

utilized a sales comparison methodology in valuing the Property. To develop the opinion of value, the Appraiser performed a complete appraisal process as defined by the Uniform Standards of Professional Appraisal Practice. The Appraiser concluded that the unencumbered fee simple interest in the Property would have a fair market value of approximately \$402,300, as of July 17, 2001.

5. The Townsend Group has been appointed by the Plan trustees to act as an independent fiduciary for the Plan for purposes of the transaction. The Townsend Group is an institutional real estate consulting company based in Cleveland, Ohio. Townsend acknowledges and represents that in serving as an independent fiduciary, the Townsend Group is a fiduciary of the Plan within the meaning of section 3(21) of the Act. Townsend is familiar with the duties imposed on fiduciaries under the Act, including the requirement that a fiduciary act solely and exclusively in the interest of a plan's participants and beneficiaries. Townsend's familiarity with the Act stems from its provision of a diverse array of real estate consulting services to a large base of domestic pension funds, as well as through transactional assignments for other institutional investors during the firm's history. The Townsend Group represents that it is an independent fiduciary and not an affiliate of, or related to, the entities involved in the subject transaction. In this regard, the Townsend Group certifies that less than one (1) percent of its annual income (measured on the basis of the prior year's income) comes from business derived from The Building Corporation and its affiliates.

7. The Townsend Group has reviewed all of the terms and conditions of the proposed purchase of the Property by the Plan.

Based on this review and analysis, the Townsend Group concluded that the transaction is in the best interests of the Plan and its participants and beneficiaries.

8. In summary, the applicant states that the transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The proposed purchase of the Property by the Plan is a one-time transaction for cash; (b) the Plan will not pay more than the lesser of either \$147,000, or the fair market value of the Property as determined at the time of the transaction; (c) the fair market value of the Property was established by an independent, qualified, real estate appraiser; (d) the Plan will not pay any commissions or other expenses with

respect to the transaction, other than the services of an independent fiduciary (as described herein); and (e) the Townsend Group, acting as the Plan's independent fiduciary, determined that the proposed transaction is in the best interest of the Plan and its participants and beneficiaries.

Notice to Interested Persons: Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and Department within 15 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of the notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Khalif I. Ford of the Department, telephone (202) 693-8540. (This is not a toll-free number.)

Skandinaviska Enskilda Banken AB (SEB) Located in Stockholm, Sweden

[Application No. D-11133]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).³

Section I. Covered Transactions

If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective October 23, 2002, to: (1) The lending of securities that are assets of a plan (the Plan) to SEB's head office in Stockholm (the Borrower) in accordance with the conditions set forth below (the foregoing being Part One of this proposed exemption); and (2) the lending of securities, under certain exclusive borrowing arrangements, to the Borrower by Plans including commingled investment funds holding assets of such Plans with respect to which SEB or any of its affiliates is a party in interest; and (3) the receipt of compensation by SEB or any of its affiliates in connection with these exclusive borrowing transactions (the foregoing being Part Two of this proposed exemption).

³ For the purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

This proposed exemption is subject to the conditions contained below in Sections II, III, and IV.

Section II. Conditions Applicable to Part One of the Proposed Exemption—Securities Lending Between Plans and the Borrower

(a) Neither the Borrower nor any of its affiliates has discretionary authority or control with respect to the investment of Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3-21(c)) with respect to such assets.

(b) Each Plan receives from the Borrower, either by physical delivery or by book entry in a securities depository located in the United States, by the close of business on the day on which the securities lent are delivered to the Borrower, collateral consisting of U.S. currency, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, or irrevocable United States bank letters of credit issued by persons other than the Borrower (or any of its affiliates), or any combination thereof, having, as of the close of business on the preceding business day, a market value (or, in the case of letters of credit, a stated amount) equal to or not less than 100 percent of the then market value of the securities lent. The collateral referred to in this exemption, shall in all cases, be in U.S. dollars or dollar-denominated securities or United States bank letters of credit and must be held in the United States.

(c) Each loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains terms at least as favorable to the Plan as those the Plan could obtain in an arm's length transaction with an unrelated party.

(d) In return for lending securities, each Plan either

(1) receives a reasonable fee which is related to the value of the borrowed securities and the duration of the loan, or (2) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the Plan may pay a loan rebate or similar fee to the Borrower, if such fee is not greater than the Plan would pay an unrelated party in a comparable arm's length transaction with an unrelated party.

(e) Each Plan receives at least the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to