

borrowers securities, there has been no material adverse change in its financial condition since the date of the most recently furnished statements of financial condition.

26. Prior to any Plan's approval of the lending of its securities to the Borrower, a copy of this exemption, if granted, (and the notice of pendency) is provided to the Plan, and the Borrower informs the independent fiduciary that the Borrower is not acting as a fiduciary of the Plan in connection with its borrowing securities from the Plan.

27. With regard to those Plans for which SEB or any of its affiliates provides custodial, clearing and/or reporting functions relative to securities loans, SEB and a Plan fiduciary independent of SEB and its affiliates, will agree in advance and in writing to any fee that SEB or any of its affiliates is to receive for such services. Such fees, if any, would be fixed fees (e.g., SEB or any of its affiliates might negotiate to receive a fixed percentage of the value of the assets with respect to which it performs these services, or to receive a stated dollar amount) and any such fee would be in addition to any fee SEB or any of its affiliates has negotiated to receive from any such Plan for standard custodial or other services unrelated to the securities lending activity. The arrangement for SEB or any of its affiliates to provide such functions relative to securities loans to the Borrower will be terminable by the Plan within five (5) business days of the receipt of written notice without penalty to the Plan, except for the return to the Borrower of a *pro rata* portion of the Exclusive Fee paid by the Borrower to the Plan, if the Plan has also terminated its exclusive borrowing arrangement with the Borrower.

28. Each Borrowing Agreement and any outstanding securities loans with respect thereto may be terminated by either party at any time without penalty (except for, if a Plan has terminated its Borrowing Agreement, the return to the Borrower of a *pro rata* portion of the Exclusive Fee paid by the Borrower to the Plan). Upon termination of any securities loan, the Borrower will return the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within the lesser of five business days of written notice of termination or the customary settlement period for such securities.

If the Borrower fails to return the securities or the equivalent thereof within the designated time, the applicable Plan will have certain rights under the Borrowing Agreement to

realize upon the collateral. In the event that the Borrower defaults on a loan, the independent fiduciary of the Plan or its agent will have the right to liquidate the loan collateral to purchase identical securities for the Plan. If the collateral is insufficient to accomplish such purchase, the Borrower will indemnify the Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including reasonable attorney's fees of the Plan for legal actions arising out of the default on the loans or failure to properly indemnify under such provisions). Alternatively, if such replacement securities cannot be obtained on the open market, the Borrower shall pay the Plan the difference in U.S. dollars between the market value of the loaned securities and the market value of the related collateral on the date of the Borrower's breach of its obligation to return the loaned securities.

29. In the event the Borrower fails to return securities in accordance with a Borrowing Agreement, the applicable Plan will have the right under the Borrowing Agreement to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price. If the collateral is insufficient to satisfy the Borrower's obligation to return the Plan's securities, the Borrower will indemnify the Plan in the U.S. with respect to the difference between the replacement cost of securities and the market value of the collateral on the date the loan is declared in default, together with expenses incurred by the Plan plus applicable interest at a reasonable rate, including reasonable attorneys' fees incurred by the Plan for legal action arising out of default on the loans, or failure by the Borrower to properly indemnify the Plan except to the extent that such losses or damages are caused by the Plan's own negligence.

30. Except as provided herein, all the procedures under each Borrowing Agreement will, at a minimum, conform to the applicable provisions of PTE 81-6 (as amended or superseded), as well as to applicable securities laws of the United States and Sweden, as appropriate. In addition, in order to ensure that the independent fiduciary representing a Plan has the experience, sophistication, and resources necessary to adequately review the Borrowing Agreement and the fee arrangements thereunder, only Plans with total assets having an aggregate market value of at least \$50 million are permitted to lend securities to the Borrower; provided, however, that—

(a) In the case of two or more Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are "plan assets" under 29 CFR 2510.3-101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the Borrower, the foregoing \$50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of \$50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the \$50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of \$100 million.

(b) In the case of two or more Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the Borrower, the foregoing \$50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of \$50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(1) Has full investment responsibility with respect to plan assets invested therein; and

(2) Has total assets under its management and control, exclusive of the \$50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of \$100 million. (In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

The Applicant represents that the opportunity for the Plans to enter into exclusive borrowing arrangements with the Borrower under the flexible fee