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Refer Reply To:
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Date:
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In Re:

Distributing =

Controlled =

Business A =

Business B =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

LLC 1 =

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LLC 2 =

LLC 3 =

LLC 4 =

FSub 1 =

FSub 2 =

FSub 3 =

FSub 4 =

FSub 5 =

FSub 6 =

FSub 7 =

FSub 8 =

FSub 9 =

FSub 10 =

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FSub 11 =

FSub 12 =

FSub 13 =

FSub 14 =

FSub 15 =

FSub 16 =

FSub 17 =

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FSub 31 =

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FSub 38 =

Country A =

Country B =

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Country C =

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Facility =

Advisors =

Dear _____ :

This letter responds to your December 14, 2001 request for rulings on certain federal income tax consequences of a proposed transaction. The information submitted in this request and in subsequent correspondence is summarized below.

Publicly traded Distributing is the common parent of an affiliated group of corporations that files a consolidated federal income tax return (the "Distributing Group"). Distributing is a holding company that conducts Business A and Business B through its domestic and foreign subsidiaries. Financial information has been submitted indicating that each of Business A and Business B have had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past 5 years. Specifically, Sub 1, FSub 2, FSub 5, FSub 6, FSub 8, FSub 9, FSub 10, FSub 11, and FSub 12 have actively conducted, either directly or through subsidiaries, both Business A and Business B for each of the past 5 years. Distributing

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has 1 class of voting common stock outstanding, which is widely held and publicly traded on a national exchange.

Distributing owns all of the stock of Sub 1, Sub 2, Sub 3, FSub 1, and FSub 2. Sub 2 owns all of the stock of FSub 3 and a % of the stock of FSub 4. FSub 3 owns the remaining b % of the stock of FSub 4 and all of the stock of FSub 5 and FSub 17. An election has been made to treat FSub 5 as disregarded for federal income tax purposes. Sub 2 also owns c % of the stock of FSub 6 and all of the stock of FSub 7, FSub 9, FSub 10, FSub 11, FSub 12, FSub 13, FSub 14, FSub 15, FSub 16, FSub 18, FSub 19, FSub 20, FSub 21, FSub 22, FSub 23, FSub 24, FSub 25, FSub 26, and FSub 27. Elections have been made to treat FSub 13 and FSub 14 as disregarded for federal income tax purposes. FSub 7 owns all of the stock of FSub 8. FSub 27 owns all of the stock of FSub 28. Sub 3 owns all of the stock of Sub 4 and d % of the stock of FSub 6. All entities designated as "FSub" are formed in a jurisdiction outside the United States. Unless otherwise noted, each such entity is taxed as a corporation for federal income tax purposes.

Distributing will form Controlled as part of the overall transaction. All of the stock of Controlled will be held by Distributing immediately prior to the distribution of the stock of Controlled to the shareholders of Distributing.

Distributing has provided sufficient documentation that management, systemic, and other problems exist under the current corporate structure in which Business A and Business B are operated in a single affiliated group. Distributing's management and Advisors believe that these management, systemic, and other problems will be alleviated by the separation of Business B from Business A.

The Proposed Transaction

To accomplish the worldwide separation of Business B from Business A, Distributing has proposed the following transaction. The taxpayer represents that, while the steps accurately reflect the proposed transaction, the steps may not necessarily occur in the order set forth below.

The Foreign Distributions

1. Country A Distribution

(i) FSub 3 will form FSub 29, a Country B entity. FSub 29 will elect to be disregarded for federal income tax purposes.

(ii) FSub 5 will transfer its assets relating to Business B, subject to certain indebtedness, to FSub 29. In exchange, FSub 29 will issue new FSub 29 stock directly to FSub 3.

(iii) Sub 2 will form LLC 1, a single member LLC that will be disregarded for

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federal income tax purposes. LLC 1 will form FSub 30, a Country A entity. FSub 30's authorized stock will consist only of voting common stock.

(iv) Sub 2 will contribute a Sub 2 note through LLC 1 to FSub 30. A binding agreement will be entered into stating that the Sub2 note received by FSub 30 will be used to purchase the FSub 29 stock, and that such Sub 2 Note will be distributed by FSub 3 to Sub 2.

(v) FSub 3 will transfer FSub 29, subject to certain indebtedness, to FSub 30 in exchange for the Sub 2 note.

(vi) FSub 3 will distribute the Sub 2 note to Sub 2.

2. Country C Distribution

(i) Sub 3 will transfer its d percent interest in FSub 6, a Country C entity, to Sub 2. In exchange, Sub 2 will issue voting preferred stock to Sub 3.

(ii) Sub 2 will form FSub 31, a Country C entity.

(iii) FSub 6 will transfer its assets relating to Business B, subject to certain indebtedness, to FSub 31.

3. Country D Distribution

(i) FSub 8, a Country D entity, will elect to be disregarded for federal income tax purposes.

(ii) Sub 2 will form LLC 2, a single member LLC that will be disregarded for federal income tax purposes.

(iii) Sub 2 will transfer e shares of FSub 7 to LLC 2.

(iv) LLC 2 will form FSub 32, a Country D entity, in exchange for 1 share of FSub 32.

(v) FSub 8 will distribute its assets relating to Business B, subject to certain liabilities, to FSub 7.

(vi) FSub 7 will transfer its assets relating to Business B to FSub 32. In exchange, FSub 32 will issue g shares directly to Sub 2 and f shares to LLC 2.

(vii) LLC 2 will distribute its e shares of FSub 7 to Sub 2.

4. Country E Distribution

(i) Sub 2 will form FSub 33, a Country E entity.

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(ii) FSub 9 will transfer its assets relating to Business B, subject to certain indebtedness, to FSub 33.

5. Country F Distribution

(i) Sub 2 will form FSub 34, a Country F entity.

(ii) FSub 10 will transfer its assets relating to Business B, subject to certain indebtedness, to FSub 34 in exchange for \$h. A binding agreement will be entered into stating that the \$h to be contributed to FSub 34 will be used to purchase FSub 10's assets relating to Business B, and that the \$h will be distributed by FSub 10 to Sub 2.

(iii) FSub 10 will distribute the \$h it received from FSub 34 to Sub 2.

6. Country G Distribution

(i) FSub 11 will form FSub 35, a Country G entity.

(ii) FSub 11 will transfer its assets relating to Business B, subject to certain indebtedness, to FSub 35.

(iii) FSub 11 will distribute its FSub 35 stock to Sub 2.

7. Country H Distribution

(i) Sub 2 will form FSub 36, a Country H entity.

(ii) FSub 12 will transfer its assets relating to Business B, subject to certain indebtedness, to FSub 36.

(iii) Sub 2 will form LLC 3, a single member LLC that will be disregarded for federal income tax purposes.

(iv) Sub 2 will contribute its FSub 36 stock to LLC 3.

8. Country I Distribution

(i) Distributing will contribute cash to FSub 2 in exchange for preferred stock of FSub 2. A binding agreement will be entered into stating that the cash contributed to FSub 2 by Distributing will be used to redeem the FSub 2 preferred stock held by Distributing immediately after Controlled contributes cash to FSub 2 to repay its existing creditors.

(ii) Distributing will form FSub 37, a Country I entity.

(iii) FSub 2 will transfer its assets relating to Business A, subject to certain liabilities, to FSub 37.

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(iv) FSub 2 will redeem the FSub 2 preferred stock previously issued to Distributing.

The Foreign Reorganizations

9. Country J Reorganization

Sub 2 will transfer its a percent interest in FSub 4, a Country J entity, to FSub 3, a Country A entity. As a result, FSub 3 will own all of the stock of FSub 4. FSub 4 then will elect to be disregarded for federal income tax purposes.

10. Countries C, D, E, F, G, and H Reorganizations

Sub 2 will contribute the stock of FSub 31, FSub 32, FSub 33, FSub 34, FSub 35, and FSub 36 to FSub 30. FSub 31, FSub 32, FSub 33, FSub 34, FSub 35, and FSub 36 will each elect to be treated as disregarded for federal income tax purposes.

Taxable Asset Transfers

11. Country K Transfer

(i) FSub 30 will form FSub 38, a Country B entity, with a FSub 30 note. FSub 38 will elect to be disregarded for federal income tax purposes.

(ii) Sub 4 will transfer its assets relating to Business B, subject to certain indebtedness, to FSub 38 in exchange for the FSub 30 note described above, which will be equal to the net fair market value of the assets transferred.

12. Controlled Distribution Subsidiary Transfers

(i) FSub 30 will form subsidiaries to distribute the products of Business B in Countries L, M, N, O, P, Q, R, and S (each, a "Controlled Distribution Subsidiary," and collectively, the "Controlled Distribution Subsidiaries"). These subsidiaries will be formed with the contribution of a FSub 30 note in exchange for stock. Each of the subsidiaries will elect to be disregarded for federal income tax purposes.

(ii) Certain Distributing entities will sell all of their assets relating to Business B to a respective Controlled Distribution Subsidiary for a FSub 30 note equal to the fair market value of such assets. These Distributing entities include FSub 1, a Country R entity, FSub 15, a Country L entity, FSub 16, a Country M entity, FSub 17, a Country N entity, FSub 18, a Country O entity, FSub 19, a Country P entity, FSub 20, a Country Q entity, and FSub 21, a Country S entity. In addition, FSub 22 will sell all of its assets relating to Business B to the Controlled Distribution Subsidiary to be formed in Country M.

(iii) The Controlled distribution rights for Countries U, V, W, X, and Y held

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respectively by FSub 23, a Country U entity, FSub 24, a Country V entity, FSub 25, a Country W entity, FSub 26, a Country X entity, and FSub 28, a Country Y entity, will be transferred to third parties that will become distributors.

The Domestic Distributions

13. Sub 5 Distribution

(i) LLC1 will elect to be treated as a corporation for federal income tax purposes (hereinafter referred to as Sub 5).

(ii) Sub 2 will contribute the stock of FSub 13, a Country A entity, and FSub 14, a Country Z entity, to Sub 5.

(iii) Sub 5 will contribute the stock of FSub 13 and FSub 14 to FSub 30.

(iv) Sub 2 will distribute its stock in Sub 5 to Distributing.

14. Sub 1 Liquidation

(i) Sub 1 will convert into a single member LLC (“LLC 4”) that will be disregarded for federal income tax purposes.

(iii) LLC 4 will transfer its assets relating to Business B, subject to certain liabilities, to Distributing.

15. Controlled Distribution

(i) Distributing will form Controlled.

(ii) Controlled will borrow approximately \$*i* from unrelated lenders (the “External Debt”).

(iii) Distributing will transfer its assets relating to Business B, subject to certain liabilities, the stock of FSub 2, and the stock of Sub 5 (the “Transferred Assets”) to Controlled (the “Controlled Contribution”) in exchange for newly issued Controlled stock and approximately \$*j* of the proceeds of the External Debt (the “Borrowing Proceeds”). Distributing will use the cash received to repay existing creditors, which may include pre-existing intercompany indebtedness. Controlled will contribute a portion of the Borrowing Proceeds to FSub 2 to repay its creditors. Controlled will contribute a portion of the Borrowing Proceeds to Sub 5 which will then contribute the Borrowing Proceeds to FSub 30 to repay its creditors.

(iv) Distributing will distribute all of the stock of Controlled to its shareholders.

Following the Controlled Distribution, Distributing and Controlled will (i) provide each other certain transitional support services, (ii) provide each other transitional sales

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services, and (iii) sublease certain space from each other for a transitional period (collectively the "Transitional Agreements"). The term for the Transitional Agreements will not exceed a period of k months after the Controlled Distribution except that Distributing will lease Facility to Controlled for a period not to exceed l months after the Controlled Distribution. In addition, Distributing will manufacture certain products for Controlled pursuant to a contract manufacturing arrangement for a term of up to l months. Distributing will also transfer the accounts and appropriate assets of the Controlled employees from the Distributing § 401(k) and employee stock option plans ("Distributing Employee Plans") to a new Controlled § 401(k) plan. Distributing Employee Plans will dispose of all Controlled stock received in the Controlled Distribution within 1 year. Finally, Distributing and Controlled will enter into a nondisclosure agreement and a nonsolicitation agreement.

Two members of the Distributing Board will also serve as members of the Controlled Board following the Controlled Distribution. The Chairman and CEO of Distributing will become a member of the Controlled Board for a transition period not exceeding 1 year following the Controlled Distribution. In addition, it is anticipated that 1 additional member of the Distributing Board will serve as Chairman of the Controlled Board, but will cease to serve as a member of the Distributing Board within a transition period not exceeding 1 year following the Controlled Distribution.

In connection with the proposed transaction, Distributing has submitted information and made representations required by Rev. Proc. 96-30, 1996-1 C.B. 696, including the following representations.

1. Country A Distribution

In connection with the Country A Distribution it has been represented that:

- (a) The distribution of FSub 30 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the Distributing Group. The distribution of FSub 30 is not motivated in whole or substantial part by any non-corporate business purpose.
- (b) Except for the Sub 5 Distribution, there is no plan or intention by the shareholder of FSub 3 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either FSub 3 or FSub 30 after the Country A Distribution.
- (c) There is no plan or intention to liquidate either FSub 3 or FSub 30, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Country A Distribution, except for the Countries C, D, E, F, G, and H Reorganizations, or dispositions in the ordinary course of business.

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- (d) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between FSub 3 and FSub 30 at the time of, or subsequent to, the Country A Distribution.
- (e) FSub 3's deemed transfer of the Country A Business B to FSub 30 in exchange for all of the stock of FSub 30 is not an exchange described in § 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3) of the Income Tax Regulations.
- (f) FSub 3 and FSub 30 will each be a controlled foreign corporation ("CFC"), within the meaning of § 957(a), immediately before and after the distribution by FSub 3 of the stock of FSub 30 to Sub 2.
- (g) With respect to each of FSub 3 and FSub 30, Sub 2 will be a § 1248 shareholder, within the meaning of § 1.367(b)-2(b), immediately before and after the Country A Distribution.
- (h) Neither FSub 3 nor FSub 30 is, or will be, a passive foreign investment company ("PFIC"), within the meaning of § 1297(a), immediately before or after the Country A Distribution.

2. Country C Distribution

In connection with the Country C Distribution it has been represented that:

- (a) The distribution of FSub 31 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the Distributing Group. The distribution of FSub 31 is not motivated in whole or substantial part by any non-corporate business purpose.
- (b) Except for the Country C Reorganization, there is no plan or intention by the shareholder of FSub 6 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either FSub 6 or FSub 31 after the Country C Distribution.
- (c) There is no plan or intention to liquidate either FSub 6 or FSub 31, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Country C Distribution, except for the Country C Reorganization, or dispositions in the ordinary course of business.
- (d) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between FSub 6 and FSub 31 at the time of, or subsequent to, the Country C Distribution.

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- (e) FSub 6's deemed transfer of Business B to FSub 31 in exchange for all of the stock of FSub 31 is not an exchange described in § 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (f) FSub 6 and FSub 31 will each be a CFC, within the meaning of § 957(a), immediately before and after the distribution by FSub 6 of the stock of FSub 31 to Sub 2.
- (g) With respect to each of FSub 6 and FSub 31, Sub 2 will be a § 1248 shareholder, within the meaning of § 1.367(b)-2(b), immediately before and after the Country C Distribution.
- (h) Neither FSub 6 nor FSub 31 is, or will be, a PFIC, within the meaning of § 1297(a), immediately before or after the Country C Distribution.

3. Country D Distribution

In connection with the Country D Distribution it has been represented that:

- (a) The distribution of FSub 32 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the Distributing Group. The distribution of FSub 32 is not motivated in whole or substantial part by any non-corporate business purpose.
- (b) Except for the Country D Reorganization, there is no plan or intention by the shareholder of FSub 7 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either FSub 7 or FSub 32 after the Country D Distribution.
- (c) There is no plan or intention to liquidate either FSub 7 or FSub 32, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Country D Distribution, except for the Country D Reorganization, or dispositions in the ordinary course of business.
- (d) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between FSub 7 and FSub 32 at the time of, or subsequent to, the Country D Distribution.
- (e) FSub 7's deemed transfer of Business B to FSub 32 in exchange for all of the stock of FSub 32 is not an exchange described in § 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).

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- (f) FSub 7 and FSub 32 will each be a CFC, within the meaning of § 957(a), immediately before and after the distribution by FSub 7 of the stock of FSub 32 to Sub 2.
- (g) With respect to each of FSub 7 and FSub 32, Sub 2 will be a § 1248 shareholder, within the meaning of § 1.367(b)-2(b), immediately before and after the Country D Distribution.
- (h) Neither FSub 7 nor FSub 32 is, or will be, a PFIC, within the meaning of § 1297(a), immediately before or after the Country D Distribution.

4. Country E Distribution

In connection with the Country E Distribution it has been represented that:

- (a) The distribution of FSub 33 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the Distributing Group. The distribution of FSub 33 is not motivated in whole or substantial part by any non-corporate business purpose.
- (b) Except for the Country E Reorganization, there is no plan or intention by the shareholder of FSub 9 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either FSub 9 or FSub 33 after the Country E Distribution.
- (c) There is no plan or intention to liquidate either FSub 9 or FSub 33, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Country E Distribution, except for the Country E Reorganization, or dispositions in the ordinary course of business.
- (d) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between FSub 9 and FSub 33 at the time of, or subsequent to, the Country E Distribution.
- (e) FSub 9's deemed transfer of Business B to FSub 33 in exchange for all of the stock of FSub 33 is not an exchange described in § 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (f) FSub 9 and FSub 33 will each be a CFC, within the meaning of § 957(a), immediately before and after the distribution by FSub 9 of the stock of FSub 33 to Sub 2.

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- (g) With respect to each of FSub 9 and FSub 33, Sub 2 will be a § 1248 shareholder, within the meaning of § 1.367(b)-2(b), immediately before and after the Country E Distribution.
- (h) Neither FSub 9 nor FSub 33 is, or will be, a PFIC, within the meaning of § 1297(a), immediately before or after the Country E Distribution

5. Country F Distribution

In connection with the Country F Distribution it has been represented that:

- (a) The distribution of FSub 34 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the Distributing Group. The distribution of FSub 34 is not motivated in whole or substantial part by any non-corporate business purpose.
- (b) Except for the Country F Reorganization, there is no plan or intention by the shareholder of FSub 10 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either FSub 10 or FSub 34 after the Country F Distribution.
- (c) There is no plan or intention to liquidate either FSub 10 or FSub 34, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Country F Distribution, except for the Country F Reorganization, or dispositions in the ordinary course of business.
- (d) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between FSub 10 and FSub 34 at the time of, or subsequent to, the Country F Distribution.
- (e) FSub 10's deemed transfer of Business B to FSub 34 in exchange for all of the stock of FSub 34 is not an exchange described in § 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (f) FSub 10 and FSub 34 will each be a CFC, within the meaning of § 957(a), immediately before and after the distribution by FSub 10 of the stock of FSub 34 to Sub 2.
- (g) With respect to each of FSub 10 and FSub 34, Sub 2 will be a § 1248 shareholder, within the meaning of § 1.367(b)-2(b), immediately before and after the Country F Distribution.

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- (h) Neither FSub 10 nor FSub 34 is, or will be, a PFIC, within the meaning of § 1297(a), immediately before or after the Country F Distribution.

6. Country G Distribution

In connection with the Country G Distribution it has been represented that:

- (a) The distribution of FSub 35 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the Distributing Group. The distribution of FSub 35 is not motivated in whole or substantial part by any non-corporate business purpose.
- (b) Except for the Country G Reorganization, there is no plan or intention by the shareholder of FSub 11 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either FSub 11 or FSub 35 after the Country G Distribution.
- (c) There is no plan or intention to liquidate either FSub 11 or FSub 35, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Country G Distribution, except for the Country G Reorganization, or dispositions in the ordinary course of business.
- (d) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between FSub 11 and FSub 35 at the time of, or subsequent to, the Country G Distribution.
- (e) FSub 11's deemed transfer of Business B to FSub 35 in exchange for all of the stock of FSub 35 is not an exchange described in § 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (f) FSub 11 and FSub 35 will each be a CFC, within the meaning of § 957(a), immediately before and after the distribution by FSub 11 of the stock of FSub 35 to Sub 2.
- (g) With respect to each of FSub 11 and FSub 35, Sub 2 will be a § 1248 shareholder, within the meaning of § 1.367(b)-2(b), immediately before and after the Country G Distribution.
- (h) Neither FSub 11 nor FSub 35 is, or will be, a PFIC, within the meaning of § 1297(a), immediately before or after the Country G Distribution.

7. Country H Distribution

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In connection with the Country H Distribution it has been represented that:

- (a) The distribution of FSub 36 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the Distributing Group. The distribution of FSub 36 is not motivated in whole or substantial part by any non-corporate business purpose.
- (b) Except for the Country H Reorganization, there is no plan or intention by the shareholder of FSub 12 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either FSub 12 or FSub 36 after the Country H Distribution.
- (c) There is no plan or intention to liquidate either FSub 12 or FSub 36, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Country H Distribution, except for the Country H Reorganization, or dispositions in the ordinary course of business.
- (d) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between FSub 12 and FSub 36 at the time of, or subsequent to, the Country H Distribution.
- (e) FSub 12's deemed transfer of Business B to FSub 36 in exchange for all of the stock of FSub 36 is not an exchange described in § 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (f) FSub 12 and FSub 36 will each be a CFC, within the meaning of § 957(a), immediately before and after the distribution by FSub 12 of the stock of FSub 36 to Sub 2.
- (g) With respect to each of FSub 12 and FSub 36, Sub 2 will be a § 1248 shareholder, within the meaning of § 1.367(b)-2(b), immediately before and after the Country H Distribution.
- (h) Neither FSub 12 nor FSub 36 is, or will be, a PFIC, within the meaning of § 1297(a), immediately before or after the Country H Distribution

8. Country I Distribution

In connection with the Country I Distribution it has been represented that:

- (a) The distribution of FSub 37 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the

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Distributing Group. The distribution of FSub 37 is not motivated in whole or substantial part by any non-corporate business purpose.

- (b) Except for the Controlled Contribution, there is no plan or intention by the shareholder of FSub 2 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either FSub 2 or FSub 37 after the Country I Distribution.
- (c) There is no plan or intention to liquidate either FSub 2 or FSub 37, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Country I Distribution, except for the Controlled Contribution, or dispositions in the ordinary course of business.
- (d) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between FSub 2 and FSub 37 at the time of, or subsequent to, the Country I Distribution.
- (e) FSub 2's deemed transfer of Business A to FSub 37 in exchange for all of the stock of FSub 37 is not an exchange described in § 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (f) FSub 37 and FSub 2 will each be a CFC, within the meaning of § 957(a), immediately before and after the distribution by FSub 2 of the stock of FSub 37 to Distributing.
- (g) With respect to each of FSub 37 and FSub 2, Distributing will be a § 1248 shareholder, within the meaning of § 1.367(b)-2(b), immediately before and after the Country I Distribution.
- (h) Neither FSub 37 nor FSub 2 is, or will be, a PFIC, within the meaning of § 1297(a), immediately before or after the Country I Distribution.

9. Sub 5 Distribution

In connection with the Sub 5 Distribution it has been represented that:

- (a) No stock or securities of Sub 5 will be issued for services rendered to or for the benefit of Sub 5 in connection with the proposed transaction, and no stock or securities will be issued for indebtedness of Sub 5 that is not evidenced by a security or for interest on indebtedness of Sub 5 that accrued on or after the beginning of the holding period of the transferor for the debt.
- (b) None of the stock to be transferred is "section 306 stock" within the meaning of § 306(c) of the Internal Revenue Code.

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- (c) The Sub 5 Distribution is not the result of solicitation by a promoter, broker, or investment house.
- (d) Sub 2 will not retain any rights in the property transferred in the Sub 5 Distribution.
- (e) The adjusted basis and the fair market value of the property to be transferred by Sub 2 to Sub 5 will, in each instance, be equal to or exceed the sum of the liabilities to be assumed (within the meaning of § 357(d)) by Sub 5.
- (f) The liabilities of Sub 2 to be assumed (within the meaning of § 357(d)) by Sub 5 were incurred in the ordinary course of business and are associated with the assets to be transferred.
- (g) There is no indebtedness between Sub 2 and Sub 5 and there will be no indebtedness created in favor of Sub 2 as a result of the Sub 5 Distribution.
- (h) The transfers and exchanges will occur under a plan agreed upon before the Sub 5 Distribution in which the rights of the parties are defined.
- (i) All exchanges will occur on approximately the same date.
- (j) There is no plan or intention on the part of Sub 5 to redeem or otherwise reacquire any of the interests to be issued in the Sub 5 Distribution.
- (k) Except for the Sub 5 Distribution, taking into account any issuance of additional interests in Sub 5; any issuance of interests for services; the exercise of any Sub 5 stock rights, warrants, or subscriptions; a public offering of Sub 5 interests; and the sale, exchange, transfer by gift, or other disposition of any of the interests of Sub 5 to be received in the exchange, Sub 2 will be in "control" of FSub 30 within the meaning of § 368(c).
- (l) Sub 2 will receive interests in Sub 5 approximately equal to the fair market value of the property contributed to Sub 5.
- (m) Sub 5 will remain in existence and retain and use the property transferred to it in a trade or business.
- (n) Other than the contribution of the interests in FSub 13 and FSub 14 to FSub 30, there is no plan or intention by Sub 5 to dispose of the transferred property other than in the normal course of business operations.

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- (o) Sub 2 and Sub 5 will each pay their own expenses, if any, incurred in connection with the Sub 5 Distribution.
- (p) Sub 5 will not be an investment company within the meaning of §§ 351(e)(1) and 1.351-1(c)(1)(ii).
- (q) Sub 2 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of § 368(a)(3)(A)) and the stock or securities received in the exchange will not be used to satisfy the indebtedness of such debtor.
- (r) Sub 2 will not be a “personal service corporation” within the meaning of § 269A.
- (s) The distribution of Sub 5 will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the Distributing Group. The distribution of Sub 5 is not motivated in whole or substantial part by any non-corporate business purpose.
- (t) Except for the Controlled Contribution, there is no plan or intention by the shareholder of Sub 2 to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either Sub 2 or Sub 5 after the Sub 5 Distribution.
- (u) There is no plan or intention to liquidate either Sub 2 or Sub 5, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Sub 5 Distribution, except for the Controlled Contribution, or dispositions in the ordinary course of business.
- (v) Except for indebtedness arising from the Transitional Agreements, no intercorporate debt will exist between Sub 2 and Sub 5 at the time of, or subsequent to, the Sub 5 Distribution.
- (w) The transfer by Sub 5 of the stock of FSub 13 and FSub F14 to FSub 30 is a transaction described in § 351.

10. Controlled Distribution

In connection with the Controlled Distribution it has been represented that:

- (a) The distribution of Controlled will be carried out for the following corporate business purpose: to separate Business B from Business A in order to eliminate management, systemic, and other problems within the

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Distributing Group. The distribution of Controlled is not motivated in whole or substantial part by any non-corporate business purpose.

- (b) Except for the future sale of Controlled stock by the Distributing Employee Plans, there is no plan or intention by any shareholder who owns 5 percent or more of the stock of Distributing, and the management of Distributing, to its best knowledge, is not aware of any plan or intention on the part of any particular remaining shareholder or security holder of Distributing to sell, exchange, transfer by gift, or otherwise dispose of any of its stock in, or securities of, either Distributing or Controlled after the transaction.
- (c) Other than indebtedness arising out of the Transitional Agreements, no intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Controlled Distribution.
- (d) Neither Distributing nor Controlled was or will be a U.S. real property holding corporation (USRPHC) as defined in § 897(c)(2), at any time during the 5-year period ending on the date of the Controlled Distribution, and neither Distributing nor Controlled will be a USRPHC immediately after the Controlled Distribution.
- (e) Except for the transfer of FSub 13 and FSub 14 to FSub 30, it is not contemplated that Distributing or Controlled, or their respective subsidiaries, will transfer property, directly or indirectly, to any foreign corporation in an exchange described in § 367(a).
- (f) Except for the transfer of FSub 13 and FSub 14 to FSub 30, it is not contemplated that Distributing or Controlled, or their respective subsidiaries, will transfer any intangible property, directly or indirectly, to any foreign corporation in an exchange described in § 367(d).
- (g) In connection with the transaction, Distributing, Controlled and their respective domestic subsidiaries, will not transfer property to a foreign partnership that would be subject to the reporting requirements of § 6038B.

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the proposed transaction:

1. Country A Distribution

- (1) For U.S. federal income tax purposes, the Sub 2 note will be disregarded and the Country A Distribution will be treated as if FSub 3 formed FSub 30, FSub 3 transferred its Business B assets to FSub 30 in exchange for

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FSub 30 common stock and the assumption by FSub 30 of liabilities associated with the transferred assets, and FSub 3 distributed all the stock of FSub 30 to Sub 2 (Rev. Rul. 77-191, 1977-1 C.B. 94).

- (2) The transfer by FSub 3 of its Business B assets to FSub 30 in exchange for the stock of FSub 30 and the assumption of liabilities associated with the transferred assets, followed by the distribution of all of the FSub 30 stock to Sub 2 will be treated as a reorganization under § 368(a)(1)(D). FSub 3 and FSub 30 will each be a “party to a reorganization” within the meaning of § 368(b).
- (3) No gain or loss will be recognized by FSub 3 on its transfer of its Business B assets in exchange for FSub 30 stock (§ 361(a)).
- (4) No gain or loss will be recognized by FSub 30 on its receipt of the Business B assets from FSub 3 in exchange for FSub 30 stock (§ 1032(a)).
- (5) No gain or loss will be recognized by FSub 3 upon the distribution to Sub 2 of all of FSub 3's FSub 30 stock (§ 361(c)(1)).
- (6) No gain or loss will be recognized by Sub 2 upon its receipt of FSub 3's FSub 30 stock (§ 355(a)(1)).
- (7) The basis of the Business B assets in the hands of FSub 30 will be the same as the basis of the Business B assets in FSub 3's hands immediately before the Country A Distribution (§ 362(b)).
- (8) Sub 2's aggregate basis of FSub 3 and FSub 30 stock after the Country A Distribution will be the same as Sub 2's aggregate basis in FSub 3 stock immediately before the Country A Distribution (§ 358(a)(1)). The basis will be allocated among Sub 2's FSub 3 and FSub 30 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (9) The holding period of the Business B assets received by FSub 30 from FSub 3 will include the period during which FSub 3 held such assets (§ 1223(2)).
- (10) The holding period of the FSub 30 stock received by Sub 2 from FSub 3 will be the same as the holding period of the FSub 3 shares on which the distribution is made, provided that such FSub 3 shares are held as a capital asset on the date of the distribution (§ 1223(1)).
- (11) FSub 3's transfer of Business B to FSub 30 in the Country A Distribution will be an exchange to which §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply.

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- (12) No amount will be included in income as a deemed dividend equal to the § 1248 amount under § 367(b) on FSub 3's transfer of Business B to FSub 30 in the Country A Distribution (§§ 1.367(b)-1(b) and -4(b)).
- (13) FSub 3's transfer of the FSub 30 stock in the Country A Distribution will be a distribution to which §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. If Sub 2's post distribution amount, as defined in § 1.367(b)-5(e)(2), with respect to FSub 3 or FSub 30 is less than Sub 2's predistribution amount, as defined in § 1.367(b)-5(e)(1), with respect to FSub 3 or FSub 30, Sub 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Sub 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, Sub 2 must instead include such amount in income as a deemed dividend from such corporation. If Sub 2 reduces the basis in the stock of FSub 3 or FSub 30 (or has an inclusion with respect to such stock), Sub 2 shall increase its basis in the stock of the other corporation to the extent provided in § 1.367(b)-5(c)(4).

2. Country C Distribution

- (1) For U.S. federal income tax purposes, the Country C Distribution will be treated as if FSub 6 formed FSub 31, FSub 6 transferred its Business B assets to FSub 31 in exchange for FSub 31 common stock and the assumption by FSub 31 of liabilities associated with the transferred assets, and FSub 6 distributed all the stock of FSub 31 to Sub 2 (Rev. Rul. 77-191, 1977-1 C.B. 94).
- (2) The transfer by FSub 6 of its Business B assets to FSub 31 in exchange for the stock of FSub 31 and the assumption of liabilities associated with the transferred assets, followed by the distribution of all of the FSub 31 stock to Sub 2 will be treated as a reorganization under § 368(a)(1)(D). FSub 6 and FSub 31 will each be a "party to a reorganization" within the meaning of § 368(b).
- (3) No gain or loss will be recognized by FSub 6 on its transfer of its Business B assets in exchange for FSub 31 stock (§ 361(a)).
- (4) No gain or loss will be recognized by FSub 31 on its receipt of the Business B assets from FSub 6 in exchange for FSub 31 stock (§ 1032).
- (5) No gain or loss will be recognized by FSub 6 upon the distribution to Sub 2 of all of FSub 6's FSub 31 stock (§ 361(c)(1)).
- (6) No gain or loss will be recognized by Sub 2 upon its receipt of FSub 6's FSub 31 stock (§ 355(a)(1)).

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- (7) The basis of the Business B assets in the hands of FSub 31 will be the same as the basis of the Business B assets in FSub 6's hands immediately before the Country C Distribution (§ 362(b)).
- (8) Sub 2's aggregate basis of FSub 6 and FSub 31 stock after the Country C Distribution will be the same as Sub 2's aggregate basis in FSub 6 stock immediately before the Country C Distribution (§ 358(a)(1)). The basis will be allocated among Sub 2's FSub 6 and FSub 31 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (9) The holding period of the Business B assets received by FSub 31 from FSub 6 will include the period during which FSub 6 held such assets (§ 1223(2)).
- (10) The holding period of the FSub 31 stock received by Sub 2 from FSub 6 will be the same as the holding period of the FSub 6 shares on which the distribution is made, provided that such FSub 6 shares are held as a capital asset on the date of the distribution (§ 1223(1)).
- (11) FSub 6's transfer of Business B to FSub 31 in the Country C Distribution will be an exchange to which §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply.
- (12) No amount will be included in income as a deemed dividend equal to the § 1248 amount under § 367(b) on FSub 6's transfer of Business B to FSub 31 in the Country C Distribution (§§ 1.367(b)- 1(b) and -4(b)).
- (13) FSub 6's transfer of the FSub 31 stock in the Country C Distribution will be a distribution to which §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)- 5(f) apply. If Sub 2's post distribution amount, as defined in § 1.367(b)-5(e)(2), with respect to FSub 6 or FSub 31 is less than Sub 2's predistribution amount, as defined in § 1.367(b)-5(e)(1), with respect to FSub 6 or FSub 31, Sub 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Sub 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, Sub 2 must instead include such amount in income as a deemed dividend from such corporation. If Sub 2 reduces the basis in the stock of FSub 6 or FSub 31 (or has an inclusion with respect to such stock), Sub 2 shall increase its basis in the stock of the other corporation to the extent provided in § 1.367(b)-5(c)(4).

3. Country D Distribution

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- (1) For U.S. federal income tax purposes, the Country D Distribution will be treated as if FSub 7 formed FSub 32, FSub 7 transferred its Business B assets to FSub 32 in exchange for FSub 32 common stock and the assumption by FSub 32 of liabilities associated with the transferred assets, and FSub 7 distributed all the stock of FSub 32 to Sub 2 (Rev. Rul. 77-191, 1977-1 C.B. 94).
- (2) The transfer by FSub 7 of its Business B assets to FSub 32 in exchange for the stock of FSub 32 and the assumption of liabilities associated with the transferred assets, followed by the distribution of all of the FSub 32 stock to Sub 2 will be treated as a reorganization under § 368(a)(1)(D). FSub 7 and FSub 32 will each be a “party to a reorganization” within the meaning of § 368(b).
- (3) No gain or loss will be recognized by FSub 7 on its transfer of its Business B assets in exchange for FSub 32 stock (§ 361(a)).
- (4) No gain or loss will be recognized by FSub 32 on its receipt of the Business B assets from FSub 7 in exchange for FSub 32 stock (§ 1032(a)).
- (5) No gain or loss will be recognized by FSub 7 upon the distribution to Sub 2 of all of FSub 7's FSub 32 stock (§ 361(c)(1)).
- (6) No gain or loss will be recognized by Sub 2 upon its receipt of FSub 7's FSub 32 stock (§ 355(a)(1)).
- (7) The basis of the Business B assets in the hands of FSub 32 will be the same as the basis of the Business B assets in FSub 7's hands immediately before the Country D Distribution (§ 362(b)).
- (8) Sub 2's aggregate basis of FSub 7 and FSub 32 stock after the Country D Distribution will be the same as Sub 2's aggregate basis in FSub 7 stock immediately before the Country D Distribution (§ 358(a)(1)). The basis will be allocated among Sub 2's FSub 7 and FSub 32 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (9) The holding period of the Business B assets received by FSub 32 from FSub 7 will include the period during which FSub 7 held such assets (§ 1223(2)).
- (10) The holding period of the FSub 32 stock received by Sub 2 from FSub 7 will be the same as the holding period of the FSub 7 shares on which the distribution is made, provided that such FSub 7 shares are held as a capital asset on the date of the distribution (§ 1223(1)).

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- (11) FSub 7's transfer of Business B to FSub 32 in the Country D Distribution will be an exchange to which §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply.
- (12) No amount will be included in income as a deemed dividend equal to the § 1248 amount under § 367(b) on FSub 7's transfer of Business B to FSub 32 in the Country D Distribution (§§ 1.367(b)-1(b) and -4(b)).
- (13) FSub 7's transfer of the FSub 32 stock in the Country D Distribution will be a distribution to which §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. If Sub 2's post distribution amount, as defined in § 1.367(b)-5(e)(2) with respect to FSub 7 or FSub 32 is less than Sub 2's predistribution amount, as defined in § 1.367(b)-5(e)(1), with respect to FSub 7 or FSub 32, Sub 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Sub 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, Sub 2 must instead include such amount in income as a deemed dividend from such corporation. If Sub 2 reduces the basis in the stock of FSub 7 or FSub 32 (or has an inclusion with respect to such stock), Sub 2 shall increase its basis in the stock of the other corporation to the extent provided in § 1.367(b)-5(c)(4).

4. Country E Distribution

- (1) For U.S. federal income tax purposes, the Country E Distribution will be treated as if FSub 9 formed FSub 33, FSub 9 transferred its Business B assets to FSub 33 in exchange for FSub 33 common stock and the assumption by FSub 33 of liabilities associated with the transferred assets, and FSub 9 distributed all the stock of FSub 33 to Sub 2 (Rev. Rul. 77-191, 1977-1 C.B. 94).
- (2) The transfer by FSub 9 of its Business B assets to FSub 33 in exchange for the stock of FSub 33 and the assumption of liabilities associated with the transferred assets, followed by the distribution of all of the FSub 33 stock to Sub 2 will be treated as a reorganization under § 368(a)(1)(D). FSub 9 and FSub 33 will each be a "party to a reorganization" within the meaning of § 368(b).
- (3) No gain or loss will be recognized by FSub 9 on its transfer of its Business B assets in exchange for FSub 33 stock (§ 361(a)).
- (4) No gain or loss will be recognized by FSub 33 on its receipt of the Business B assets from FSub 9 in exchange for FSub 33 stock (§ 1032(a)).

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- (5) No gain or loss will be recognized by FSub 9 upon the distribution to Sub 2 of all of FSub 9's FSub 33 stock (§ 361(c)(1)).
- (6) No gain or loss will be recognized by Sub 2 upon its receipt of FSub 9's FSub 33 stock (§ 355(a)(1)).
- (7) The basis of the Business B assets in the hands of FSub 33 will be the same as the basis of the Business B assets in FSub 9's hands immediately before the Country E Distribution (§ 362(b)).
- (8) Sub 2's aggregate basis of FSub 9 and FSub 33 stock after the Country E Distribution will be the same as Sub 2's aggregate basis in FSub 9 stock immediately before the Country E Distribution (§ 358(a)(1)). The basis will be allocated among Sub 2's FSub 9 and FSub 33 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (9) The holding period of the Business B assets received by FSub 33 from FSub 9 will include the period during which FSub 9 held such assets (§ 1223(2)).
- (10) The holding period of the FSub 33 stock received by Sub 2 from FSub 9 will be the same as the holding period of the FSub 9 shares on which the distribution is made, provided that such FSub 9 shares are held as a capital asset on the date of the distribution (§ 1223(1)).
- (11) FSub 9's transfer of Business B to FSub 33 in the Country E Distribution will be an exchange to which §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply.
- (12) No amount will be included in income as a deemed dividend equal to the § 1248 amount under § 367(b) on FSub 9's transfer of Business B to FSub 33 in the Country E Distribution (§§ 1.367(b)-1(b) and -4(b)).
- (13) FSub 9's transfer of the FSub 33 stock in the Country E Distribution will be a distribution to which §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. If Sub 2's post distribution amount, as defined in § 1.367(b)-5(e)(2), with respect to FSub 9 or FSub 33 is less than Sub 2's predistribution amount, as defined in § 1.367(b)-5(e)(1), with respect to FSub 9 or FSub 33, Sub 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Sub 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, Sub 2 must instead include such amount in income as a deemed dividend from such corporation. If Sub 2 reduces the basis in the stock of FSub 9 or FSub 33 (or has an inclusion with respect to such stock), Sub 2 shall increase its basis in the stock of the other corporation to the extent provided in § 1.367(b)-5(c)(4).

5. The Country F Distribution

- (1) For U.S. federal income tax purposes, the circular flow of cash in the Country F Distribution will be ignored (Rev. Rul. 83-142, 1983-2 C.B. 68). The Country F Distribution will be treated as if FSub 10 formed FSub 34, FSub 10 transferred its Business B assets to FSub 34 in exchange for FSub 34 common stock and the assumption by FSub 34 of liabilities associated with the transferred assets, and FSub 10 distributed all the stock of FSub 34 to Sub 2 (Rev. Rul. 77-191, 1977-1 C.B. 94).
- (2) The transfer by FSub 10 of its Business B assets to FSub 34 in exchange for the stock of FSub 34 and the assumption of liabilities associated with the transferred assets, followed by the distribution of all of the FSub 34 stock to Sub 2 will be treated as a reorganization under § 368(a)(1)(D). FSub 10 and FSub 34 will each be a “party to a reorganization” within the meaning of § 368(b).
- (3) No gain or loss will be recognized by FSub 10 on its transfer of its Business B assets in exchange for FSub 34 stock (§ 361(a)).
- (4) No gain or loss will be recognized by FSub 34 on its receipt of the Business B assets from FSub 10 in exchange for FSub 34 stock (§ 1032(a)).
- (5) No gain or loss will be recognized by FSub 10 upon the distribution to Sub 2 of all of FSub 10's FSub 34 stock (§ 361(c)(1)).
- (6) No gain or loss will be recognized by Sub 2 upon its receipt of FSub 10's FSub 34 stock (§ 355(a)(1)).
- (7) The basis of the Business B assets in the hands of FSub 34 will be the same as the basis of the Business B assets in FSub 10's hands immediately before the Country F Distribution (§ 362(b)).
- (8) Sub 2's aggregate basis of FSub 10 and FSub 34 stock after the Country F Distribution will be the same as Sub 2's aggregate basis in FSub 10 stock immediately before the Country F Distribution (§ 358(a)(1)). The basis will be allocated among Sub 2's FSub 10 and FSub 34 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (9) The holding period of the Business B assets received by FSub 34 from FSub 10 will include the period during which FSub 10 held such assets (§ 1223(2)).

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- (10) The holding period of the FSub 34 stock received by Sub 2 from FSub 10 will be the same as the holding period of the FSub 10 shares on which the distribution is made, provided that such FSub 10 shares are held as a capital asset on the date of the distribution (§ 1223(1)).
- (11) FSub 10's transfer of Business B to FSub 34 in the Country F Distribution will be an exchange to which §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply.
- (12) No amount will be included in income as a deemed dividend equal to the § 1248 amount under § 367(b) on FSub 10's transfer of the Country F Business B to FSub 34 in the Country F Distribution (§§ 1.367(b)-1(b) and -4(b)).
- (13) FSub 10's transfer of the FSub 34 stock in the Country F Distribution will be a distribution to which §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. If Sub 2's post distribution amount, as defined in § 1.367(b)-5(e)(2), with respect to FSub 10 or FSub 34 is less than Sub 2's predistribution amount, as defined in § 1.367(b)-5(e)(1), with respect to FSub 10 or FSub 34, Sub 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Sub 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, Sub 2 must instead include such amount in income as a deemed dividend from such corporation. If Sub 2 reduces the basis in the stock of FSub 10 or FSub 34 (or has an inclusion with respect to such stock), Sub 2 shall increase its basis in the stock of the other corporation to the extent provided in § 1.367(b)-5(c)(4).

6. Country G Distribution

- (1) The transfer by FSub 11 of its Business B assets to FSub 35 in exchange for the stock of FSub 35 and the assumption of liabilities associated with the transferred assets, followed by the distribution of all of the FSub 35 stock to Sub 2 will be treated as a reorganization under § 368(a)(1)(D). FSub 11 and FSub 35 will each be a "party to a reorganization" within the meaning of § 368(b).
- (2) No gain or loss will be recognized by FSub 11 on its transfer of its Business B assets in exchange for FSub 35 stock (§ 361(a)).
- (3) No gain or loss will be recognized by FSub 35 on its receipt of the Business B assets from FSub 11 in exchange for FSub 35 stock (§ 1032(a)).
- (4) No gain or loss will be recognized by FSub 11 upon the distribution to Sub 2 of all of FSub 11's FSub 35 stock (§ 361(c)(1)).

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- (5) No gain or loss will be recognized by Sub 2 upon its receipt of FSub 11's FSub 35 stock (§ 355(a)(1)).
- (6) The basis of the Business B assets in the hands of FSub 35 will be the same as the basis of the Business B assets in FSub 11's hands immediately before the Country G Distribution (§ 362(b)).
- (7) Sub 2's aggregate basis of FSub 11 and FSub 35 stock after the Country G Distribution will be the same as Sub 2's aggregate basis in FSub 11 stock immediately before the Country G Distribution (§ 358(a)(1)). The basis will be allocated among Sub 2's FSub 11 and FSub 35 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (8) The holding period of the Business B assets received by FSub 35 from FSub 11 will include the period during which FSub 11 held such assets (§ 1223(2)).
- (9) The holding period of the FSub 35 stock received by Sub 2 from FSub 11 will be the same as the holding period of the FSub 11 shares on which the distribution is made, provided that such FSub 11 shares are held as a capital asset on the date of the distribution (§ 1223(1)).
- (10) FSub 11's transfer of Business B to FSub 35 in the Country G Distribution will be an exchange to which §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply.
- (11) No amount will be included in income as a deemed dividend equal to the § 1248 amount under § 367(b) on FSub 11's transfer of Business B to FSub 35 in the Country G Distribution (§§ 1.367(b)-1(b) and -4(b)).
- (12) FSub 11's transfer of the FSub 35 stock in the Country G Distribution will be a distribution to which §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(e), and 1.367(b)-5(f) apply. If Sub 2's post distribution amount, as defined in § 1.367(b)-5(e)(2), with respect to FSub 11 or FSub 35 is less than Sub 2's predistribution amount, as defined in § 1.367(b)-5(e)(1), with respect to FSub 11 or FSub 35, Sub 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Sub 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, Sub 2 must instead include such amount in income as a deemed dividend from such corporation. If Sub 2 reduces the basis in the stock of FSub 11 or FSub 35 (or has an inclusion with respect to such stock), Sub 2 shall increase its basis in the stock of the other corporation to the extent provided in § 1.367(b)-5(c)(4).

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7. Country H Distribution

- (1) For U.S. federal income tax purposes, the Country H Distribution will be treated as if FSub 12 formed FSub 36, FSub 12 transferred its Business B assets to FSub 36 in exchange for FSub 36 common stock and the assumption by FSub 36 of liabilities associated with the transferred assets, and FSub 12 distributed all the stock of FSub 36 to Sub 2 (Rev. Rul. 77-191, 1977-1 C.B. 94).
- (2) The transfer by FSub 12 of its Business B assets to FSub 36 in exchange for the stock of FSub 36 and the assumption of liabilities associated with the transferred assets, followed by the distribution of all of the FSub 36 stock to Sub 2 will be treated as a reorganization under § 368(a)(1)(D). FSub 12 and FSub 36 will each be a “party to a reorganization” within the meaning of § 368(b).
- (3) No gain or loss will be recognized by FSub 12 on its transfer of its Business B assets in exchange for FSub 36 stock (§ 361(a)).
- (4) No gain or loss will be recognized by FSub 36 on its receipt of the Business B assets from FSub 12 in exchange for FSub 36 stock (§ 1032(a)).
- (5) No gain or loss will be recognized by FSub 12 upon the distribution to Sub 2 of all of FSub 12's FSub 36 stock (§ 361(c)(1)).
- (6) No gain or loss will be recognized by Sub 2 upon its receipt of FSub 12's FSub 36 stock (§ 355(a)(1)).
- (7) The basis of the Business B assets in the hands of FSub 36 will be the same as the basis of the Business B assets in FSub 12's hands immediately before the Country H Distribution (§ 362(b)).
- (8) Sub 2's aggregate basis of FSub 12 and FSub 36 stock after the Country H Distribution will be the same as Sub 2's aggregate basis in FSub 12 stock immediately before the Country H Distribution (§ 358(a)(1)). The basis will be allocated among Sub 2's FSub 12 and FSub 36 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (9) The holding period of the Business B assets received by FSub 36 from FSub 12 will include the period during which FSub 12 held such assets (§ 1223(2)).
- (10) The holding period of the FSub 36 stock received by Sub 2 from FSub 12 will be the same as the holding period of the FSub 12 shares on which the

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distribution is made, provided that such FSub 12 shares are held as a capital asset on the date of the distribution (§ 1223(1)).

- (11) FSub 12's transfer of Business B to FSub 36 in the Country H Distribution will be an exchange to which §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply.
- (12) No amount will be included in income as a deemed dividend equal to the § 1248 amount under § 367(b) on FSub 12's transfer of Business B to FSub 36 in the Country H Distribution (§§ 1.367(b)-1(b) and -4(b)).
- (13) FSub 12's transfer of the FSub 36 stock in the Country H Distribution will be a distribution to which §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. If Sub 2's post distribution amount, as defined in § 1.367(b)-5(e)(2), with respect to FSub 12 or FSub 36 is less than Sub 2's predistribution amount, as defined in § 1.367(b)-5(e)(1), with respect to FSub 12 or FSub 36, Sub 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Sub 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, Sub 2 must instead include such amount in income as a deemed dividend from such corporation. If Sub 2 reduces the basis in the stock of FSub 12 or FSub 36 (or has an inclusion with respect to such stock), Sub 2 shall increase its basis in the stock of the other corporation to the extent provided in § 1.367(b)-5(e)(4).

8. Country I Distribution

- (1) For U.S. federal income tax purposes, the Country I Distribution will be treated as if FSub 2 formed FSub 37, FSub 2 transferred its Business A assets to FSub 37 in exchange for FSub 37 common stock and the assumption by FSub 37 of liabilities associated with the transferred assets, and FSub 2 distributed all the stock of FSub 37 to Distributing (Rev. Rul. 77-191, 1977-1 C.B. 94).
- (2) The transfer by FSub 2 of its Business A assets to FSub 37 in exchange for the stock of FSub 37 and the assumption of liabilities associated with the transferred assets, followed by the distribution of all of the FSub 37 stock to Distributing will be treated as a reorganization under § 368(a)(1)(D). FSub 2 and FSub 37 will each be a "party to a reorganization" within the meaning of § 368(b).
- (3) No gain or loss will be recognized by FSub 2 on its transfer of its Business A assets in exchange for FSub 37 stock (§ 361(a)).

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- (4) No gain or loss will be recognized by FSub 37 on its receipt of the Business A assets from FSub 2 in exchange for FSub 37 stock (§ 1032(a)).
- (5) No gain or loss will be recognized by FSub 2 upon the distribution to Distributing of all of FSub 2's FSub 37 stock (§ 361(c)(1)).
- (6) No gain or loss will be recognized by Distributing upon its receipt of FSub 2's FSub 37 stock (§ 355(a)(1)).
- (7) The basis of the Business A assets in the hands of FSub 37 will be the same as the basis of the Business A assets in FSub 2's hands immediately before the Country I Distribution (§ 362(b)).
- (8) Distributing's aggregate basis of FSub 2 and FSub 37 stock after the Country I Distribution will be the same as Distributing's aggregate basis in FSub 2 stock immediately before the Country I Distribution (§ 358(a)(1)). The basis will be allocated among Distributing's FSub 2 and FSub 37 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (9) The holding period of the Business A assets received by FSub 37 from FSub 2 will include the period during which FSub 2 held such assets (§ 1223(2)).
- (10) The holding period of the FSub 37 stock received by Distributing from FSub 2 will be the same as the holding period of the FSub 2 shares on which the distribution is made, provided that such FSub 2 shares are held as a capital asset on the date of the distribution (§ 1223(1)).
- (11) FSub 2's transfer of Business A to FSub 37 in the Country I Distribution will be an exchange to which §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply.
- (12) No amount will be included in income as a deemed dividend equal to the § 1248 amount under § 367(b) on FSub 2's transfer of Business A to FSub 37 in the Country I Distribution (§§ 1.367(b)-1(b) and - 4(b)).
- (13) FSub 2's transfer of the FSub 37 stock in the Country I Distribution will be a distribution to which §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)- 5(f) apply. If Distributing's post distribution amount, as defined in § 1.367(b)-5(e)(2), with respect to FSub 2 or FSub 37 is less than Distributing's predistribution amount, as defined in § 1.367(b)-5(e)(1), with respect to FSub 2 or FSub 37, Distributing's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Distributing's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, Distributing must instead include such amount

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in income as a deemed dividend from such corporation. If Distributing reduces the basis in the stock of FSub 2 or FSub 37 (or has an inclusion with respect to such stock), Distributing shall increase its basis in the stock of the other corporation to the extent provided in § 1.367(b)- 5(c)(4).

9. Sub 5 Distribution

- (1) Sub 2 will not recognize any gain or loss on the transfer (both deemed and actual) of its interests in FSub 30, FSub 13, and FSub 14 to Sub 5 solely in exchange for Sub 5 stock (§§ 351(a) and 357(a)).
- (2) For U.S. federal income tax purposes, Sub 2's contribution of its interests in FSub 13 and FSub 14 to Sub 5 will be treated as if Sub 2 contributed the assets of FSub 13 and FSub 14 to Sub 5 in exchange for Sub 5 stock and the assumption by Sub 5 of the liabilities of FSub 13 and FSub 14.
- (3) Sub 5 will recognize no gain or loss upon receipt of the interests in FSub 30, FSub 13 and FSub 14 in exchange for Sub 5 stock (§ 1032(a)).
- (4) Sub 5's basis in the stock of FSub 30, the assets of FSub 13, and the assets of FSub 14 received in the exchange will equal the basis of such stock and assets in the hands of Sub 2 immediately before the exchange (§ 362(a)).
- (5) Sub 5's holding period for the stock of FSub 30, the assets of FSub 13, and the assets of FSub 14 received in the exchange will include the period during which Sub 2 held such stock and such assets (§ 1223(2)).
- (6) The basis of the Sub 5 stock received by Sub 2 will equal Sub 2's combined basis in the stock of FSub 30, the assets of FSub 13, and the assets of FSub 14 immediately before the transfer (§ 358(a)(1)).
- (7) No gain or loss will be recognized by Sub 2 upon the distribution of its Sub 5 stock to Distributing (§ 355(c)(1)).
- (8) No gain or loss will be recognized by Distributing upon receipt of Sub 2's Sub 5 stock (§ 355(a)(1)).
- (9) The aggregate basis of Distributing's Sub 2 stock and its Sub 5 stock after the Sub 5 Distribution will be the same as Distributing's basis in its Sub 2 stock immediately before the Sub 5 Distribution (§ 358(a)(1)). The basis will be allocated among Distributing's Sub 2 stock and its Sub 5 stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).

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- (10) The holding period of the Sub 5 stock received by Distributing from Sub 2 will be the same as Distributing's holding period of the Sub 2 shares on which the distribution is made, provided that such Sub 2 shares are held as a capital asset on the date of the distribution (§ 1223(1)).
- (11) Earnings and profits will be allocated between Sub 2 and Sub 5 in accordance with § 312(h) and § 1.312-10(b).
- (12) If Sub 2 does not recognize gain under § 1248 by virtue of the contribution of FSub 30 to the capital of Sub 5, the earnings and profits of FSub 30, to the extent attributable to such stock under §§ 1.1248-2 or 1.1248-3 (whichever applies), that were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, during Sub 2's holding period in such stock while FSub 30 was a CFC, will be attributable to such stock held by Sub 5 (§ 1.1248-1(a)(1)).

10. Controlled Distribution

- (1) The transfer by Distributing of the Transferred Assets to Controlled, and the assumption by Controlled of liabilities associated with the Transferred Assets, in exchange for the stock of Controlled and a portion of the Borrowing Proceeds, followed by Distributing's distribution of the Controlled stock to Distributing shareholders, will constitute a reorganization within the meaning of § 368(a)(1)(D). Distributing and Controlled will each be a "party to a reorganization" within the meaning of § 368(b).
- (2) No gain or loss will be recognized by Distributing on the transfer of the Transferred Assets to Controlled provided that the Borrowing Proceeds received by Distributing do not exceed Distributing's basis in its Controlled stock, and such proceeds are used to retire Distributing's outstanding debt (§§ 357(a), 358(a)(1), 361(a), 361(b)(1)(A), and 361 (b)(3)).
- (3) No gain or loss will be recognized by Controlled on its receipt of the Transferred Assets from Distributing in exchange for Controlled stock (§ 1032(a)).
- (4) No gain or loss will be recognized by Distributing upon the distribution of Controlled stock to Distributing's shareholders (§ 361(c)(1)).
- (5) No gain or loss will be recognized by Distributing's shareholders upon their receipt of Distributing's Controlled stock (§ 355(a)(1)).
- (6) The basis of the Transferred Assets in the hands of Controlled will be the same as the basis of the Transferred Assets in Distributing's hands immediately before the Controlled Distribution (§ 362(b)).

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- (7) The aggregate basis of the Distributing shareholders' Distributing stock and their Controlled stock after the Controlled Distribution will be the same as the Distributing shareholders' aggregate basis in their Distributing stock immediately before the Controlled Distribution (§ 358(a)(1)). The basis will be allocated among the Distributing shareholders' Distributing stock and their Controlled stock in proportion to the fair market value of each under § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)).
- (8) The holding period of the Transferred Assets received by Controlled from Distributing will include the period during which Distributing held such assets (§ 1223(2)).
- (9) The holding period of the Controlled stock received by the Distributing shareholders from Distributing will be the same as each Distributing shareholder's holding period of the Distributing shares on which the distribution is made, provided that such Distributing stock is held as a capital asset on the date of the distribution (§ 1223(1)).
- (10) Earnings and profits will be allocated between Distributing and Controlled in accordance with § 312(h) and §§ 1.312-10(a) and 1.1502-33.
- (11) If Distributing does not recognize gain under § 1248 by virtue of the contribution of FSub 2 to the capital of Controlled, the earnings and profits of FSub 2, to the extent attributable to such stock under §§ 1.1248-2 or 1.1248-3 (whichever applies), that were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, during Distributing's holding period in such stock while FSub 2 was a CFC, will be attributable to such stock held by Controlled (§ 1.1248-1(a)(1)).

No opinion is expressed about the tax treatment of the transaction under any other provision of the Code or regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the transaction that are not specifically covered in the above rulings. Specifically, no opinion is expressed regarding the following:

- (i) The consequences under § 367(e)(2) of the FSub 8 deemed liquidation in the Country D Distribution.
- (ii) The consequences under §§ 367(a) and (d) to the contribution by Sub 5 of its FSub 13 and FSub 14 stock to FSub 30 in the Sub 5 Distribution.
- (iii) The adjustments to earnings and profits or deficit in earnings and profits, if any, in any of the transactions to which §§ 367(a) or (b) apply.

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- (iv) To the extent not otherwise specifically ruled upon above, any other consequences under § 367 on any internal restructuring transaction in this ruling letter.
- (v) The application of § 482 to the Taxable Asset Transfers.
- (vi) The applicability of § 1503(d) (regarding the disallowance or recapture of a “dual consolidated loss”) to any dual resident corporation that (1) is no longer a member of the Distributing consolidated group by reason of the Controlled Distribution, or (2) that is involved in a putative triggering event in connection with any internal restructuring transaction.
- (vii) Whether any or all of the above-referenced foreign corporations are passive foreign investment companies within the meaning of § 1297(a). If it is determined that any or all of the above-described foreign corporations are PFICs, no opinion is expressed with respect to the application of §§ 1291 through 1298 to the proposed transactions. In particular, in a transaction in which gain is not otherwise recognized, regulations under § 1291(f) may require gain recognition notwithstanding any other provision of the Code.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to the federal income tax return of each taxpayer involved for the taxable year in which the transaction covered by this ruling letter is consummated.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to the first and second representatives listed on that power of attorney.

Sincerely,
Debra Carlisle
Chief, Branch 5
Office of Associate Chief Counsel
(Corporate)