

MEMO# 32990

December 16, 2020

Update on IM Staff Position on Template Relief for Variable Insurance Products Funds

[32990]

December 16, 2020 TO: Disclosure Working Group
SEC Rules Committee

Variable Insurance Products Advisory Committee RE: Update on IM Staff Position on
Template Relief for Variable Insurance Products Funds

We understand that the SEC's Division of Investment Management (IM) has recently revised its approach to providing "template relief" in connection with registration statement amendments made for the purpose of implementing the SEC's amendments adopting the variable insurance products summary prospectus (VASP). We summarize our understanding of IM's revised approach below.

Background

In 2018, IM staff issued an Accounting and Disclosure Information (ADI) providing guidance on the circumstances under which registrants may request "template relief" under rule 485(b)(i)(vii) to avoid the need to make multiple rule 485(a) filings.[\[1\]](#) Template relief may be appropriate when a fund complex makes substantially identical changes to multiple fund registration statements, and seeks to avoid the need to make multiple rule 485(a) filings. Under this approach, a registrant submits a single rule 485(a) filing (a "template filing") for staff review, together with a template filing relief request for other funds with "substantially identical" disclosure. The 2018 ADI provides detailed guidance on when template relief may be appropriate, and states that a registrant's request should include three specified representations, including that "the disclosure changes in the Template filing are substantially identical to disclosure changes that will be made in the Replicate filings."[\[2\]](#)

Following the SEC's recent adoption of the VASP rulemaking,[\[3\]](#) registrants have raised questions with IM staff about the process to request template relief to amend their registrations statements to reflect the new rules. IM Director Dalia Blass has explained that "registrants have raised concerns about the representation typically included in the relief request related to substantially identical disclosure changes between the template and replicate filings."[\[4\]](#)

Revised Approach to Template Relief

Based on our discussions with IM staff, we understand that the staff is taking the following approach to template relief in the context of registration statement amendments intended to implement the VASP rulemaking:

- Registrants may replace the first representation from the ADI regarding “substantially identical” disclosure changes to instead state that the format and type of disclosure changes in the template filing have been made to comply with the SEC’s recent amendments to [Form N-4/Form N-6, as applicable] in connection with the VASP rulemaking and are “substantially identical” to the format and type of disclosure changes that will be made in the replicate filing(s).
- Registrants must still include the other two representations from the 2018 ADI.^[1]
- Registrants must also state that:
 - the substance of any disclosure changes made on the replicate filings have already been reviewed by the IM staff or otherwise are compliant with rule 485(b); and
 - the template is a “fair representation” of the replicate filing(s).

The IM staff urges registrants to submit a written plan for template review with their request for template relief. The plan need not be formal but should explain how the template is a fair representation of the replicate filing(s).

The IM staff expects that registrants would use care in selecting a registration statement to submit as a template filing. First, a filing on one registration form should not be used as the template filing for another registration form. For example, a registration statement on Form N-4 should not serve as the template filing for products offered on Form N-6. Second, in selecting a registration statement to submit as the template filing, the staff encourages registrants to consider using a more inclusive filing. For example, a registration statement for a variable insurance product that does not offer optional benefits should not serve as the template for insurance products that do not offer optional benefits. However, a registration statement for a variable insurance product that offers optional benefits may be treated as representative of filings for other products that offer optional benefits, even if the particular optional benefits differ under the different contracts. Third, a registration statement for an insurance product that has been discontinued should not be used as the template filing for contracts that are being sold currently. If replicate filings include an initial summary prospectus, so should the template filing.

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endnotes

^[1] See Template Filing Relief, ADI 2018-02 (June 12, 2018), *available at* <https://www.sec.gov/investment/adi-2018-02-template-filing-relief>.

[2] *Id.* The other two representations are:

- The Replicate filings incorporate changes made to the disclosure included in the Template filing to resolve any staff comments thereon.
- The Replicate filings will not include any other changes that would otherwise render them ineligible for filing under rule 485(b).

[3] See *Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts*, 85 Fed. Reg. 25964 (May 1, 2020), available at <https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-05526.pdf>.

[4] Dalia Blass, Director, Division of Investment Management, *Keynote Address: ALI CLE 2020 Conference on Life Insurance Products* (Nov. 10, 2020), available at <https://www.sec.gov/news/speech/blass-keynote-address-ali-cle-2020-life-insurance-company-products>.

[5] See *supra* note 2.