

(iv) Any participant or beneficiary of the Plan who's Account is invested in Qualifying REIT Shares or the duly authorized employee or representative of such participant or beneficiary;

(B) None of the persons described in paragraph (12)(A)(ii)–(iv) shall be authorized to examine trade secrets of the Trust REIT, or an Employer Affiliate or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption,

(a) Account—The term “Account” means the individual account of a participant in a defined contribution pension plan in which benefits are based solely upon the amount contributed to the participant's account, and any income, expenses, gains or losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account.

(b) Affiliate—The term “affiliate” of a person means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such person;

(2) Any officer, director, employee, or relative (as defined in section 3(15) of the Act) of such person or partner in such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) Control—The term “control” means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) Employer Affiliate—The term “Employer Affiliate” means any corporation, limited liability company (LLC), or partnership 50 percent or more owned by a Trust REIT.

(e) Independent Fiduciary—The term “Independent Fiduciary” means a person who:

(1) Is a trustee or an investment manager (as defined in 3(38) of the Act) who had equity capital of at least \$1 million as of the last day of its most recent fiscal year and has client assets under management or control of over \$50 million;

(2) Is not an affiliate of the Trust REIT, the Employer Affiliate or an affiliate thereof;

(3) Is not a corporation, partnership or trust in which the Trust REIT, its Employer Affiliate or an affiliate thereof has a one percent or more ownership interest or is a partner;

(4) Does not have more than a five percent ownership interest in the Trust REIT, its Employer Affiliate or an affiliate thereof;

(5) Has acknowledged in writing that:

(i) It is a fiduciary; and
(ii) It has appropriate technical training or experience to perform the services contemplated by the exemption;

(6) For purposes of this definition, no organization or individual may serve as Independent Fiduciary for any fiscal year in which the gross income received by such organization or individual (or partnership or corporation of which such organization or individual is an officer, director, or 10 percent or more partner or shareholder) from the Trust REIT, its Employer Affiliate and affiliates thereof, (including amounts received for services as an independent fiduciary under any prohibited transaction exemption granted by the Department) exceeds 1 percent of such fiduciary's gross income for federal tax purposes in its prior tax year; and

(7) In addition, no organization or individual which is an Independent Fiduciary and no partnership or corporation of which such organization or individual is an officer, director or 10 percent or more partner or shareholder may acquire any property from, sell any property to or borrow any funds from the Trust REIT, its Employer Affiliate or their affiliates, during the period that such organization or individual serves as an Independent Fiduciary and continuing for a period of six months after such organization or individual ceases to be an Independent Fiduciary or negotiates any such transaction during the period that such organization or individual serves as an Independent Fiduciary.

(f) Plan—The term “Plan” means an individual account plan sponsored by the issuer of Qualifying REIT Shares or an Employer Affiliate thereof.

(g) Plan Sponsor—The term “Plan Sponsor” means the Trust REIT or the Employer Affiliate that is the employer of the employees covered by the Plan.

(h) Primary Exchange—The term “Primary Exchange” means the national securities exchange or market system on which the Trust REIT shares are primarily traded, and which is either the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System National Market.

(i) Trust REIT—The term “Trust REIT” means a “real estate investment trust” within the meaning of section 856 of the Code that is organized as a trust under applicable law.

(j) Qualifying REIT Shares—The term “Qualifying REIT Shares” means shares of beneficial interest in a Trust REIT that:

(1) Are publicly traded (as defined in section III(k)); and

(2) Have no trading restrictions other than those necessary to qualify for REIT status or otherwise to satisfy securities law or applicable exchange or market system trading rules.

(k) Publicly Traded—The term “publicly traded,” for purposes of this exemption, means Trust REIT shares of beneficial interest which are traded on the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System National Market System.

(l) Participant—the term “participant” includes beneficiaries.

Signed at Washington, DC this 28th day of May, 2003.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, Department of Labor.

[FR Doc. 03–13899 Filed 6–2–03; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of May 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.