent)	New annual expense ratio (percent)
Sentinel Fund .....	0.30	.....	1.59	1.89	11.29	0.60
Fidelity Fund .....	0.10	0.25	0.00	0.35	.....	<sup>2</sup> 0.35
DWS Fund .....	0.19	.....	0.15	0.34	<sup>3</sup> 0.06	0.28

<sup>1</sup> SAM and/or an affiliate has agreed to waive fees and/or reimbursement expenses so that the net annual expense ratio of the Sentinel Fund, after expense offsets, is no more than 0.60% through December 31, 2006.

<sup>2</sup> Fidelity management & Research Company ("FMR") has contractually agreed to reimburse the Fidelity Fund to the extent that total operating expenses (excluding interest, taxes, certain securities lending costs, brokerage commissions and extraordinary expenses) as a percentage of average net assets exceed 0.35%. The expense limitation may not be increased without approval of the Fidelity Fund's shareholders and board of trustees. Therefore the expense limit is required by contract and is not voluntary on the Fidelity Fund manager's part.

<sup>3</sup> Effective September 19, 2005, the DWS Fund's advisor contractually agreed to waive its fees and/or reimbursement expenses to the extent necessary to limit all expenses to 0.28% for Class A Shares until April 30, 2009.

15. The Applicants note that the primary differences between the Sentinel Fund and the Fidelity Fund are that (1) The Fidelity Fund seeks to match the S&P 500 index, while the Sentinel Fund seeks to match only the Citigroup Growth portion of the S&P 500 Index and (2) the Fidelity Fund may lend securities while the Sentinel Fund does not. Applicants state the primary difference between the Sentinel Fund and the DWS Fund are that (1) The DWS Fund seeks to match the S&P

500 Index, while the Sentinel Fund seeks to match only the Citigroup Growth portion of the S&P 500 Index, (2) the DWS Fund may invest in securities other than those included in the S&P 500 Index under certain circumstances in which the Sentinel Fund could not and (3) DWS Fund may lend securities, while the Sentinel Fund does not. While there are some differences in these strategies, NLIC believes that the Fidelity Fund and the DWS Fund offer an investment strategy

that is sufficiently similar to the Sentinel Fund considering the benefits of the proposed substitution.

16. Applicants state that the Fidelity and DWS Funds each have significantly more assets than the Sentinel Fund. In addition, each of the Fidelity and DWS Funds has also significantly outperformed the Sentinel Fund in the one and three year periods ended June 30, 2006 as well as the period since the inception of the Sentinel fund.

PERFORMANCE AS OF JUNE 30, 2006

Fund	1-year (percent)	3-year (percent)	5-year (percent)	10-year (percent)	Since inception (percent)	Since 11/30/00 (percent)
Sentinel Fund .....	3.81	6.42	-0.26	( <sup>1</sup> )	-3.36	3.36
Fidelity Fund .....	8.57	11.04	2.27	8.05	10.26	8.76
DWS Fund .....	8.34	10.91	2.18	( <sup>1</sup> )	4.64	0.76

<sup>1</sup> Not applicable.

17. Supplements to the prospectus will advise Contract owners that they are permitted from the date of the supplement until the date of the proposed substitution to make transfers of all amounts under the Contracts invested in the Sentinel Fund subaccount to another subaccount available under the Contracts without those transfers counting as "free" transfers permitted under the Contracts at any time prior to the substitution.

18. The proposed substitution will take place at relative net asset value with no change in the amount of any Contract owner's account value or death benefit or in the dollar value of any Account. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or NLIC's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitution is not expected to impose any tax liability on Contract owners. The proposed

substitution will not cause the Contract fees and charges currently being paid by Contract owners to be greater than those being charged at the time of the substitution. The proposed substituting will not be treated as a transfer or exchange for purposes of assessing transfer charges or for determining the number of remaining "free" transfers or exchanges in a Contract year.

19. Within five days of the substitution, Contract owners affected by the substitution will be sent a written notice informing them that the substitution was carried out and that for the next 30 days they may make transfers of all accumulated or contract value under a Contract invested in the Fidelity Fund or DWS Fund subaccount, as applicable, on the date of the notice to another subaccount available under the Contract without the transfers counting as part of the limited number of transfers permitted in a Contract year free of charge. The notice as delivered in certain states also may explain that,

under the insurance regulations in those states, Contract owners who are affected by the substitutions may exchange their Contracts for fixed-benefit life insurance contracts or annuity contracts, as applicable, issued by NLIC during the 60 days following the proposed substitutions. A current prospectus for the Fidelity Fund or DWS Fund, as applicable, each of which is a currently available investment option under the applicable Contract, will precede or accompany the notice.

20. NLIC will not receive, for three years from the date of the substitution, any direct or indirect benefits from the Fidelity Fund or the DWS Fund or their respective advisors or underwriters or any of their respective affiliates in connection with the assets attributable to the Contracts, which in the aggregate (including, without limitation, all advisory, 12b-1, shareholder servicing, administration, marketing support or similar fees) is higher than the benefit it would have received from the

Sentinel Fund or its advisor, underwriter or affiliates absent any waivers.

21. Applicants state that the substitution and selection of the Fidelity Fund and the DWS Fund was not motivated by any financial consideration paid or to be paid to NLIC or its affiliates by the Fidelity Fund or the DWS Fund or their respective advisor, underwriters or affiliates.

#### Applicants' Legal Analysis

1. Applicants state that the proposed substitution is a substitution within the meaning of Section 26(c) of the Act, which requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive commission approval before substituting the securities held by the trust.

2. Applicants note that the prospectuses disclose that the Contracts expressly reserve for NLIC the right, subject to compliance with applicable law, to substitute shares of one series of an investment company held by a subaccount for another series, including a series of a different investment company, when, among other things, in NLIC's judgment the investment in such series is inappropriate.

3. Applicants assert that the proposed substitution will provide Contract owners a sufficiently similar investment strategy considering the opportunity for lower expenses and greater economies of scale. In addition, Applicants generally submit that the proposed substitution meets the standards that the Commission and its staff have applied to similar substitutions that have been approved in the past.

4. Applicants anticipate that Contract owners will be at least as well off with the proposed array of subaccounts offered after the proposed substitution as they have been with the array of subaccounts offered prior to the substitution. Applicants' assert that the proposed substitution retains for Contract owners the investment flexibility that is a central feature of the Contracts.

5. Applicants assert that the proposed substitution is not the type of substitution which Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner that permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise her or his own judgment and transfer accumulation and contract values into other subaccounts.

6. Applicants note that the Contracts will offer Contract owners an

opportunity to transfer amounts out of the Sentinel Fund, prior to the substitution, or the Fidelity Fund or DWS Fund, as applicable, after the substitution, into any of the remaining subaccounts without cost or other disadvantage. The proposed substitution, therefore, will not result in the type of costly forced redemption which Section 26(c) was designed to prevent.

7. The Applicants note that within five days after the proposed substitution, Contract owners affected by the substitution will be sent a written notice informing them that the substitution was carried out and that, for the next 30 days, they may make one transfer of all accumulated or contract value under a Contract invested in the Fidelity Fund or the DWS Fund, as applicable, on the date of the notice to another subaccount available under their Contract without the transfer counting as one of a limited number of transfers permitted in a Contract year free of charge.

8. Applicants state the proposed substitution is also unlike the type of substitutions which Section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners select much more than a particular investment company in which to invest their account values. They also select the specific type of insurance coverage offered by NLIC under their Contract as well as numerous other rights and privileges set forth in the Contract. Contract owners may also have considered NLIC's size, financial condition, type and its reputation for service in selecting their Contract. These factors will not change as a result of the proposed substitution.

#### Conclusion

Applicants submit that, for all the reasons stated above, the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 06-7641 Filed 9-13-06; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54410; File No. SR-NYSEArca-2006-31]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change Amending Rules to Mandate Listed Companies Become Eligible To Participate in a Direct Registration System

September 7, 2006.

#### I. Introduction

On June 19, 2006, NYSE Arca, Inc. ("NYSE Arca") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-NYSEArca-2006-31 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on July 18, 2006.<sup>2</sup> One comment letter was received.<sup>3</sup> For the reasons discussed below, the Commission is granting approval of the proposed rule change.<sup>4</sup>

#### II. Description

The Direct Registration System ("DRS") allows an investor to establish either through the issuer's transfer agent or through the investor's broker-dealer a book-entry position on the books of the issuer and to electronically transfer her position between the transfer agent and the broker-dealer of her choice through a facility currently administered by The Depository Trust Company ("DTC").<sup>5</sup> DRS, therefore, enables an investor to have securities registered in her name on the books of the issuer without having a securities certificate issued to her and to electronically transfer her

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> Securities Exchange Act Release No. 54126 (July 11, 2006), 71 FR 40768 (July 18, 2006) [File No. SR-NYSEArca-2006-31].

<sup>3</sup> Letter from Loren K. Hanson, Director of Investor Relations, to Nancy M. Morris, Secretary, Commission (August 15, 2006).

<sup>4</sup> The Commission has also granted approval to similar rule changes submitted by the New York Stock Exchange LLC ("NYSE"), American Stock Exchange LLC ("Amex"), and The NASDAQ Stock Market LLC ("Nasdaq"). Securities Exchange Act Release Nos. 54289 (August 8, 2006), 71 FR 47278 (August 16, 2006) [File No. SR-NYSE-2006-29]; 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) [File No. SR-NASDAQ-2006-08]; and 54290 (August 8, 2006), 71 FR 47262 (August 16, 2006) [File No. SR-Amex-2006-40].

<sup>5</sup> Currently, the only registered clearing agency operating a DRS is DTC. For a detailed description of DRS and the DRS facilities administered by DTC, see Securities Exchange Act Release Nos. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR-DTC-96-15] (order granting approval to establish DRS) and 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999), [File No. SR-DTC-99-16] (order approving implementation of the Profile Modification System).