

Plan investment in the commingled entity, which are in excess of \$100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization, 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 a securities lending arrangement with GSL, 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 employee benefit 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—

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

(B) Has total assets under its management and control, exclusive of the \$50 million threshold amount attributable to Client Plan investment in the commingled entity, which are in excess of \$100 million.

(3) In the case of two or more Client Plans whose assets are commingled for investment purposes in an entity, whether or not through an entity described, above, in section II(j)(1) or (j)(2) of this exemption, the \$50 million requirement shall be deemed satisfied if 50 percent (50%) or more of the units of beneficial interest in such entity are held by investors each having total net assets of at least \$50 million. Such investors may include employee benefit plans, entities described, above, in section II(j)(1) or (j)(2) of this exemption, or other investors that are not employee benefit plans covered by section 406 of the Act, or section 4975 of the Code.

In addition, none of the entities described above are formed for the sole purpose of making loans of securities;

(k) The terms of each loan of securities by a Client Plan (and/or by a CIF, as applicable), including by a Commingled Index Fund or Commingled Model-Driven Fund in which a Client Plan (and/or CIF, as applicable) invests, to the SSB Group or the Clearing Broker, as applicable, will be at least as favorable to such Client

Plan (and/or CIF, as applicable) or to the Commingled Index Fund or Commingled Model-Driven Fund in which a Client Plan (and/or CIF, as applicable) invests, as those of a comparable arm's-length transaction between unrelated parties;

(l) Each Client Plan (and/or CIF, as applicable), including a Client Plan (and/or CIF, as applicable) invested in a Commingled Index Fund or Commingled Model-Driven Fund, will receive quarterly reports with respect to the securities lending transactions which are the subject of this exemption, including but not limited to the information described in paragraph 26 of the Previous Notice, so that an independent fiduciary of the Client Plan (and/or CIF, as applicable) may monitor the securities lending transactions with the SSB Group and, if applicable, the Clearing Broker. In the event the identity of the Clearing Broker has changed since the issuance of the report for the immediately preceding calendar quarter, the report for the current calendar quarter must contain the name of the new Clearing Broker and the most recently available audited and unaudited financial statements of such Clearing Broker;

(m) Except in the case of a Commingled Index Fund or Commingled Model-Driven Fund subject to the requirements, as set forth, below, in section II(q) of this exemption, before entering into the Loan Agreement and before a Client Plan (and/or a CIF, as applicable) lends any securities to the SSB Group or to the Clearing Broker, as applicable, an independent fiduciary of the Client Plan (and/or the independent fiduciary of the CIF, as applicable) will receive sufficient information, concerning the financial condition of State Street and, if applicable, the Clearing Broker, including but not limited to the most recently available audited and unaudited financial statements of State Street's parent corporation and, if applicable, the Clearing Broker. In the event of a change in the identity of the Clearing Broker, the name of such Clearing Broker and the information required by this section (m) with respect to the new Clearing Broker must be provided to the independent fiduciary of the Client Plan (and/or the independent fiduciary of the CIF, as applicable) before such Client Plan (and/or CIF, as applicable) lends any securities to the new Clearing Broker;

(n) Except in the case of a Commingled Index Fund or Commingled Model-Driven Fund subject to the requirements, as set forth, below, in section II(q) of this exemption,

the SSB Group and, if applicable, the Clearing Broker, will provide to a Client Plan (and/or to a CIF, as applicable) prompt notice at the time of each loan by such Client Plan (and/or CIF, as applicable) of any material adverse changes in State Street's and, if applicable, the Clearing Broker's financial condition, since the date of the most recently furnished financial statements.

If any such material adverse changes have taken place, GSL will not make any further loans to the Affiliated Broker Dealers and, if applicable, the Clearing Broker, unless an independent fiduciary of the Client Plan (and/or the independent fiduciary of the CIF, as applicable) is provided notice of the material change and approves the continuation of the lending arrangement in view of the changed financial condition.

In the case of a Client Plan (and/or CIF, as applicable) which is not invested in a Commingled Index Fund or Commingled Model-Driven Fund, if the independent fiduciary of the Client Plan (and/or the independent fiduciary of the CIF, as applicable), objects to any material adverse change, as disclosed pursuant to section II(n) of this exemption, such Client Plan (and/or CIF, as applicable) may terminate its participation in the Agency Agreement or the Primary Lending Agreement, without penalty to such Client Plan (and/or CIF, as applicable), pursuant to section II(c), above, of this exemption. In the case of a Client Plan (and/or CIF, as applicable) invested in a Commingled Index Fund or Commingled Model-Driven Fund, termination is pursuant to the procedure described, below, in section II(q)(2), of this exemption;

(o) With respect to any calendar quarter, at least 50 percent (50%) or more of the outstanding dollar value of securities loans negotiated on behalf of all securities lending clients of GSL will be to borrowers unrelated to both State Street and the Clearing Broker;

(p) If an independent fiduciary of a Client Plan (and/or an independent fiduciary of a CIF, as applicable) has given the initial affirmative authorization and approval for such Client Plan (and/or CIF, as applicable) to engage in securities lending transactions, pursuant to the terms of PTE 97-63, or pursuant to section II(b), above, of this exemption, then any subsequent authorization or approval contemplated under this exemption shall be deemed to have been given, if such independent fiduciary has not objected in writing to GSL within 30 days following disclosure to such independent fiduciary of all material