

PROTECTIVE LIFE CORP
Form DEFR14A
August 27, 2014

Use these links to rapidly review the document

[TABLE OF CONTENTS](#)
[TABLE OF CONTENTS](#)

[Table of Contents](#)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934 (Amendment No. 1)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material under §240.14a-12

PROTECTIVE LIFE CORPORATION

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

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Explanatory Note

The purpose of this Amendment No. 1 is to modify the beneficial ownership table on page 88 and to modify footnote (3) to the beneficial ownership table on page 89. These modifications are being made (a) to exclude restricted stock units from the beneficial ownership table and note them in an explanatory footnote in keeping with Section 13(d) of the Exchange Act and Protective Life Corporation's historical proxy statements, including its preliminary proxy statement, and (b) to reflect that the "current Directors and executive officers as a group" as reported on the beneficial ownership table consist of 20 rather than 21 persons.

Other than these changes, this revised proxy statement is in all respects identical to the original definitive proxy statement previously filed.

Table of Contents

Protective Life Corporation

Post Office Box 2606
Birmingham, AL 35202
(205) 268-1000

August 25, 2014

Dear Stockholder,

You are cordially invited to attend a special meeting of Protective Life Corporation ("Protective," the "Company," "we," "our" or "us") stockholders to be held at Protective headquarters, 2801 Highway 280 South, Birmingham, Alabama 35223, on Monday, October 6, 2014, at 10:00 a.m., Central Time.

At the special meeting, you will be asked to consider and vote upon a proposal to adopt the merger agreement under which Protective would be acquired by The Dai-ichi Life Insurance Company, Limited ("Dai-ichi"). In addition, you will be asked to consider and vote, on an advisory (non-binding) proposal to approve the compensation that may be paid or become payable to our named executive officers in connection with the merger, including the agreements and understandings pursuant to which such compensation may be paid or become payable, as described in the section entitled "The Merger Interests of Protective's Executive Officers in the Merger Golden Parachute Compensation." You will also be asked to consider and vote on a proposal to adjourn the special meeting to a later date or time, if necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of the special meeting or any adjournment or postponement thereof to adopt the merger agreement. We entered into the merger agreement on June 3, 2014. If the merger agreement is adopted and the merger is completed, you, as a holder of Protective common stock, will be entitled to receive \$70.00 in cash, without interest, less any applicable withholding taxes, for each share of Protective common stock owned by you at the consummation of the merger, and Protective will become a wholly-owned subsidiary of Dai-ichi.

After careful consideration, our board of directors has unanimously determined that the merger and the other transactions contemplated by the merger agreement are fair to, advisable and in the best interests of Protective and its stockholders and unanimously recommends that you vote "FOR" the adoption of the merger agreement, "FOR" the approval, on an advisory (non-binding) basis, of the compensation that may be paid or become payable to Protective's named executive officers in connection with the merger, including the agreements and understandings pursuant to which such compensation may be paid or become payable, as described in the section entitled "The Merger Interests of Protective's Executive Officers in the Merger Golden Parachute Compensation" and "FOR" the adjournment of the special meeting to a later date or time, if necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of the special meeting or any adjournment or postponement thereof to adopt the merger agreement.

Your vote is very important, regardless of the number of shares of common stock you own. We cannot consummate the merger unless the merger agreement is approved by the affirmative vote of the holders of at least a majority of the outstanding shares of our common stock entitled to vote at the special meeting. Therefore, the failure of any stockholder to vote will have the same effect as a vote by that stockholder against the adoption of the merger agreement.

The attached proxy statement provides you with detailed information about the special meeting, the merger agreement and the merger. A copy of the merger agreement is attached as Annex A to this document. We encourage you to read this document and the merger agreement carefully and in their entirety. You may also obtain more information about Protective from documents we have filed with the Securities and Exchange Commission.

Table of Contents

Thank you in advance for your continued support and your consideration of this matter.

Sincerely,

John D. Johns

Chairman of the Board, President and Chief Executive Officer

Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the merger, passed upon the merits or fairness of the merger or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offense.

This proxy statement is dated August 25, 2014 and is first being mailed to stockholders on or about August 25, 2014.

Table of Contents

Protective Life Corporation

Post Office Box 2606
Birmingham, AL 35202
(205) 268-1000

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
To Be Held on Monday, October 6, 2014**

To the Stockholders of Protective Life Corporation:

A special meeting of stockholders of Protective Life Corporation, a Delaware corporation ("Protective," the "Company," "we," "our" or "us"), will be held at Protective headquarters, 2801 Highway 280 South, Birmingham, Alabama 35223, on Monday, October 6, 2014, at 10:00 a.m., Central Time for the following purposes:

1. To consider and vote on a proposal to adopt the Agreement and Plan of Merger, dated as of June 3, 2014, among The Dai-ichi Life Insurance Company, Limited, a *kabushiki kaisha* organized under the laws of Japan ("Dai-ichi"), DL Investment (Delaware), Inc., a Delaware corporation and wholly-owned subsidiary of Dai-ichi, and Protective, as it may be amended from time to time, pursuant to which DL Investment (Delaware), Inc. will merge with and into Protective.
2. To approve, on an advisory (non-binding) basis, the compensation that may be paid or become payable to Protective's named executive officers in connection with the merger, discussed under the section entitled "The Merger Interests of Protective's Executive Officers in the Merger Golden Parachute Compensation" beginning on page 54.
3. To consider and vote on a proposal to adjourn the special meeting to a later date or time, if necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of the special meeting or any adjournment or postponement thereof to adopt the merger agreement.
4. To consider and vote on such other business as may properly come before the special meeting or any adjournment or postponement of the special meeting.

Our board of directors has specified the close of business on August 15, 2014 as the record date for the purpose of determining the stockholders who are entitled to receive notice of, and to vote at, the special meeting. Only stockholders of record at the close of business on the record date are entitled to notice of and to vote at the special meeting and at any adjournment or postponement thereof. Each stockholder is entitled to one vote for each share of Protective common stock held on the record date.

Under Delaware law, Protective stockholders who do not vote in favor of the merger agreement will have the right to seek appraisal of the fair value of their shares as determined by the Delaware Court of Chancery if the merger is completed, but only if they submit a written demand for such an appraisal prior to the vote on the merger agreement and strictly comply with the other Delaware law procedures explained in the accompanying proxy statement.

Regardless of whether you plan to attend the special meeting in person, we request that you complete, sign, date and return the enclosed proxy or submit your proxy by telephone or the Internet prior to the special meeting to ensure that your shares will be represented at the special meeting. If you have Internet access, we encourage you to submit your proxy via the Internet. Properly executed proxy cards with no instructions indicated on the proxy card will be voted **"FOR"** the adoption of the merger agreement, **"FOR"** the approval, on an advisory (non-binding) basis, of the compensation that may be paid or become payable to Protective's named executive officers in connection with the merger

Table of Contents

and "**FOR**" the adjournment of the special meeting to a later date or time, if necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of the special meeting or any adjournment or postponement thereof to adopt the merger agreement. If you attend the special meeting, you may revoke your proxy and vote in person if you wish, even if you have previously returned your proxy card. Your prompt attention is greatly appreciated.

THE PROTECTIVE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE "FOR" THE ADOPTION OF THE MERGER AGREEMENT, "FOR" THE APPROVAL, ON AN ADVISORY (NON-BINDING) BASIS, OF THE COMPENSATION THAT MAY BE PAID OR BECOME PAYABLE TO PROTECTIVE'S NAMED EXECUTIVE OFFICERS IN CONNECTION WITH THE MERGER AND "FOR" THE ADJOURNMENT OF THE SPECIAL MEETING TO A LATER DATE OR TIME, IF NECESSARY OR APPROPRIATE, TO SOLICIT ADDITIONAL PROXIES IN THE EVENT THERE ARE INSUFFICIENT VOTES AT THE TIME OF THE SPECIAL MEETING OR ANY ADJOURNMENT OR POSTPONEMENT THEREOF TO ADOPT THE MERGER AGREEMENT.

By Order of the Board of Directors,

Deborah J. Long
Secretary
August 25, 2014
Birmingham, Alabama

Table of Contents

ADDITIONAL INFORMATION

This document incorporates important business and financial information about Protective from documents that are not included in or delivered with this document. See "Where You Can Find More Information" on page 90. You can obtain documents incorporated by reference in this document by requesting them in writing or by telephone from Investor Relations, Protective Life Corporation, P.O. Box 2606, Birmingham, Alabama 35202, telephone (205) 268-3912, fax (205) 268-5547. You will not be charged for any of these documents that you request. If you wish to request documents, you should do so by September 29, 2014 in order to receive them before the special meeting.

For additional questions about the merger, assistance in submitting proxies or voting shares of Protective common stock, or additional copies of the proxy statement or the enclosed proxy card, please contact our proxy solicitor:

105 Madison Avenue
New York, New York 10016
proxy@mackenziepartners.com
Call Collect: (212) 929-5500
or
Toll-Free (800) 322-2885

Table of Contents

TABLE OF CONTENTS

	Page
<u>SUMMARY</u>	<u>1</u>
<u>The Companies</u>	<u>1</u>
<u>The Merger</u>	<u>1</u>
<u>The Special Meeting</u>	<u>1</u>
<u>Reasons for the Merger; Recommendation of the Board</u>	<u>2</u>
<u>Background of the Merger</u>	<u>2</u>
<u>Opinion of Morgan Stanley & Co. LLC</u>	<u>2</u>
<u>Treatment of Equity Compensation Awards</u>	<u>3</u>
<u>Merger Financing</u>	<u>4</u>
<u>Material U.S. Federal Income Tax Consequences of the Merger</u>	<u>4</u>
<u>Interests of Protective's Executive Officers in the Merger</u>	<u>4</u>
<u>Common Stock Ownership of Directors and Executive Officers</u>	<u>4</u>
<u>Appraisal Rights</u>	<u>4</u>
<u>Conditions to the Merger</u>	<u>5</u>
<u>Termination of the Merger Agreement</u>	<u>6</u>
<u>Termination Fees</u>	<u>7</u>
<u>Acquisition Proposals</u>	<u>8</u>
<u>Regulatory Approvals</u>	<u>9</u>
<u>Litigation Related to the Merger</u>	<u>10</u>
<u>Current Market Price of Common Stock</u>	<u>10</u>
<u>QUESTIONS AND ANSWERS ABOUT THE MERGER AND THE SPECIAL MEETING</u>	<u>11</u>
<u>CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING INFORMATION</u>	<u>18</u>
<u>THE SPECIAL MEETING</u>	<u>19</u>
<u>Date, Time, Place and Purpose of the Special Meeting</u>	<u>19</u>
<u>Record Date and Quorum</u>	<u>19</u>
<u>Required Votes</u>	<u>19</u>
<u>Vote for Approval of the Merger</u>	<u>19</u>
<u>Advisory (Non-Binding) Vote on Compensation</u>	<u>19</u>
<u>Vote for Approval of an Adjournment of the Special Meeting</u>	<u>20</u>
<u>Voting by Protective's Directors and Executive Officers</u>	<u>20</u>
<u>Voting, Proxies and Revocation</u>	<u>21</u>
<u>Abstentions</u>	<u>22</u>
<u>Adjournments and Postponements</u>	<u>23</u>
<u>Solicitation of Proxies</u>	<u>23</u>
<u>Questions and Additional Information</u>	<u>23</u>
<u>List of Stockholders</u>	<u>23</u>
<u>THE COMPANIES</u>	<u>24</u>
<u>Protective Life Corporation</u>	<u>24</u>
<u>The Dai-ichi Life Insurance Company, Limited</u>	<u>24</u>
<u>DL Investment (Delaware), Inc.</u>	<u>24</u>
<u>THE MERGER</u>	<u>25</u>
<u>Background of the Merger</u>	<u>25</u>

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Table of Contents

	Page
<u>Reasons for the Merger; Recommendation of the Board</u>	<u>35</u>
<u>Opinion of Morgan Stanley & Co. LLC</u>	<u>38</u>
<u>Financial Projections</u>	<u>47</u>
<u>Merger Financing</u>	<u>49</u>
<u>Interests of Protective's Executive Officers in the Merger</u>	<u>49</u>
<u>No Compensation Payable to Dai-ichi Executive Officers</u>	<u>58</u>
<u>Insurance and Indemnification of Protective Directors and Officers</u>	<u>58</u>
<u>Material U.S. Federal Income Tax Consequences of the Merger</u>	<u>58</u>
<u>U.S. Holders</u>	<u>59</u>
<u>Non-U.S. Holders</u>	<u>60</u>
<u>Information Reporting and Backup Withholding</u>	<u>60</u>
<u>Regulatory Approvals</u>	<u>61</u>
<u>Litigation Related to the Merger</u>	<u>62</u>
<u>THE MERGER AGREEMENT</u>	<u>63</u>
<u>Explanatory Note Regarding the Merger Agreement</u>	<u>63</u>
<u>The Merger</u>	<u>63</u>
<u>Effects of the Merger</u>	<u>64</u>
<u>The Merger Consideration and the Conversion of Protective Capital Stock</u>	<u>64</u>
<u>Payment Procedures</u>	<u>65</u>
<u>Treatment of Equity Compensation Awards</u>	<u>66</u>
<u>Representations and Warranties</u>	<u>66</u>
<u>Covenants Regarding Conduct of Business by Protective Pending the Merger</u>	<u>69</u>
<u>Acquisition Proposals</u>	<u>73</u>
<u>Employee Benefits and Service Credit</u>	<u>75</u>
<u>Other Covenants and Agreements</u>	<u>76</u>
<u>Consents and Approvals</u>	<u>77</u>
<u>Conditions to the Merger</u>	<u>78</u>
<u>Termination of the Merger Agreement</u>	<u>79</u>
<u>Termination Fees</u>	<u>80</u>
<u>Amendment of the Merger Agreement</u>	<u>81</u>
<u>Governing Law and Jurisdiction</u>	<u>81</u>
<u>Specific Performance</u>	<u>81</u>
<u>APPRAISAL RIGHTS</u>	<u>82</u>
<u>CURRENT MARKET PRICE OF COMMON STOCK</u>	<u>86</u>
<u>SUBMISSION OF STOCKHOLDER PROPOSALS</u>	<u>86</u>
<u>HOUSEHOLDING ISSUES</u>	<u>87</u>
<u>DELISTING OF COMPANY COMMON STOCK</u>	<u>87</u>
<u>SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT</u>	<u>87</u>
<u>Section 16(a) Beneficial Ownership Reporting Compliance</u>	<u>89</u>
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	<u>90</u>

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Table of Contents

<u>Annex A</u>	<u>Agreement and Plan of Merger*</u>
<u>Annex A-I</u>	<u>List of General Subject Matters under the Disclosure Letter of Protective Life Corporation</u>
<u>Annex A-II</u>	<u>List of General Subject Matters under the Disclosure Letter of The Dai-ichi Life Insurance Company, Limited and DL Investment (Delaware), Inc.</u>
<u>Annex B</u>	<u>Opinion of Morgan Stanley & Co. LLC</u>
<u>Annex C</u>	<u>Section 262 of the General Corporation Law of the State of Delaware</u>

*

Pursuant to Item 601(b)(2) of Regulation S-K, Protective agrees to furnish supplementally a copy of any omitted schedule to the Agreement and Plan of Merger to the staff of the Securities and Exchange Commission upon request.

Table of Contents

SUMMARY

The following summary highlights information in this proxy statement and may not contain all of the information that is important to you. Accordingly, we encourage you to read carefully this entire proxy statement, its annexes and the documents referred to in this proxy statement. We sometimes make reference to Protective Life Corporation and its subsidiaries in this proxy statement by using the terms "Protective," the "Company," "we," "our" or "us." Each item in this summary includes a page reference directing you to a more complete description of the item in this proxy statement.

The Companies (Page 24)

Protective Life Corporation. Protective Life Corporation is a Delaware corporation with common stock listed and traded on the New York Stock Exchange under the ticker symbol "PL." Protective provides financial services through the production, distribution and administration of insurance and investment products throughout the U.S. Protective's principal offices are located at 2801 Highway 280 South, Birmingham, Alabama 35223, and its telephone number is (205) 268-1000. Protective's home page on the Internet is www.protective.com. The information provided on Protective's website is not part of this proxy statement and is not incorporated herein by reference.

The Dai-ichi Life Insurance Company, Limited. The Dai-ichi Life Insurance Company, Limited ("Dai-ichi"), is a *kabushiki kaisha* organized under the laws of Japan. Dai-ichi is the second largest private life insurance company in Japan as measured by total assets. Founded in 1902 as a mutual company, Dai-ichi was demutualized and listed on the Tokyo Stock Exchange in 2010. See "The Companies The Dai-ichi Life Insurance Company, Limited" on page 24.

DL Investment (Delaware), Inc. DL Investment (Delaware), Inc. is a Delaware corporation and wholly-owned subsidiary of Dai-ichi (and, together with Dai-ichi, the "Dai-ichi Parties") that was formed solely for the purpose of entering into the merger agreement and consummating the transactions contemplated by the merger agreement. See "The Companies DL Investment (Delaware), Inc." on page 24.

The Merger (Page 25)

The Agreement and Plan of Merger, dated June 3, 2014 (the "merger agreement"), by and among Dai-ichi, DL Investment (Delaware), Inc. and Protective, provides that DL Investment (Delaware), Inc. will merge with and into Protective (the "merger"). As a result of the merger, the separate corporate existence of DL Investment (Delaware), Inc. will cease, and Protective will continue as the surviving corporation (the "surviving corporation") and will become a wholly-owned subsidiary of Dai-ichi. Upon completion of the proposed merger, shares of Protective common stock ("Common Stock") will no longer be listed on any stock exchange or quotation system. If the merger agreement is adopted and the merger is completed, each outstanding share of Common Stock (other than shares of Common Stock held by Protective, Dai-ichi or DL Investment (Delaware), Inc., or by any holder who has properly exercised appraisal rights of such shares in accordance with Section 262 of the General Corporation Law of the State of Delaware (the "DGCL")) will be converted into the right to receive \$70.00 in cash, without interest, less any applicable withholding taxes. The merger agreement is attached to this proxy statement as Annex A. We urge you to read carefully the merger agreement in its entirety as it is the legal document governing the merger.

The Special Meeting (Page 19)

Date, Time and Place. The special meeting will be held at Protective headquarters, 2801 Highway 280 South, Birmingham, Alabama 35223, on Monday, October 6, 2014, at 10:00 a.m., Central Time.

Table of Contents

Purpose. You will be asked to consider and vote upon (1) the adoption of the merger agreement, (2) on an advisory (non-binding) basis, the compensation that may be paid or become payable to Protective's named executive officers in connection with the merger, (3) the adjournment of the special meeting to a later date, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement and (4) such other business as may properly come before the special meeting or any adjournments or postponements of the special meeting.

Record Date and Quorum. You are entitled to vote at the special meeting if you owned shares of Common Stock at the close of business on August 15, 2014, the record date for the special meeting. You will have one vote for each share of Common Stock that you owned on the record date. As of the record date, there were 79,250,726 shares of Common Stock issued and outstanding and entitled to vote at the special meeting. The presence at the special meeting, in person or by proxy, of the holders of 39,704,614 shares of Common Stock (a majority of Common Stock issued, outstanding and entitled to vote at the special meeting) constitutes a quorum for the purpose of considering the proposals.

Vote Required. The adoption of the merger agreement requires the affirmative vote of the holders of at least a majority of the outstanding shares of Common Stock entitled to vote at the special meeting, or any adjournment or postponement thereof. The approval, on an advisory basis, of the compensation that may be paid or become payable to Protective's named executive officers in connection with the merger, including the agreements and understandings pursuant to which such compensation may be paid or become payable, requires the affirmative vote of the holders of at least a majority of the shares of Common Stock present in person or represented by proxy at the special meeting and entitled to vote on the matter. The adoption of the proposal to adjourn the special meeting to a later time, if necessary or appropriate, to solicit additional proxies requires the affirmative vote of the holders of at least a majority of the shares of Common Stock represented in person or by proxy at the special meeting and entitled to vote thereon.

Reasons for the Merger; Recommendation of the Board (Page 35)

The Protective board of directors (the "Board") unanimously determined that the merger and the other transactions contemplated by the merger agreement are fair to, advisable and in the best interests of Protective and its stockholders. The Board unanimously recommends that Protective stockholders vote "**FOR**" the adoption of the merger agreement, "**FOR**" the approval, on an advisory (non-binding) basis, of the compensation that may be paid or become payable to Protective's named executive officers in connection with the merger and "**FOR**" the adjournment of the special meeting to a later date or time, if necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of the special meeting or any adjournment or postponement thereof to adopt the merger agreement.

For a description of the reasons considered by the Board in deciding to recommend approval of the proposal to adopt the merger agreement, see "The Merger Reasons for the Merger; Recommendation of the Board" beginning on page 35.

Background of the Merger (Page 25)

A description of the process we undertook, which led to the proposed merger, including our discussions with Dai-ichi, is included in the proxy statement under "The Merger Background of the Merger."

Opinion of Morgan Stanley & Co. LLC (Page 38)

In connection with the merger, at the meeting of the Board on June 3, 2014, Morgan Stanley & Co. LLC ("Morgan Stanley"), rendered its oral opinion to the Board, which opinion was

Table of Contents

subsequently confirmed in writing, to the effect that, as of that date and based upon and subject to the assumptions made, procedures followed, matters considered and qualifications and limitations upon the scope of review undertaken by Morgan Stanley, as set forth in its opinion, the merger consideration to be received by the holders of shares of Common Stock pursuant to the merger agreement was fair, from a financial point of view, to such holders.

The full text of Morgan Stanley's written opinion, dated June 3, 2014, is attached as Annex B to this proxy statement. Protective encourages you to read the opinion in its entirety for a discussion of the assumptions made, procedures followed, matters considered and qualifications and limitations upon the scope of the review undertaken by Morgan Stanley in rendering the opinion. Morgan Stanley's opinion is directed to the Board and addresses only the fairness from a financial point of view of the merger consideration pursuant to the merger agreement to be received by the holders of shares of Common Stock as of the date of the opinion. Morgan Stanley's opinion does not address any other aspects of the merger and does not constitute a recommendation as to how the stockholders of Protective should vote at any stockholders' meeting related to the merger or to take any other action with respect to the merger.

Treatment of Equity Compensation Awards (Page 66)

Stock Appreciation Rights. At or immediately prior to the effective time of the merger, each stock appreciation right with respect to shares of Common Stock granted under any stock plan (a "SAR") that is outstanding and unexercised immediately prior to the effective time of the merger and that has a base price per share of Common Stock underlying such SAR that is less than the per share merger consideration (an "In-the-Money SAR"), whether or not exercisable or vested, will be cancelled and converted into the right to receive an amount in cash, without interest, less any applicable withholding taxes, determined by multiplying (i) the excess of the per share merger consideration over the base price of such In-the-Money SAR by (ii) the number of shares of Common Stock subject to such In-the-Money SAR. At the effective time of the merger, each SAR that has a base price that is equal to or greater than the per share merger consideration, whether or not exercisable or vested, will be cancelled and the holder of such SAR will not be entitled to receive any payment in exchange for such cancellation.

Restricted Stock Units. At or immediately prior to the effective time of the merger, each restricted stock unit with respect to a share of Common Stock granted under any stock plan (an "RSU") that is outstanding immediately prior to the effective time of the merger, whether or not vested, will be cancelled and converted into the right to receive an amount in cash, without interest, less any applicable withholding taxes, determined by multiplying (i) the per share merger consideration by (ii) the number of RSUs.

Performance Shares. At or immediately prior to the effective time of the merger, the number of performance shares earned for each award of performance shares granted under any stock plan will be calculated by determining the number of performance shares that would have been paid if the subject award period had ended on the December 31 immediately preceding the effective time of the merger (based on the conditions set for payment of performance share awards for the subject award period), provided that the number of performance shares earned for each award will not be less than the aggregate number of performance shares at the target performance level, and provided further that with respect to awards granted in the year in which the effective time of the merger occurs, performance shares will be earned at the same percentage as awards granted in the year preceding the year in which the effective time of the merger occurs. At or immediately prior to the effective time of the merger, each performance share so earned that is outstanding immediately prior to the effective time of the merger, whether or not vested, will be cancelled and converted into the right to receive an amount in cash, without interest, less any applicable withholding taxes, determined by multiplying (i) the per share merger consideration by (ii) the number of performance shares.

Table of Contents

Merger Financing (Page 49)

The merger is not conditioned upon receipt of financing by Dai-ichi. Dai-ichi has informed us that it expects to use cash on hand and other funds available to it, including funds available as a result of an equity offering, to fund the merger.

Material U.S. Federal Income Tax Consequences of the Merger (Page 58)

In general, the receipt of cash in exchange for shares of Common Stock pursuant to the merger will be a taxable transaction for U.S. federal income tax purposes and may also be a taxable transaction under applicable state, local or foreign income or other tax laws. Holders of Common Stock should consult their tax advisors about the tax consequences to them of the exchange of shares of Common Stock for cash pursuant to the merger in light of their particular circumstances.

Interests of Protective's Executive Officers in the Merger (Page 49)

Protective's executive officers, including John D. Johns, Chairman of the Board, President and Chief Executive Officer, and Richard Bielen, Chief Financial Officer, have interests in the merger that are in addition to their interests as Protective stockholders. The members of the Board were aware of and considered these interests, among other matters, in evaluating and negotiating the merger agreement and the merger, and in recommending to the Protective stockholders that the merger agreement be approved and adopted. For purposes of all of the Protective agreements and plans described below, the completion of the transactions contemplated by the merger agreement will constitute a change in control. The differences in interests for our executive officers involve the possible receipt of several types of payments and benefits that may be triggered by or otherwise relate to the merger. These potential payments and benefits include:

the full vesting and cash-out of executive officer equity awards upon consummation of the transaction in accordance with the terms of the merger agreement (as described below);

cash retention payments and in the case of certain qualifying terminations, severance payments and health and welfare benefit continuation following the closing of the merger for each of our named executive officers under the terms of their restated employment agreements;

the right to reinvest amounts held in Common Stock in an executive officer's deferred compensation plan under the terms of the deferred compensation plan;

the right to receive tax reimbursement payments in respect of any so-called "golden parachute" excise taxes that may be imposed with respect to compensation payable by reason of the merger under the executive's employment agreement; and

related benefits.

Common Stock Ownership of Directors and Executive Officers (Page 20)

As of August 15, 2014, the directors and executive officers of Protective beneficially owned in the aggregate 1,659,078 of the shares of Common Stock entitled to vote at the special meeting or approximately 2.09% of the outstanding shares of Common Stock. We currently expect that each of these individuals will vote all of his or her shares of Common Stock in favor of each of the proposals to be presented at the special meeting, although none of them is obligated to do so.

Appraisal Rights (Page 82)

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Under the DGCL, Protective stockholders who do not vote in favor of the merger agreement will have the right to seek appraisal of the fair value of their shares of Common Stock as determined by the Delaware Court of Chancery if the merger is completed, but only if they strictly comply with the

Table of Contents

procedures and requirements set forth in Section 262 of the DGCL. Any holder of record of shares of Common Stock intending to exercise appraisal rights, among other things, must submit a written demand for appraisal to us prior to the vote on the proposal to adopt the merger agreement, must not vote in favor of the proposal to adopt the merger agreement, must continue to hold the shares of Common Stock through the effective time of the merger and must otherwise comply with all of the procedures required by Section 262 of the DGCL. The relevant provisions of the DGCL are included as Appendix C to this proxy statement. You are encouraged to read these provisions carefully and in their entirety. Moreover, due to the complexity of the procedures for exercising the right to seek appraisal, stockholders who are considering exercising such rights are encouraged to seek the advice of legal counsel. Failure to comply strictly with these provisions will result in loss of the right of appraisal. You should be aware that the fair value of your shares of Common Stock as determined under Section 262 of the DGCL could be more than, the same as, or less than the value that you are entitled to receive under the terms of the merger agreement.

Conditions to the Merger (Page 78)

Conditions to Each Party's Obligations. Each party's obligation to consummate the merger is subject to the satisfaction or waiver of the following conditions:

the affirmative vote of the holders of at least a majority of the outstanding shares of Common Stock at the stockholders meeting, or any adjournment or postponement thereof, in favor of the proposal to adopt the merger agreement;

expiration or termination of any applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act");

receipt of certain specified approvals of governmental authorities, including approval of the Financial Services Agency of Japan ("JFSA"), and expiration or termination of all waiting periods required by applicable law with respect to such approvals, in each case without the imposition of a burdensome condition; and

absence of any laws, temporary restraining orders, preliminary or permanent injunctions or other order, judgment, decision, opinion or decree issued by a court or other governmental authority of competent jurisdiction and remaining in effect, having the effect of making the merger illegal or otherwise prohibiting consummation of the merger.

Conditions to Protective's Obligations. The obligation of Protective to consummate the merger is subject to the satisfaction or waiver of the following additional conditions:

the representations and warranties of each of the Dai-ichi Parties with respect to authorization, board approval and brokers will be true and correct both when made and as of the closing date of the merger, as if made on and as of the closing date and all other representations and warranties of Dai-ichi will be true and correct both when made and as of the closing date of the merger, as if made on and as of the closing date (except to the extent made as of another specified date prior to the date of the merger agreement, in which case as of such date), except where the failure of such representations and warranties to be true and correct as so made (without regard to any qualifications or exceptions as to materiality or material adverse effect contained in such representations and warranties), would not prevent or materially impair or materially delay the ability of the Dai-ichi Parties to consummate the merger;

Table of Contents

the Dai-ichi Parties will have performed or complied in all material respects with all covenants and agreements required to be performed with by them under the merger agreement at or prior to the date of the closing of the merger; and

the Company will have received a certificate of a duly authorized officer of Dai-ichi certifying to the effect that the foregoing two conditions have been satisfied.

Conditions to Obligations of Dai-ichi and DL Investment (Delaware), Inc. The obligation of the Dai-ichi Parties to consummate the merger is subject to the satisfaction or waiver of the following additional conditions:

(i) the representation and warranty of the Company with respect to the number of issued and outstanding shares of Common Stock (except for *de minimis* breaches not involving more than 10,000 shares of Common Stock) and of Protective's preferred stock must be true and correct as of the date of the merger agreement, (ii) the representations and warranties of the Company with respect to authorization, board approval, voting requirements, takeover statutes and brokers must be true and correct in all material respects both when made and as of the closing date of the merger, as of made on and as of the closing date, (iii) the representations and warranties of the Company with respect to the absence of certain changes and excess reserve financing must be true and correct both when made and as of the closing date of the merger and (iv) all other representations and warranties of the Company will be true and correct both when made and as of the closing date of the merger, as if made on and as of the closing date (except to the extent made as of another specified date prior to the date of the merger agreement, in which case as of such date), except with respect to this clause (iv) where the failure of such representations and warranties to be true and correct as so made (without regard to any qualifications or exceptions contained as to materiality or material adverse effect contained in such representations and warranties), would not, individually or in the aggregate, have a material adverse effect on the Company;

the Company will have performed or complied in all material respects with all covenants and agreements required to be performed by it under the merger agreement at or prior to the closing date of the merger; and

Dai-ichi will have received a certificate of a duly authorized officer of Protective certifying to the effect that the foregoing two conditions have been satisfied.

Termination of the Merger Agreement (Page 79)

Protective and Dai-ichi may terminate the merger agreement by mutual written consent at any time before the consummation of the merger. In addition, with certain exceptions, either Dai-ichi or Protective may terminate the merger agreement at any time before the consummation of the merger if:

the merger has not been completed by February 28, 2015 (the "end date") and the party seeking to terminate the merger agreement has not failed to perform in all material respects its obligations under the merger agreement in any manner that was the primary cause of the failure to consummate the merger on or before the end date (unless the merger has not been completed solely due to the failure to obtain the required governmental approvals, including pursuant to the HSR Act, under the merger agreement, in which case the end date automatically will be extended to April 30, 2015);

a law has been adopted or promulgated, and a temporary restraining order, preliminary or permanent injunction or other order, judgment, decision, opinion or decree has been issued by a court or other governmental authority of competent jurisdiction and remains in effect and becomes final and non-appealable, with the effect of making the merger illegal or otherwise prohibiting consummation of the merger, and the party seeking to terminate the merger

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Table of Contents

agreement has complied in all material respects with its obligations to obtain the required governmental and other approvals;
or

the meeting of the Company's stockholders including any adjournments or postponements thereof, in each case at which a vote on the adoption of the merger agreement was taken, has concluded and the approval of the proposal to adopt the merger agreement has not been obtained.

Dai-ichi may also terminate the merger agreement if:

Protective has breached or failed to perform any of its representations, warranties, covenants or agreements in the merger agreement and such breach or failure to perform is incapable of being cured by Protective prior to the end date and would result in a failure of certain conditions to the obligations of the Dai-ichi Parties to consummate the merger;

prior to the stockholders meeting, the Board (i) fails to include a recommendation that stockholders vote in favor of adopting the merger agreement in the proxy statement; (ii) changes, withholds, withdraws or adversely qualifies or modifies, or proposes publicly to change, withhold, withdraw or adversely qualify or modify, its recommendation that stockholders vote in favor of adopting the merger agreement or (iii) approves, endorses or recommends, or publicly proposes to ap