

This biography must set forth the background and qualifications of the fiduciary (or fiduciaries) to serve in that capacity. In the case of any biographical information furnished after the date of this proposed exemption, the information must also disclose the total amount of compensation received by the fiduciary (or each member of a fiduciary committee) from either Aetna or UBS Realty or any of their respective affiliates during the preceding year, including pension or other deferred compensation paid to fiduciaries who may be former employees of either Aetna or UBS Realty or any of their respective affiliates, and compensation for any business services performed by the fiduciary or any affiliate for either Aetna or UBS Realty or any of their respective affiliates. The disclosure relating to compensation must be updated annually thereafter. Subsequent disclosures must also include the amount of fees and expenses paid for independent fiduciary services. The plans will be able to use this information to determine whether to approve the initial selection of the fiduciary committee and whether to continue such approval each year thereafter.<sup>5</sup>

19. Once an independent fiduciary is appointed, the independent fiduciary will continue to serve subject to an annual nomination by the Applicant and vote by each of the plans participating in the ERISA-Covered Account. An independent fiduciary may be removed by a majority vote of the ERISA-Covered Account's contractholders. The Applicant will not have the authority to remove an independent fiduciary during the term of that independent fiduciary. If a vacancy occurs by virtue of the death, resignation or removal of an independent fiduciary, a replacement independent fiduciary will be nominated by either Aetna or UBS Realty and approved by a majority vote of the ERISA-Covered Account's contractholders. Possible replacements may also be nominated by any of the ERISA-Covered Account's contractholders.

20. The independent fiduciary will normally be compensated by the ERISA-Covered Account. However, upon advance notice to the independent fiduciary and the ERISA-Covered Account's contractholders, the Applicant (or the Plan Sponsor in the

case of a Single Customer Account) may pay such fees itself. The Applicant will indemnify any independent fiduciary or members of an independent fiduciary committee with respect to any action or threatened action to which such person is made a party by reason of his or her service as an independent fiduciary. Indemnification will be provided as permitted under the laws of the State of Connecticut and subject to the requirement that such person acted in good faith and in a manner reasonably believed to be solely in the interests of the participants and beneficiaries of the plans participating in the ERISA-Covered Account.

21. The independent fiduciary will record in writing all decisions that are made in such capacity. In addition to the decisions of such independent fiduciary, the rationale and support thereof must also be set forth in writing and maintained by the Applicant pursuant to the recordkeeping requirements outlined in the General Conditions below. An independent fiduciary committee will be required to make its decisions on the basis of a two-thirds majority.

22. The independent fiduciary of each ERISA-Covered Account is required to approve any recommendation by UBS Realty, acting on behalf of the ERISA-Covered Accounts, involving a shared investment. Situations may arise where a conflict of interest may develop and the independent fiduciaries of the ERISA-Covered Accounts may not agree on what the appropriate course of action should be for a proposed transaction. In such cases, UBS Realty, acting on behalf of the ERISA-Covered Accounts, will make recommendations, which may be outlined as alternatives, to the independent fiduciaries regarding the proposed transaction. If an alternative course of action is not found that is acceptable, and the independent fiduciaries of such ERISA-Covered Accounts are in effect stalemated, a procedure has been developed by the Applicant to ensure that a decision can be made.

23. This stalemate procedure is designed to provide a result that is the same as would be followed in comparable situations where unrelated parties to a transaction were dealing at arm's length. This means that the action that will be taken in such cases is the one that does not require an ERISA-Covered Account to invest new money and will not change the terms of an existing agreement or the existing relationship between the Client Accounts. For example, in the case of a proposed modification to a debt investment shared by two ERISA-

Covered Accounts, if the independent fiduciaries cannot agree on such modification, no modification will be made. Rather, the terms of the loan agreement, as originally stated, will be carried out. Or, in the case of a partnership interest shared by two ERISA-Covered Accounts, the exercise of a buy-sell provision in the partnership agreement by a co-partner will require the two ERISA-Covered Accounts that share the interest in the partnership to either sell their partnership interest to the co-partner at a stated price, as determined by the partnership agreement, or buy the co-partner's interest at the stated price. If the independent fiduciaries cannot agree on the action to be taken, and no alternative course of action is found to be acceptable, the ERISA-Covered Accounts will be required to sell their interest to the co-partner. This action would be taken because the other (purchase) option would require the expenditure of additional funds by an objecting ERISA-Covered Account.

In addition, situations may arise where an ERISA-Covered Account and a non-ERISA-Covered Client Account wish to pursue different courses of action. In such situations the decision on behalf of the non-ERISA-Covered Client Account will be made by persons independent of Aetna, UBS Realty and any of their respective affiliates.<sup>6</sup>

## Specific Transactions

### I. Direct Real Estate Investments

#### (a) Transfers Between Accounts

24. Following the initial sharing of investments, it may be in the best interests of the Accounts participating in the investment for one Account to sell its interest to the other(s). Such a situation may arise, for example, when one Account experiences a need for liquidity in order to satisfy the cash needs of the plans participating in the Account, while for the other Account(s) the investment remains appropriate. One possible means of reconciling this situation is for the "selling" Account to sell its interest in the shared investment to the remaining participating Account(s) or to another Account(s) at current fair market value. Such sales may not, however, be appropriate in all circumstances. An inter-Account transfer will only be permitted when it is determined to be in the best interests of each Account that would be involved

<sup>5</sup> The Applicant represents that the contractholders in its single customer and pooled closed-end real estate Client Accounts are knowledgeable and sophisticated investors who fully understand the operation of the ERISA-Covered Accounts.

<sup>6</sup> In this regard, the Applicant represents that persons independent of Aetna, UBS Realty and any of their respective affiliates will make the decisions on behalf of non-ERISA-Covered Client Accounts pursuant to Section I(e)(2) and Sections II (b)(2) and (c)(2) (d)(2) of the proposed exemption.