

or employee, or in which such person is a partner.

(b) For purposes of the securities lending arrangements described in Part One of this exemption, the term "Borrower" includes SEB and any other current or future non-U.S. broker-dealer or bank affiliate of SEB. For purposes of the exclusive borrowing arrangements described in Part Two of this exemption, the term "Borrower" includes SEB and any other affiliate of SEB that now or in the future, is a U.S. registered broker-dealer or a government securities broker or dealer or U.S. bank.

EFFECTIVE DATE: This proposed exemption, if granted, will be effective as of October 23, 2002.

Summary of Facts and Representations

1. SEB (the Applicant), one of the principal Swedish banking institutions and one of the largest banking institutions in Europe, is regulated by the Swedish Financial Supervisory Authority (Finansinspektionen) (the SFSA). As of December 31, 2001, SEB (Consolidated Balance Sheet) had approximately \$111,246,000,000 USD in assets and \$4,236,000,000 USD in stockholder's equity. SEB currently conducts its securities borrowing and lending activities principally through its head office in Stockholm. Under the European laws applicable to banks, SEB is authorized to engage in a broad range of financial services, including acting as a securities broker or dealer. With respect to the transactions described herein, SEB will not act as a lending agent.

2. The Borrower, acting as principal, actively engages in the borrowing and lending of securities. The Borrower utilizes borrowed securities either to satisfy its own trading requirements or to re-lend to other broker-dealers and entities which need a particular security for a certain period of time. The Applicant represents that in the United States, as described in the Federal Reserve Board's Regulation T, borrowed securities are often used in short sales, for non-purpose loans to exempted borrowers, or in the event of a failure to receive securities that a broker-dealer is required to deliver.

The largest holding of equities, both domestic as well as international, are to be found in the United States. Currently, SEB can only access ERISA Plan assets by borrowing through a U.S. bank and/or broker-dealer which substantially increases the cost of borrowing. By being able to borrow directly, SEB can reduce this cost. SEB's more efficient presence in the ERISA marketplace should increase the base of potential

borrowers which ERISA Plans can access, thus, also benefitting the Plans.

3. SEB represents that it is regulated and supervised by the SFSA. The SFSA supervises the worldwide business of SEB (head office and branches). In addition, in jurisdictions outside the European Economic Area, the business of SEB is subject to supervision by the local regulators. The SFSA has the power to license banks (with the exception for cases of special importance where license is granted directly by the Government) in Sweden. The SFSA also has the power to issue warnings and directives to address violations by or irregularities involving banks, to require information from a bank or its auditor regarding supervisory matters and to revoke bank licenses. SEB also states that the SFSA ensures that SEB has procedures for monitoring and controlling SEB's worldwide activities through various statutory and regulatory standards. Among these standards are requirements for adequate internal controls, oversight, risk management, recordkeeping, and administration and financial resources. SEB further states that it is required to provide the SFSA on a recurring basis with information regarding capital adequacy,⁸ country risk exposure and foreign exchange exposures as well as periodic, consolidated financial reports on the financial condition of SEB and its affiliates. The SFSA continuously conducts inspections and examinations with respect to the SEB business. The SFSA will appoint one or more auditors to participate in the audit of the bank together with the auditors elected by the General Meeting of Shareholders.

Although SEB is not a broker-dealer registered with the SEC, SEB has a Swedish broker-dealer license which is included in the banking license. SEB represents that its broker-dealer activities are governed by the rules and regulations of SFSA. Further, SEB is a member of the self regulatory organization Swedish Securities Dealer's Association (SSDA) and is accordingly subject to the rules and membership requirements imposed by SSDA.

⁸ The rules for capital adequacy are applicable to each company and on all consolidation levels within the SEB Group with a license to conduct banking, investment, leasing, mortgage, or security business. Insurance business is excluded since special laws apply to insurance activity. In addition, the capital adequacy regulation is applicable to the financial group of undertakings (i.e., most of the companies in the SEB Group which are not involved in the insurance business, and credit institutions which are consolidated in the financial group of undertakings).

4. The Applicant further represents that the Borrower is subject to the rules of SFSA relating to, among other things, minimum capitalization, reporting requirements, periodic examinations. In addition, the Applicant states that SFSA rules impose reporting requirements with respect to risk management, internal controls, and transaction reporting and record-keeping requirements. In this regard, required records must be produced at the request of SFSA at any time. The Applicant further states that the rules and regulations of SFSA are backed up by potential fines and penalties as well as rules which establish a comprehensive disciplinary system.

5. The Applicant represents that in addition to the protections afforded by the SFSA, compliance by the Borrower with the requirements of Rule 15a-6 of the 1934 Act (and the amendments and interpretations thereof) will offer further protections to the Plans.⁹ SEC Rule 15a-6 provides an exemption from U.S. registration requirements for a foreign broker-dealer that induces or attempts to induce the purchase or sale of any security (including over-the-counter equity and debt options) by a "U.S. institutional investor" or a "major U.S. institutional investor," provided that the foreign broker-dealer, among other things, enters into these transactions through a U.S. registered broker-dealer intermediary. The term "U.S. institutional investor," as defined in Rule 15a-6(b)(7), includes an employee benefit plan within the meaning of the Act if (a) the investment decision is made by a plan fiduciary, as defined in section 3(21) of the Act, which is either a bank, savings and loan association,

⁹ According to the Applicant, section 3(a)(4)(A) of the 1934 Act defines "broker" to mean "any person engaged in the business of effecting transactions in securities for the account of others." Banks engaging in certain enumerated activities are excepted from the definition of "broker." Section 3(a)(4)(B) of the 1934 Act. Section 3(a)(5)(C) of the 1934 Act provides a similar exception for "banks" engaging in certain activities from the definition of the term "dealer." However, section 3(a)(6) of the 1934 Act defines "bank" to mean a banking institution organized under the laws of the United States or a State of the United States. Further, Rule 15(a)(6)(b)(2) provides that the term "foreign broker or dealer" means "any non-U.S. resident person * * * whose securities activities, if conducted in the United States, would be described by the definition of 'broker' or 'dealer' in sections 3(a)(4) or 3(a)(5) of the [1934] Act." Therefore, the test of whether an entity is a "foreign broker" or "dealer" is based on the nature of such foreign entity's activities and, with certain exceptions, only banks that are regulated by either the United States or a State of the United States are excluded from the definition of the term "broker" or "dealer." Thus, for purposes of this exemption request, the Borrower is willing to represent that it will comply with the applicable provisions and relevant SEC interpretations and amendments of Rule 15a-6.