and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Board of Directors (''Board'') of the Issuer unanimously approved a resolution on November 1, 2002 to withdraw the Issuer's Security from listing on the Amex and to list the Security on the OTC Bulletin Board. In making its decision to delist the Issuer's Security from the Exchange, the Board considered the Issuer's merged with Avatech Solutions, Inc. on November 19, 2002. The Issuer stated in its application that trading in the Security began on the OTC Bulletin Board at the opening of business on November 21, 2002.

The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and from registration under section 12(b) of the Act [3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4] Any interested person may, on or before December 20, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–30566 Filed 12–2–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25833; File No. 812–12862]

Integrity Life Insurance Company, *et al.*

November 26, 2002.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of an application for an order of approval pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''Act'').

Applicants: Integrity Life Insurance Company (''Integrity''), Separate Account I of Integrity Life Insurance Company (''Integrity Separate Account I''), Separate Account II of Integrity Life Insurance Company (''Integrity Separate Account II''), National Integrity Life Insurance Company (''National Integrity''), Separate Account I of National Integrity Life Insurance Company (''National Integrity Separate Account I''), and Separate Account II of National Integrity Life Insurance Company (National Integrity Separate Account II'') (collectively, the ''Applicants'').

Summary of Application: Applicants seek an order approving the proposed substitution of shares of the Franklin Income Securities Portfolio for shares of the Janus Aspen Balanced Portfolio, shares of the Franklin Growth and Income Securities Portfolio for shares of the Janus Aspen Capital Appreciation and Janus Aspen Core Equity Portfolios, shares of the Franklin Mutual Shares Portfolio for shares of the Janus Aspen Strategic Value Portfolio, and shares of the Fidelity VIP Money Market Portfolio for shares of the Janus Aspen Money Market Portfolio (the ''Substitution'').

Filing Date: The application was filed on July 25, 2002 and amended on November 22, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 20, 2002, 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 who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, P.O. Box 740074, Louisville, Kentucky, 40202–3319.

FOR FURTHER INFORMATION CONTACT: Alison Toledo, Senior Counsel, or Lorna MacLeod, Branch Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

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, 450 Fifth Street, NW., Washington, DC 20549–0102 (202–942–8090).

Applicants' Representations

1. Integrity is a stock life insurance company organized under the laws of Ohio. Integrity is a subsidiary of Western and Southern Life Insurance Company, a mutual life insurance company originally organized under the laws of Ohio in 1888.

2. Integrity Separate Account I was established under Ohio law in 1986. Integrity Separate Account I is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by Integrity. Three variable annuity contracts funded by Integrity Separate Account I are affected by this application.

3. Integrity Separate Account II was established under Ohio law in 1992. Integrity Separate Account II is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by Integrity. One variable annuity contract funded by Integrity Life Separate Account II is affected by this application.

4. National Integrity is a stock life insurance company organized under the laws of New York. National Integrity is a direct subsidiary of Integrity and an indirect subsidiary of Western and Southern Life Insurance Company.

5. National Integrity Separate Account I was established under New York law in 1986. National Integrity Separate Account I is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by National Integrity. Three variable annuity contracts funded by National Integrity Separate Account I are affected by this application.

6. National Integrity Separate Account II was established under New York law in 1992. National Integrity Separate Account II is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by National Integrity. One variable annuity contract funded by National Integrity Separate Account II is affected by this application (all eight variable annuities contracts affected by this application are hereinafter collectively referred to as the ''Contracts'').

7. Purchase payments under the Contracts are allocated to one or more subaccounts of the Separate Accounts. Income, gains and losses, whether or not realized, from assets allocated to the Separate Accounts are, as provided in the Contracts, credited to or charged against the Separate Accounts without

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[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

regard to other income, gains or losses of Integrity and National Integrity, as applicable. The assets maintained in the Separate Accounts will not be charged with any liabilities arising out of any other business conducted by Integrity or National Integrity, as applicable. Nevertheless, all obligations arising under the Contracts, including the commitment to make annuity payments or death benefit payments, are general corporate obligations of Integrity and National Integrity. Accordingly, all of the assets of each of Integrity and National Integrity are available to meet its obligations under its Contracts.

8. Each of the Contracts permits allocations of accumulation value to available subaccounts that invest in specific investment portfolios of underlying mutual funds. Each Contract offers between 56 and 63 portfolios. All of the Contracts offer the five portfolios of the Janus Aspen Series that are the subject of the Substitution (the ''Replaced Portfolios''). The Fidelity VIP Money Market Portfolio, which is proposed as the Replacement Portfolio for the Janus Money Market Portfolio, is also available under all of the Contracts. Before the date of the Substitution, three portfolios of the Franklin Templeton Variable Insurance Products Trust (together with the Fidelity VIP Money Market Portfolio, the ''Replacement Portfolios''), which are proposed as the Replacement Portfolios for four of the Replaced Portfolios, will be added to the Contracts as investment options. In addition, included in the Contracts are several alternative fixed interest rate options that are available to contract owners.

9. Each of the Contracts permits transfers of accumulation value from one subaccount to another subaccount at any time prior to annuitization, subject to certain restrictions and charges described below. No sales charge applies to such a transfer of accumulation value among subaccounts.

10. The Contracts permit up to twelve free transfers during any contract year. A fee of $20 may be imposed on transfers in excess of twelve transfers in a contract year. Transfers must be at least $250, or, if less, the entire amount in the subaccount from which value is to be transferred. A variety of automatically scheduled transfers are permitted without charge and are not counted against the twelve free transfers in a contract year.

11. Each of the Contracts reserves the right, upon notice to contract owners and compliance with applicable law, to add, combine or remove subaccounts, or to withdraw assets from one subaccount and put them into another subaccount, and this reserved right is disclosed in each Contract's prospectus.

12. On an ongoing basis, Integrity and National Integrity review the performance of the portfolios underlying the Contracts. During the past several years, the Replaced Portfolios have not maintained the level of performance that was the basis for their inclusion in the Contracts. These unfavorable performance records have occurred on an absolute basis, as well as relative to comparable portfolios with other investment advisers. This performance record may be attributable to certain changes that were occurring at the investment adviser to the Replaced Portfolios.

13. The poor performance results realized by the Replaced Portfolios have led to a significant decrease in Applicants' assets under management advised by Janus Capital Corporation. Since a peak of $279 million in August 2000, Applicants' assets under management in the non-money market Replaced Portfolios have decreased to $158 million as of June 30, 2002, a decline of 43%. Moreover, the Replaced Portfolios have also had net outflows for at least the past year, a situation mirrored at the Janus retail fund level. Investors withdrew $4.7 billion from the Janus retail funds during the second quarter of 2002.

14. Due to the poor performance of the Replaced Portfolios in recent years, Applicants propose the following substitutions of shares:

Replaced portfolio	Replacement portfolio
Janus Aspen Balanced Portfolio	Franklin Income Securities Portfolio.
Janus Aspen Capital Appreciation Portfolio	Franklin Growth and Income Securities Portfolio.
Janus Aspen Core Equity Portfolio	Franklin Growth and Income Securities Portfolio.
Janus Aspen Strategic Value Portfolio	Franklin Mutual Shares Portfolio.
Janus Aspen Money Market Portfolio	Fidelity VIP Money Market Portfolio.

15. In each case, shares of each class of the Replaced Portfolios will be substituted by shares of the corresponding class of the Replacement Portfolios. Therefore, service class shares of the Replaced Portfolios will be substituted by the equivalent class of shares of the Replacement Portfolios (i.e., Class 2 shares of the portfolios of the Franklin Templeton Variable Insurance Products Trust and Service Class shares of the Fidelity VIP Money Market Portfolio). In addition, in the case of three of the Replacement Portfolios whose institutional class shares are also offered under prior versions of the Contracts funded by Integrity Separate Account II and National Integrity Separate Account II, shares of the corresponding class of shares of the Replacement Portfolios will be used to replace the institutional shares of the relevant Replaced Portfolio (*i.e.,* Class 1 shares of the portfolios of the Franklin Templeton Variable Insurance Products Trust and Initial Class shares of the Fidelity VIP Money Market Portfolio).

16. Janus Capital Corporation serves as the investment adviser to each of the Replaced Portfolios. Franklin Templeton Investments serves as the investment adviser to each of the portfolios of the Franklin Templeton Variable Insurance Products Trust. Fidelity Management and Research Company serves as the investment adviser to the Fidelity VIP Money Market Portfolio. None of the Applicants are affiliated with any of the investment advisers to the Replaced or Replacement Portfolios.

17. The 2001 expenses for each of the Replaced and Replacement Portfolios are shown below in Chart A. Historical performance as of June 30, 2002 is included in Chart B.

18. The Janus Aspen Balanced Portfolio seeks long-term capital growth, consistent with capital preservation and balanced by current income. It is a diversified portfolio that pursues its objective by normally investing 40–60% of its assets in securities selected primarily for their growth potential and 40–60% of its assets in securities selected primarily for their income potential. The portfolio normally invests at least 25% of its assets in fixed-income securities.

19. The Franklin Income Securities Portfolio seeks to maximize income while maintaining prospects for capital appreciation. Under normal market conditions, the portfolio will invest in both debt and equity securities. The

portfolio seeks income by investing in corporate, foreign, and U.S. Treasury bonds. In its search for income producing growth opportunities the portfolio invests in common stocks with attractive dividend yields of companies from a variety of industries such as electric utilities, oil, gas, real estate and consumer goods.

20. The Janus Aspen Capital Appreciation Portfolio seeks long-term growth of capital. It is a non-diversified portfolio that pursues its objective by investing primarily in common stocks selected for their growth potential. The portfolio may invest in companies of any size, from larger, well-established companies to smaller, emerging growth companies.

21. The Janus Aspen Core Equity Portfolio seeks current income and long-term growth of capital. It normally emphasizes investments in common stocks, and growth potential is a significant investment consideration. The portfolio tries to provide a lower level of volatility than the S&P 500 Index. Normally, it invests at least 80% of its net assets in equity securities selected for growth potential. Eligible securities include domestic and foreign common stocks, preferred stocks, securities convertible into common stocks or preferred stock such as convertible preferred stocks, bonds, debentures, and other securities with equity characteristics.

22. The Franklin Growth and Income Securities Portfolio seeks capital appreciation with a secondary goal to provide current income. Under normal market conditions, the portfolio will invest at least 65% of its total assets in a broadly diversified portfolio of equity securities that the portfolio's manager considers to be financially strong, but undervalued by the market. The portfolio may invest in real estate investment trusts but does not intend to invest more than 15% of its assets in these trusts.

23. The Janus Aspen Strategic Value Portfolio seeks long-term growth of capital. It is a non-diversified portfolio that pursues its objective by investing primarily in common stocks with the potential for long-term growth of capital using a ''value'' approach. The ''value'' approach the portfolio manager uses emphasizes investments in companies believed to be undervalued relative to their intrinsic worth.

24. The Franklin Mutual Shares Securities Portfolio seeks capital appreciation with a secondary goal of income. Under normal market conditions the portfolio will invest at least 65% of its total assets in equity securities of companies that the manager believes are available at market prices less than their value based on certain recognized objective criteria. The portfolio currently intends to invest up to approximately 25% of its total assets in foreign investments.

25. The Janus Aspen Money Market Portfolio seeks maximum current income to the extent consistent with stability of capital. The portfolio will invest in high-quality, short-term money market instruments that present minimal credit risk. The portfolio may invest only in U.S. dollar denominated instruments.

26. The Fidelity VIP Money Market Portfolio seeks to earn a high level of current income while preserving capital and providing liquidity. It invests only in high-quality, U.S. dollar denominated money market securities of domestic and foreign issuers, such as certificates of deposit, obligations of governments and their agencies, and commercial paper and notes.

CHART A.—2001 PORTFOLIO EXPENSES

[In percent]

Portfolio	Mgmt. fee	12b-1 fee	Other expenses	Total annual operating expenses	Mgmt. fee reduction	Net total annual expenses
Service Class Shares to Class 2 or Service Class Shares:						
Janus Balanced	.65	.25	.01	.91		
Franklin Income Securities	.49	.25	.04	.78		
Janus Capital Appreciation	.65	.25	.01	.91		
Janus Core Equity	.65	.25	.40	1.30		
Franklin Growth and Income	.48	.25	.03	.76		
Janus Strategic Value	.65	.25	.70	1.60	(.10)	1.50
Franklin Mutual Shares	.60	.25	.19	1.04		
Janus Money Market	.25	.25	.09	.59		
Fidelity Money Market	.18	.25	.12	.55		
Institutional Class Shares to Initial Class or Class 1 Shares:*						
Janus Balanced	.65	.00	.01	.66		
Franklin Income Securities	.49	.00	.04	.53		
Janus Capital Appreciation	.65	.00	.01	.66		
Franklin Growth and Income	.48	.00	.03	.51		
Janus Money Market	.25	.00	.09	.34		
Fidelity Money Market	.18	.00	.10	.28		

*Applicable only to older Contracts offered by certain registration statements.

CHART B.—PORTFOLIO PERFORMANCE AS OF JUNE 30, 2002

[In percent]

Portfolio	YTD	1 year	3 year	5 year	10 year
Service Class Shares to Class 2 or Service Class Shares:					
Janus Balanced	−3.34	−4.68	0.69	10.72	N/A
Franklin Income Securities	−0.52	−2.04	4.87	5.52	8.09
Janus Capital Appreciation	−7.05	−15.90	−8.04	10.72	N/A
Janus Core Equity	−7.12	−12.63	−4.29	12.16	N/A

CHART B.—PORTFOLIO PERFORMANCE AS OF JUNE 30, 2002—Continued

[In percent]

Portfolio	YTD	1 year	3 year	5 year	10 year
Franklin Growth and Income	−4.09	−6.06	1.11	6.39	10.86
Janus Strategic Value	−9.59	−15.22	N/A	N/A	N/A
Franklin Mutual Shares	−3.89	−7.83	4.98	7.69	N/A
Janus Money Market	—	2.55	4.69	4.87	N/A
Fidelity Money Market	—	2.46	4.69	4.96	N/A
Institutional Class Shares to Initial Class or Class 1 Shares:*					
Janus Balanced	−3.19	−4.44	0.67	10.79	N/A
Franklin Income Securities	−0.46	−1.90	5.12	5.70	8.17
Janus Capital Appreciation	−6.90	−15.69	−7.45	11.16	N/A
Franklin Growth and Income	−4.02	−5.87	1.32	6.55	10.95

*Applicable only to older Contracts offered by certain registration statements.

27. The Substitution will take place at the portfolios' relative net asset values determined on the date of the Substitution in accordance with Section 22 of the Act and Rule 22c–1 thereunder with no change in the amount of any contract owner's cash value or death benefit or in the dollar value of his or her investment in any of the subaccounts. Accordingly, there will be no financial impact on any contract owner. The Substitution will be effected by having each of the subaccounts that invests in the Replaced Portfolios redeem its shares at the net asset value calculated on the date of the Substitution and purchase shares of the respective Replacement Portfolios at the net asset value calculated on the same date.

28. The Substitution will be described in supplements to the prospectuses for the Contracts (''Stickers'') filed with the Commission and mailed to contract owners. The Stickers will give contract owners notice of the Substitution and will describe the reasons for engaging in the Substitution. The Stickers will also inform contract owners with assets allocated to a subaccount investing in the Replaced Portfolios that no additional amount may be allocated to those subaccounts on or after the date of the Substitution. In addition, the Stickers will inform affected contract owners that they will have the opportunity to reallocate accumulation value:

- Prior to the Substitution from the subaccounts investing in the Replaced Portfolios, and
- For 30 days after the Substitution from the subaccounts investing in the Replacement Portfolios,

to subaccounts investing in other portfolios available under the respective Contracts, without the imposition of any transfer charge or limitation and without diminishing the number of free transfers that may be made in a given contract year.

29. The prospectuses for the Contracts, as supplemented by the Stickers, will reflect the Substitution. Each contract owner will be provided with a prospectus for the Replacement Portfolios before the Substitution. Within five days after the Substitution, Integrity and National Integrity will each send affected contract owners written confirmation that the Substitution has occurred. The confirmation will remind contract owners that they have 30 days from the date of the Substitution to make a transfer from the subaccounts investing in the Replacement Portfolios to subaccounts investing in other portfolios under the Contracts without paying a transfer charge or diminishing the number of available free transfers.

30. Integrity and National Integrity, as applicable, will pay all expenses and transaction costs of the Substitution, including all legal, accounting and brokerage expenses relating to the Substitution. No costs will be borne by contract owners. Affected contract owners will not incur any fees or charges as a result of the Substitution, nor will their rights or the obligations of the Applicants under the Contracts be altered in any way. The Substitution will not cause the fees and charges under the Contracts currently being paid by contract owners to be greater after the Substitution than before the Substitution. The Substitution will have no adverse tax consequences to contract owners and will in no way alter the tax benefits to contract owners.

31. Applicants believe that their request satisfies the standards for relief of Section 26(c) of the Act, as set forth below, because the affected contract owners will have:

(a) Contract values allocated to a subaccount invested in a Replacement Portfolio with an investment objective and policies substantially similar to the investment objective and policies of the Replaced Portfolio;

(b) In all cases the Replacement Portfolios have superior or equal performance for the three years ended June 30, 2002 to that of the Replaced Portfolios; and

(c) Total annual expenses that are lower than those of the Replaced Portfolio.

Applicants' Legal Analysis

1. Section 26(c) of the Act makes it unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission approves the substitution. The Commission will approve such a substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. The purpose of Section 26(c) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate shares of a particular issuer by preventing unscrutinized substitutions that might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial premium payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Moreover, in the insurance product context, a contract owner forced to redeem may suffer adverse tax consequences. Section 26(c) affords this protection to investors by preventing a depositor or trustee of a unit investment trust that holds shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

3. The purposes, terms and conditions of the Substitution are consistent with the principles and purposes of Section 26(c) and do not entail any of the abuses that Section 26(c) is designed to

prevent. Applicants have reserved the right to make such a substitution under the Contracts and this reserved right is disclosed in each Contract's prospectus.

4. Substitutions have been common where the substituted portfolio has investment objectives and policies that are similar to those of the eliminated portfolio, current expenses that are similar to or lower than those of the eliminated portfolio, and performance that is similar to or better than that of the eliminated portfolio.

5. In all cases the investment objectives and policies of the Replacement Portfolios are sufficiently similar to those of the corresponding Replaced Portfolios that contract owners will have reasonable continuity in investment expectations. Accordingly, the Replacement Portfolios are appropriate investment vehicles for those contract owners who have contract values allocated to the Replaced Portfolios.

6. In addition, the Replacement Portfolios have lower annual expenses than the Replaced Portfolios and superior or equal performance for the three years ended June 30, 2002. Integrity and National Integrity will not increase separate account fees and charges of the subaccounts that invest in the Replacement Portfolios for those contract owners who were contract owners on the date of the Substitution for a period of one year from the date of the Substitution except to the extent of any increase in premium or similar taxes charges by a state or other locality.

7. Moreover, Integrity and National Integrity will not receive, for three years from the date of the Substitution, any direct or indirect benefit from the Replacement Portfolios, their advisers or underwriters, or from affiliates of the Replacement Portfolios, their advisers or underwriters, in connection with the assets attributable to the Contracts affected by the Substitution, at a higher rate than Integrity and National Integrity received from the Replaced Portfolios, their advisers or underwriters, or from affiliates of the Replaced Portfolios, their advisers or underwriters, including without limitation Rule 12b–1 fees, shareholder service, administrative, or other service fees, revenue sharing or other arrangements. The Substitution and the selection of the Replacement Portfolios were not motivated by any financial consideration paid or to be paid to Integrity or National Integrity or their affiliates by the Replacement Portfolios, their advisers or underwriters, or their affiliates.

8. The Substitution will not result in the type of costly forced redemption that Section 26(c) was intended to guard against and, for the following reasons, is consistent with the protection of investors and the purposes fairly intended by the Act:

(a) Each of the Replacement Portfolios is an appropriate portfolio to which to move contract owners with values allocated to the Replaced Portfolios because the portfolios have substantially similar investment objectives and policies.

(b) The costs of the Substitution, including any brokerage costs, will be borne by Integrity and National Integrity and will not be borne by contract owners. No charges will be assessed to effect the Substitution.

(c) The Substitution will be at the net asset values of the respective shares without the imposition of any transfer or similar charge and with no change in the amount of any contract owner's accumulation value.

(d) The Substitution will not cause the fees and charges under the Contracts currently being paid by contract owners to be greater after the Substitution than before the Substitution and will result in contract owners' contract values being moved to a Replacement Portfolio with lower total annual expenses.

(e) All contract owners will be given notice of the Substitution prior to the Substitution and will have an opportunity for 30 days after the Substitution to reallocate accumulation value among other available subaccounts without the imposition of any transfer charge or limitation and without being counted as one of the contract owner's free transfers in a contract year.

(f) Within five days after the Substitution, Integrity and National Integrity will send to its affected contract owners written confirmation that the Substitution has occurred.

(g) The Substitution will in no way alter the insurance benefits to contract owners or the contractual obligations of Integrity and National Integrity.

(h) The Substitution will have no adverse tax consequences to contract owners and will in no way alter the tax benefits to contract owners.

Conclusion

Applicants request an order of the Commission pursuant to Section 26(c) of the Act approving the Substitution. Section 26(c), in pertinent part, provides that the Commission shall issue an order approving a substitution of securities if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons and upon the facts set forth above, the requested order meets the standards set forth in Section 26(c) and should, therefore, be granted.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–30531 Filed 12–2–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 46921 / November 26, 2002]

Securities Exchange Act of 1934; Order Extending Broker-Dealer Exemption From Sending Financial Information to Customers

In the Matter of Securities Industry Association, 1401 Eye Street, NW., Washington, DC 20005–2225.

The Securities and Exchange Commission (''Commission'') is extending its Temporary Order, which was originally issued on December 10, 1999[1] and then extended on December 20, 2001,[2] under Section 17(e) of the Securities Exchange Act of 1934 (''Exchange Act''), exempting broker-dealers from Exchange Act Section 17(e)(1)(B) and Rule 17a–5(c). These sections require a broker-dealer to send each of its customers semi-annually its balance sheet with appropriate footnotes prepared in accordance with generally accepted accounting principles (''GAAP'') and a footnote disclosing the firm's net capital and required net capital. To take advantage of the exemption, a broker-dealer must semi-annually send the net capital footnote to its customers, must send its balance sheet and appropriate footnotes to customers upon request via a toll-free number, and must place its balance sheet and appropriate footnotes on its website.

The Commission's Temporary Order and extension established a pilot program which expires on December 31, 2002. During the pilot program, a broker-dealer taking advantage of the exemption was required, among other things, to report to the Commission the number of times its balance sheet was viewed on its website and the number of requests for paper copies received via its toll-free number. During the December 31, 2001 to December 31, 2002 extension of the pilot program, a broker-dealer was also required to report to the Commission any written customer

[1] Exchange Act Release No. 42222.

[2] Exchange Act Release No. 45179.