

(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 has given the initial affirmative authorization and approval for such plan 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 the independent fiduciary of all material information required in connection with said authorization or approval, a statement apprizing the independent fiduciary that PTE 97-63 has been replaced by this exemption, and a copy of this notice, and a copy of the final exemption, if granted;

(q) In the case of a Commingled Index Fund or Commingled Model-Driven Fund in which a Client Plan invests:

(1) The requirement, as set forth, above, in section II(b) of this exemption, shall not apply, provided that the information described in sections II(b), II(i), and II(m), above, of this exemption, including a description of the proposed securities lending arrangement, shall be furnished by GSL to a fiduciary who is independent of State Street, GSL, the SSB Group, the Clearing Broker, and any other division or affiliate of State Street or the Clearing Broker with respect to each Client Plan whose assets are invested in the Commingled Index Fund or Commingled Model-Driven Fund, not less than 30 days prior to implementation of any such securities lending arrangement, or any material changes thereto, and, thereafter, upon the reasonable request of the independent fiduciary of a Client Plan whose assets are invested in a Commingled Index Fund or Commingled Model-Driven Fund.

In the event of a material adverse change in the financial condition of the SSB Group, or the Clearing Broker, as applicable, GSL will make a decision, using the same standards of credit analysis GSL would use in evaluating unrelated borrowers, whether to terminate existing loans and whether to continue making additional loans to the SSB Group, or the Clearing Broker, as applicable.

For purposes of section II(q) of this exemption, any requirement that the fiduciary be independent of State Street

and its affiliates shall not apply in the case of an employee benefit plan sponsored and maintained by State Street and/or an affiliate for its own employees (the State Street Plan(s)), as defined, below, in section III(c) of this exemption; provided such plan is invested in a Commingled Index Fund or Commingled Model-Driven Fund, and provided further that at all times the value of the aggregate holdings of all State Street Plans in such fund comprises less than 10% of the value of the total assets of such fund;

(2) In the event that the independent fiduciary of a Client Plan whose assets are invested in the Commingled Index Fund or Commingled Model-Driven Fund submits a notice in writing within 30 days after receipt of notification of implementation of any such securities lending arrangement, or any material changes thereto, to GSL, as securities lending agent to the Commingled Index Fund or Commingled Model-Driven Fund, objecting to the implementation of, material change in, or continuation of the securities lending arrangement, the Client Plan on whose behalf the objection was tendered is given the opportunity to terminate its investment in the Commingled Index Fund or Commingled Model-Driven Fund, without penalty to such Client Plan, no later than 35 days after the notice of withdrawal is received.

In the case of a Client Plan that elects to withdraw pursuant to the foregoing, such withdrawal shall be effected prior to the implementation of, or material change in, the securities lending arrangement; but an existing securities lending arrangement need not be discontinued by reason of such Client Plan electing to withdraw. If a Client Plan's withdrawal necessitates a return of securities to the Commingled Index Fund or Commingled Model-Driven Fund, the SSB Group or the Clearing Broker, as applicable, will transfer securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, or merger of the issuer of the borrowed securities) to the Commingled Index Fund or Commingled Model-Driven Fund within:

(A) The customary delivery period for such securities;

(B) Five business days; or

(C) The time negotiated for such delivery by GSL, as lending agent to the Commingled Index Fund or Commingled Model-Driven Fund, and the SSB Group or Clearing Broker, as applicable, whichever is least; and

(3) In the case of a Client Plan whose assets are proposed to be invested in a Commingled Index Fund or

Commingled Model-Driven Fund subsequent to the implementation of the securities lending arrangement, the Client Plan's investment in a Commingled Index Fund or Commingled Model-Driven Fund shall be authorized in the manner described, above, in section II(b) of this exemption;

(4) The provisions of section II(q) of this exemption shall not apply to a Commingled Index Fund or Commingled Model-Driven Fund, if more than 10% of the ownership interests in such fund are held by State Street Plans;

(5) In the case of a Commingled Index Fund or Commingled Model-Driven Fund subject to the requirements of section II(q) of this exemption, GSL will furnish upon reasonable request to the independent fiduciary of any Client Plan invested in such fund,¹⁰ the most recently available audited and unaudited financial statements of the parent corporation of State Street and, if applicable, the Clearing Broker (or any new Clearing Broker) prior to the authorization of the securities lending program, and annually after such authorization;

(r) In return for lending securities, a Client Plan, including a Client Plan invested in a Commingled Index Fund or Commingled Model-Driven Fund, either—

(1) Receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan; or

(2) Has the opportunity to derive compensation through the investment of cash collateral. (Under such circumstances, such plan may pay a loan rebate or similar fee to the SSB Group or the Clearing Broker, as applicable, if such fee is not greater than the fee such plan would pay in a comparable arm's length transaction with an unrelated party);

(s) State Street and/or its affiliates maintain, or cause to be maintained, within the United States for a period of six years from the date of each transaction which is subject to this exemption, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described, below, in section II(t)(1), to determine whether the conditions of

¹⁰ The Department notes that it is the responsibility of the independent fiduciary for the Client Plan to periodically monitor any material changes in the securities lending program, including but not limited to a change in the Clearing Broker or in the Clearing Broker's financial status, that may occur after an initial authorization to participate in the program, pursuant to this exemption.