

John Hancock is the sole legal owner of the assets in each of the ForesTree Separate Accounts. Under the applicable contract or agreement, John Hancock or an affiliate has the right to control, manage, and administer the ForesTree Separate Accounts, including the sole discretion to select and dispose of investments in such accounts in accordance with the investment policy for such accounts.

John Hancock's management responsibilities under the ForesTree Separate Accounts are performed by Resources Group, a wholly-owned indirect subsidiary of John Hancock which was established in 1995. Subject to review and approval by John Hancock's internal investment committees, Resources Group is responsible for all decisions regarding the acquisition and disposition of timberland properties held in the ForesTree Separate Accounts. In addition, Resources Group is responsible for the ongoing management of John Hancock's timberland properties, including site preparation and planting, road building and construction, leasing to tenants, maintenance, acquisition of insurance, and payment of taxes. It is represented that on-site work is performed either by independent forest managers under contract to Resources Group or by employees of Timber Resource. In this regard, Resources Group currently contracts with three regional forest management firms. Such firms include Olympic Resource Management (in the western United States and Canada), Resource Management Services (in the southern United States), and Wagner Forest Management (in the northern United States). In addition to these regional forest management firms, Cahaba Forest Management, Inc., a wholly-owned subsidiary of Resources Group established in February of 2000, provides property management services and manages International Paper's Redstone investment in Alabama.

5. ForesTree IP is a non-pooled separate account established on January 1, 2000. ForesTree IP is maintained pursuant to a Group Annuity Contract (No. 14756 GAC), entered into on January 31, 2000, between John Hancock and the IP Trust. ForesTree IP is one of the ForesTree Separate Accounts managed by John Hancock that are invested in Timber Assets. ForesTree IP is the only one of the ForesTree Separate Accounts to which the relief provided by this proposed exemption is applicable. It is represented that, as of December 31, 2001, the real, dollar-weighted internal rate of return since the inception of

ForesTree IP was 6.5 percent (6.5%) (after John Hancock's fees).⁴ ForesTree IP was established with an intended allocation of \$25 million to be invested in Timber Assets. In February 2000, \$10 million of the allocation was invested in Timber Assets in Alabama. John Hancock expects that the remaining \$15 million will be allocated before the end of the year 2002. In addition, it is represented that there is the potential for additional funding in the range of \$10 million to \$30 million.

Following an expected allocation of \$25 million to ForesTree IP, it is represented that the percentage of the fair market value of the total assets of the IP Retirement Plan (approximately \$6.9 billion, as of June 30, 2001) involved in the proposed transactions will be .36 percent (.36%). It is represented that approximately .27 percent (.27%) of the fair market value of the assets of the IP Retirement Plan are invested in timber related assets outside of ForesTree IP.

As a result of the investment in ForesTree IP by the IP Retirement Plan, the assets of such account are deemed to be assets of the IP Retirement Plan, pursuant to the Department's regulations, as set forth in 29 CFR § 2510.3-101(h)(1)(iii).

Assets invested in ForesTree IP are managed by John Hancock and Resource Group in accordance with the investment policy established for the account. The investment objective of ForesTree IP is to establish and maintain a diversified portfolio of individual or shared equity interests in timberland investments. Timberland investments consist primarily of interests in timber producing real estate, and in contracts relating to real estate for the production and harvesting of Timber Products. Timberland investments may be located either inside the United States, or, with the consent of the Contract Holder, the IP Retirement Plan, outside the United States.⁵

⁴ The applicants have not requested an exemption for the receipt of incentive management fees or other fees in connection with John Hancock or its affiliates serving as investment manager for ForesTree IP under the terms of the group annuity contract (No. 14756 GAC) between John Hancock and the IP Trust. The Department herein offers no opinion as to whether the fee structure, as set forth in such group annuity contract, raises issues under the prohibited transaction provisions of section 406 of the Act, nor is the Department providing relief, herein, for the receipt by John Hancock or any of its affiliates of incentive management fees or other fees in connection with the assets held by ForesTree IP.

⁵ The applicants represent that John Hancock satisfies the indicia of ownership requirements, as set forth in section 404(b) of the Act. In this regard, it is represented that where John Hancock invests

Pursuant to the investment policy of ForesTree IP, Timber Assets are purchased or sold opportunistically to generate returns to meet performance objectives of the account. ForesTree IP may invest directly in a Timber Asset, or it may invest in entities that own Timber Assets, directly or indirectly. These entities include corporations, partnerships, 501(c)(25) organizations, and their international equivalents (Holding Entities). Although ForesTree IP does not currently invest through such Holding Entities, if it were to do so, it is represented that Resources Group would likely be appointed the investment manager of such entity, or that Resources Group (or an employee) would be appointed as an officer of the entity that holds the Timber Assets.

It is represented that the assets of any of the Holding Entities through which ForesTree IP may invest in Timber Assets could constitute plan assets, pursuant to the Department's regulations, as set forth at 29 CFR § 2510.3-101(a)(2). It is further represented that as investment managers for ForesTree IP, John Hancock, and Resources Group are fiduciaries of the IP Retirement Plan, pursuant to section 3(14)(A) of the Act. Resources Group is also a fiduciary with respect to the IP Retirement Plan, pursuant to section 3(14)(A) of the Act, as discretionary manager of the timberland held by any pass-through entity.

6. John Hancock desires to purchase Timber Assets from International Paper on behalf of ForesTree IP. In this regard, John Hancock anticipates that \$1 million to \$2 million worth of Timber Assets will be marketed by International Paper for sale over the next two (2) years, as a result of the May 2000 merger of International Paper and Champion International. As the sale of Timber Assets from International Paper to ForesTree IP would constitute a violation of section 406(a)(1)(A) and (D) of the Act, John Hancock and its affiliates request an administrative exemption; provided certain general and specific conditions are satisfied at the time each transaction is entered.

It is further represented that section 406(a)(1)(A) and (D) of the Act would be violated by any sale of Timber Products from ForesTree IP to International Paper. Accordingly, John Hancock also

in foreign timber, it does so through an entity qualified as a "real estate operating company," pursuant to 29 CFR § 2510.3-101(e) of the Department's plan assets regulation. Further, it is represented that the indicia of ownership of such entity is held in the United States. The Department, herein, expresses no opinion as to whether the applicants have satisfied the indicia of ownership requirements, as set forth in section 404(b) of the Act.