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June 17, 2008

Scott Christiansen, Vice President
Lehman Brothers Private Equity Partners Limited
325 North St. Paul Street, Suite 4900
Dallas, Texas 75201
In Re: Lehman Brothers PEP Investments DE

LEGEND

Corporation A	=	Lehman Brothers Private Equity Partners Limited (LBPE) EIN: 98-0541205
Corporation B	=	Lehman Brothers PEP Investments Limited (LBPEPI) EIN: 98-0545519
Partnership X	=	Lehman Brothers PEP Investments, L.P. (LBPEP) EIN: 98-0550256
Partnership Y	=	Lehman Brothers PEP Investments DE, L.P. (USLP) EIN: 26-1101507
Exchange M	=	Euronext Amsterdam
Continent H	=	Europe
Country J	=	Guernsey
Month 1	=	June 2007
Date 1	=	July 19, 2007
Date 2	=	July 6, 2007
Date 3	=	July 23, 2007
Date 4	=	December 31, 2007
q percent	=	99.9
r percent	=	99.5
s percent	=	0.5

Dear Mr. Christiansen:

This is in response to a letter dated January 7, 2008, and supplemented by letter dated April 14, 2008, requesting certain rulings on behalf of Corporation A, Corporation B, and Partnership Y (collectively, Taxpayer). The rulings contained in this letter are based upon information and representations submitted on behalf of Taxpayer by its authorized representative and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of this request for ruling, such material is subject to verification upon examination. The information submitted in the request is substantially as set forth below.

FACTS

Corporation A was organized in Month 1 under the laws of Country J. Corporation A is a passive foreign investment company (PFIC) within the meaning of Internal Revenue Code (Code) section 1297(a) for U.S. federal income tax purposes. Corporation A has two classes of stock outstanding: (i) class A shares, which have limited voting rights; and (ii) class B shares, which have full voting rights.

Corporation A's class A shares are traded on Exchange M, the continent H leader in equity trading by volume and value. The market regulator of Exchange M has supervisory powers with respect to the publication of information by listed companies and, together with surveillance units of Exchange M, monitors and supervises all trading operations to prevent fraud, to improve free and open trading, and to protect investors.

Certain of Corporation A's public shareholders are U.S. persons who may desire to make a qualified electing fund (QEF) election, within the meaning of Code section 1295, with regard to Corporation A, or a mark to market (MTM) election, within the meaning of Code section 1296, with regard to Corporation A (an Electing Shareholder of Corporation A).

On Date 1, Corporation A, together with another party who is not the subject of this ruling request, formed and registered Partnership X, a partnership for U.S. federal tax purposes, under the laws of Country J. Corporation A holds a *q* percentage interest in Partnership X. Partnership X is the sole shareholder of Corporation B, which was formed on Date 2. Corporation B is organized in Country J and is a PFIC for U.S. federal income tax purposes. Certain of the public shareholders of Corporation A, who are indirect shareholders of Corporation B, may desire to make a QEF election with regard to Corporation B (an Electing Shareholder of Corporation B; Electing Shareholders of Corporation A and Electing Shareholders of Corporation B being referred to collectively as Electing Shareholders).

On Date 3, Corporation B and Partnership X formed Partnership Y, a domestic partnership for U.S. federal tax purposes, for the purpose of making portfolio investments. Partnership X has an *r* percent interest in Partnership Y and Corporation B has an *s* percent interest in Partnership Y. Various non-U.S. investments owned directly and indirectly by Partnership Y are considered to be PFICs for U.S. federal income tax purposes (each a Subsidiary PFIC). In this regard, Partnership Y owns certain Subsidiary PFICs indirectly through foreign entities that are treated as partnerships for U.S. federal income tax purposes (Foreign Funds). Partnership Y desires to make QEF elections with regard to each of these directly and indirectly owned Subsidiary PFICs.

Corporation A, Corporation B and Partnership X each expect to have income that is effectively connected to a U.S. trade or business, or other U.S. source income that will require them to file a U.S. federal income tax return. None of Corporation A, Corporation B, Partnership X or Partnership Y has yet filed its first U.S. federal income tax return. Each entity has filed Form 7004, *Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns.* Each entity plans, on its first filed U.S. federal income tax return, to adopt a fiscal year ending November 30, as permitted by Code section 441 and the related regulations.

The adoption of a fiscal year ending November 30 by Partnership Y will allow each Subsidiary PFIC additional time to provide Partnership Y with complete information about itself, including information relating to the earnings and net capital gain of the Subsidiary PFIC. This will in turn provide Partnership Y with additional time to file timely and accurate Forms 8621, *Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Trust.* Additionally, the adoption of a fiscal year ending November 30 by Corporation A, Corporation B, Partnership X and Partnership Y should not give rise to deferral of inclusions by an Electing Shareholder in excess of the time contemplated by Treas. Reg. § 1.1295-1(i)(1)(ii).

RULINGS REQUESTED

1. Solely with respect to the Electing Shareholders, Partnership Y will be treated as a U.S. partnership for purposes of making QEF elections pursuant to Code section 1295 with respect to each of the Subsidiary PFICs;

2. Solely with respect to the Electing Shareholders, Partnership Y's Code section 1295 election with respect to each of the Subsidiary PFICs will be effective for all purposes of Part IV of Subchapter P of Chapter 1 of the Code;

3. Solely with respect to the Electing Shareholders, Partnership Y is the owner of each of the Subsidiary PFICs for purposes of Code sections 1291 through 1298, and the Electing Shareholders are not the owners of the Subsidiary PFICs for purposes of Code sections 1291 through 1298;

4. Only Partnership Y will be required to file Forms 8621 with respect to each of the Subsidiary PFICs, and as such, only Partnership Y will be required to receive an Annual Information Statement (AIS) from each Subsidiary PFIC and only Partnership Y will have access to the books and records of each Subsidiary PFIC under Treas. Reg. § 1.1295-1(g);

5. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the earnings and profits (E&P) under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, under Code sections 1293(a) and 702(a), *r* percent of Partnership Y's QEF inclusions with respect to each of the Subsidiary PFICs will be allocable and includable as income to Partnership X, and *s* percent of such QEF inclusions will be allocable and includable as income to Corporation B; further, such inclusions will retain their character as either ordinary earnings or net capital gain in the hands of Partnership X and Corporation B pursuant to Code section 702(b);

6. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A with respect to the Electing Shareholders, regarding Partnership X's QEF inclusions allocated under Code section 1293(a) and 702(a), *q* percent will be allocable and includable as income to Corporation A under Code section 702(a); further, such inclusions will retain their character as either ordinary earnings or net capital gain in the hands of Corporation A pursuant to Code section 702(b);

7. An Electing Shareholder's pro rata share of ordinary earnings and net capital gain in connection with such Electing Shareholder's QEF inclusions with respect to Corporation A and Corporation B will include, respectively, Corporation A's and Corporation B's pro rata amounts of the Subsidiary PFICs ordinary earnings and net capital gain for which Partnership Y has made QEF elections, but will not include any net operating loss or net capital loss (computed without regard to their respective QEF inclusions attributable to the Subsidiary PFICs) of Corporation A and Corporation B, nor their respective share of distributions of previously taxed amounts under Code section 1293(c) attributable to the Subsidiary PFICs;

8. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a), Partnership Y will correspondingly increase its basis in each of the directly or indirectly owned Subsidiary PFICs pursuant to Code section 1293(d) by an amount equal to such inclusion;

9. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a) resulting from its indirect ownership of a Subsidiary PFIC through a Foreign Fund, Partnership Y will increase its basis in its interest in such Foreign Fund under Code section 1293(d) and the principles of Code section 1293(g)(2), by an amount equal to the inclusion;

10. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a) attributable to the Subsidiary PFICs and Partnership X and Corporation B are required to include corresponding distributive share amounts under Code section 702(a), pursuant to Code section 705(a), Partnership X and Corporation B will increase their bases in their respective interests in Partnership Y by an amount equal to such inclusion;

11. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a) attributable to the Subsidiary PFICs, Partnership X is required to include a corresponding distributive share

under Code section 702(a) with respect to its interest in Partnership Y, and Corporation A is similarly required to include an amount under Code section 702(a) with respect to its interest in Partnership X, Corporation A will correspondingly increase its basis in its interest in Partnership X under Code section 705(a), by an equal amount of such inclusion;

12. To the extent that an Electing Shareholder has a QEF inclusion with respect to Corporation A or Corporation B, the Electing Shareholder will correspondingly increase its basis in Corporation A under Code section 1293(d), by an amount equal to such inclusion(s);

13. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A with respect to the Electing Shareholders, to the extent the Electing Shareholders are required to include an amount under Code section 1293(a) with respect to Corporation B, Partnership X will increase its basis in Corporation B under Code section 1293(d) and Corporation A will increase its basis in Partnership X under Code section 1293(d) and the principles of Code section 1293(g)(2), by an equal amount of the inclusion;

14. The Electing Shareholders will only be required to have access to the books and records of Corporation A and/or Corporation B, as applicable, for purposes of the annual election requirements of Treas. Reg. § 1.1295-1(g), but will not be required to have access to the books and records of Partnership X, Partnership Y, or any Subsidiary PFIC; and

15. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a), a corresponding amount of the relevant Subsidiary PFIC's E&P is treated as a previously taxed amount under Code section 1293(c) and will not be further taken into account with respect to the Electing Shareholders under Code section 1293(g)(2) principles.

16. Corporation A's class A stock held by Electing shareholders is marketable stock under section 1296(e) and Treas. Reg. §1.1296-2 for the calendar year ending on Date 4.

LAW

Code section 1297(a) defines a PFIC as any foreign corporation if either (1) 75 percent or more of the gross income of such corporation for the taxable year is passive income (income test), or (2) the average percentage of assets held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent (asset test).

Code section 1295 provides that any PFIC will be treated as a QEF with respect to a shareholder if the shareholder makes a QEF election and the PFIC complies with certain requirements as set forth in regulations.

Treas. Reg. § 1.1295-1(d)(1) provides in general that any U.S. person that is a shareholder of a PFIC may make a QEF election with respect to that PFIC. Treas. Reg. § 1.1295-1(d)(1) also provides that in a chain of ownership, only the first U.S. person that is a shareholder of a PFIC may make the QEF election.

Code section 7701(a)(30) defines U.S. person to include, among others, a citizen or resident of the United States, a domestic corporation and a domestic partnership.

Treas. Reg. § 1.1295-1(d)(2)(i)(A) provides that a domestic partnership that holds an interest in a PFIC makes the QEF election with respect to that PFIC. The partnership election applies only to the stock of the PFIC held directly or indirectly by the partnership and not to any other stock held directly or indirectly by any partner.

Treas. Reg. § 1.1295-1(d)(2)(i)(B) provides that a U.S. person that holds an interest in a foreign partnership, that, in turn, holds an interest in a PFIC makes the QEF election with respect to that PFIC. A QEF election by a partner applies only to that partner.

As provided in § 1.1293-1(c)(1), shareholders owning stock of a QEF by reason of an interest in a partnership take into account the section 1293 inclusions with respect to the QEF shares owned by the partnership under the rules applicable to inclusions of income from the partnership.

Code section 702(a) provides generally, that in determining income tax, each partner will take into account a distributive share of the partnership's income or gain.

Code section 702(b) provides that the character of an item of income or gain included in a partner's distributive share is determined as if such item were realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

Code section 705(a)(1) provides that the adjusted basis of a partner's interest in a partnership is increased by the partner's distributive share for the taxable year.

Treas. Reg. § 1.1295-1(d)(3) provides that a QEF election applies only to the foreign corporation for which the election is made. Therefore, if a shareholder makes a QEF election, that election applies only to stock in that foreign corporation and not to stock in any other corporation which the U.S. person is treated as owning by virtue of its ownership of stock in the QEF.

Code section 1293(a)(1) provides that a U.S. person that owns (or is treated under section 1298(a) as owning) stock of a QEF must include in gross income (A) as ordinary income, such shareholder's pro rata share of the ordinary earnings of such QEF for the year, and (B) as long term capital gain, such shareholder's pro rata share of the net capital gain of such QEF for the year. Code section 1293(a)(2) provides that the inclusion under Code section 1293(a)(1) is for the taxable year of the shareholder in which or with which the taxable year of the QEF ends.

Code section 1298(a)(1) provides rules pursuant to which a U.S. person may be attributed ownership in the stock held indirectly in a PFIC.

Code section 1298(a)(2) provides, generally, that if 50 percent or more in value of the stock of a corporation is owned, directly or indirectly by or for any person, such person will be considered as owning the stock owned directly or indirectly by or for such corporation in proportion to the value of the stock which such person owns bears to the value of all stock in the corporation.

Code section 1298(a)(3) provides that stock owned directly or indirectly by or for a partnership shall be considered as being owned proportionately by its partners.

Code section 1293(c) provides generally that if a taxpayer establishes to the satisfaction of the Secretary that any amount distributed by a PFIC is paid out of earnings and profits of the PFIC which were included in the income of any U.S. person, such amount will be treated as a distribution which is not a dividend; except that such distribution shall immediately reduce earnings and profits.

Code section 1293(d)(1) provides that the basis of a taxpayer's stock in a PFIC will be increased by any amount which is included in the income of the taxpayer under Code section 1293(a). Code section 1293(d)(2) provides that the basis of a taxpayer's stock in a PFIC will be decreased by any amount distributed with respect to such stock which is not includible in the income of the taxpayer by reason of Code section 1293(c).

Code section 1293(g)(2) authorizes the Secretary to prescribe rules to adjust the provisions of Code section 1293 to prevent the same item of income of a QEF from being included in the gross income of a U.S. person more than once.

Treas. Reg. § 1.1295-1(i)(1)(ii) provides that a QEF election of a pass through entity may be invalidated with respect to the interest holder if the inclusion required under Code section 1293 is not included in the gross income of either the pass through entity, an intermediate pass through entity, or the interest holder within two years of the end of the PFIC's taxable year due to nonconforming taxable years of the interest holder and the pass through entity or any intermediate pass through entity.

Treas. Reg. § 1.1295-1(g) provides generally that a PFIC, with respect to which a shareholder has made a QEF election, must provide an Annual Information Statement (AIS) to the shareholder at the end of each taxable year of the shareholder to which the QEF election applies. The AIS must contain certain information and representations, as described in Treas. Reg. § 1.1295-1(g)(1), including, in most instances, a statement that the PFIC will permit the shareholder to examine its books and records and other documents. See Treas. Reg. § 1.1295-1(g)(1)(iv)(A).

Code section 1296(a) provides generally that a U.S. person that owns marketable stock in a PFIC at the close of any taxable year of the U.S. person can make an election (i.e., mark to market election) to (1) treat the excess of the fair market value of the stock over its adjusted basis as gross income, or (2) treat the excess of the adjusted basis of the stock over the fair market value as a deduction.

Treas. Reg. § 1.1296-1(b)(1) provides generally that any U.S. person that owns directly, or is treated as owning, marketable stock in a PFIC may make an election to mark to market such stock.

Code section 1296(g) and Treas. Reg. § 1.1296-1(e)(1) provide that for purposes of Code section 1296, stock owned directly or indirectly by or for a foreign partnership will be considered as being owned proportionately by its partners.

Code section 1296(e) defines marketable stock to mean any stock that is regularly traded on any exchange or market that the Secretary determines has rules adequate to carry out the purposes of the mark to market provisions.

Treas. Reg. § 1.1296-2(a) provides that marketable stock means PFIC stock that is regularly traded (as defined in Treas. Reg. § 1.1296-2(b)) on a qualified exchange (as defined in Treas. Reg. § 1.1296-2(c)).

Treas. Reg. § 1.1296-2(b) provides that stock is regularly traded in a calendar year if it is traded on a qualified exchange in more than de minimis quantities and on at least 15 days during each calendar quarter of that year.

Treas. Reg. § 1.1296-2(c) provides generally, that a qualified exchange includes a foreign securities exchange that is regulated or supervised by a governmental authority of the country in which the market is located and which (1) enforces requirements designed to prevent fraudulent and manipulative acts and practices, perfects the mechanism of a free and open market, and protects investors, and (2) has rules that effectively promote active trading of listed stocks.

Code section 1296(b)(1)(A) provides that the adjusted basis of stock in a PFIC for which a U.S. person has made a mark to market election will be increased by the amount included in the gross income of the U.S. person under Code section 1296(a)(1) with respect to such stock, and will be decreased by the amount allowed as a deduction to the U.S. person under Code section 1296(a)(2) with respect to such stock.

ANALYSIS

Results to Partnership Y when making QEF election for a Subsidiary PFIC

Partnership Y, a domestic partnership, is a U.S. person within the meaning of Code section 7701(a)(30). Partnership Y is the first person in the chain of ownership of the Subsidiary PFICs that is a U.S. person. Thus, pursuant to Treas. Reg. § 1.1295-1(d)(1), Partnership Y may make a QEF election with respect to any Subsidiary PFIC in which it owns, or is treated as owning, stock. Further, because Partnership Y is the shareholder that is making the QEF election with respect to the Subsidiary PFICs, the annual information described in Treas. Reg. § 1.1295-1(g) must be provided only to Partnership Y by any Subsidiary PFIC for which Partnership Y makes a QEF election.

Under Code section 1293(a)(1), Partnership Y must include in gross income each year (A) as ordinary income, its pro rata share of the ordinary earnings of any Subsidiary PFIC for which it makes a QEF election, and (B) as long term capital gain, its pro rata share of the net capital gain of any Subsidiary PFIC for which it makes a QEF election. Pursuant to code section 1293(d)(1), the basis of Partnership Y's stock in any directly or indirectly owned Subsidiary PFIC for which it makes a QEF election will be increased by the amount of Partnership Y's QEF inclusions with respect to that Subsidiary PFIC. Under Code section 1293(d)(2), Partnership Y's basis in any Subsidiary PFICs stock should be decreased by any amount distributed with

respect to such stock which is not includible in Partnership Y's income by reason of Code section 1293(c).

Results to Corporation B of Partnership Y's QEF election with regard to Subsidiary PFICs

Corporation B is a partner of Partnership Y. As such, pursuant to Treas. Reg. § 1.1293-1(c)(1), and under the general rules applicable to inclusions of income from a partnership, Corporation B will take into account its distributive share of the QEF inclusions of Partnership Y. In this case, *s* percent of Partnership Y's QEF inclusions will be allocable and includable as income to Corporation B. In accordance with Code section 702(b), such income will retain its character as either ordinary earnings or net capital gain as if Corporation B had realized the income directly from the source from which it was realized by Partnership Y. In accordance with Code section 1293(d), to avoid inclusion in gross income of an amount that is distributed by Partnership Y and that has previously been included in gross income by Corporation B, Corporation B should increase its basis in Partnership Y by an amount equal to Corporation B's distributive share of the QEF inclusions of Partnership Y. To the extent distributions from Partnership Y are attributable to QEF inclusions that have been previously included in income by Corporation B, Corporation B should exclude those amounts from income and decrease its basis in Partnership Y.

Results to Partnership X of Partnership Y's QEF election with regard to Subsidiary PFICs

Partnership X is a partner of Partnership Y. As such, pursuant to Treas. Reg. § 1.1293-1(c)(1), and under the general rules applicable to inclusions of income from a partnership, Partnership X will take into account its distributive share of the QEF inclusions of Partnership Y. In this case, *r* percent of Partnership Y's QEF inclusions will be allocable and includable as income to Partnership X. In accordance with Code section 702(b), such income will retain its character as either ordinary earnings or net capital gain as if Partnership X had realized the income directly from the source from which it was realized by Partnership Y. In accordance with Code section 1293(d), to avoid inclusion in gross income of an amount that is distributed by Partnership Y and that has previously been included in gross income by Partnership X, Partnership X should increase its basis in Partnership Y by an amount equal to its distributive share of the QEF inclusions of Partnership Y. To the extent distributions of Partnership Y are attributable to items of income that have been previously included by Partnership X, Partnership X should exclude those amounts from income and decrease its basis in Partnership Y.

Results to Corporation A of Partnership Y's QEF election with regard to Subsidiary PFICs

Corporation A is a partner of Partnership X. As such, pursuant to Treas. Reg. § 1.1293-1(c)(1), and under the general rules applicable to inclusions of income from a partnership, Corporation A will take into account its distributive share of the QEF inclusions of Partnership Y that are allocable to Partnership X. In this case, *q* percent of Partnership Y's QEF inclusions that are allocable to Partnership X will be allocable and includable as income to Corporation A. In accordance with Code section 702(b), such income will retain its character as either ordinary earnings or net capital gain as if Corporation A had realized the income directly from the source from which it was realized by Partnership X. In accordance with Code section 1293(d), to avoid inclusion in gross income of an amount that is distributed by Partnership X and that has previously been included in gross income by Corporation A, Corporation A should increase its basis in Partnership X by an amount equal to its distributive share of the QEF inclusions of

Partnership Y that are allocable to Partnership X. To the extent distributions of Partnership X are attributable to items of income that have been previously included by Corporation A, Corporation A should exclude those amounts from income and decrease its basis in Partnership X.

Results of making QEF election for Corporation B

Corporation B is a PFIC. For purposes of this ruling, the first U.S. persons in the chain of ownership eligible to make a QEF election related to Corporation B are the public shareholders of Corporation A that are U.S. persons (Public Shareholders). Thus, pursuant to Treas. Reg. § 1.1295-1(d)(1), a Public Shareholder may make a QEF election with respect to Corporation B (an Electing Shareholder of Corporation B). To satisfy the annual election requirements described in Treas. Reg. § 1.1295-1(g), Corporation B must provide the required information and statements to each Electing Shareholder of Corporation B.

Under Code section 1293(a)(1), an Electing Shareholder of Corporation B must include in gross income (A) as ordinary income, its pro rata share of the ordinary earnings of Corporation B for the year, and (B) as long term capital gain, its pro rata share of the net capital gain of Corporation B for the year. The pro rata share of an Electing Shareholder of Corporation B will equal such shareholder's percentage of ownership in Corporation A, multiplied by Corporation A's *q* percent interest in Partnership X.

Pursuant to Code section 1293(d), the stock basis of an Electing Shareholder of Corporation B will be increased by the amount of the QEF inclusion of such shareholder. As the sole shareholder of Corporation B, Partnership X should increase its basis in Corporation B by the full amount of the QEF inclusions attributable to Corporation B taken into account by the Electing Shareholders. Corporation A should, in turn, increase its basis in Partnership X by the amount of the Electing Shareholders' QEF inclusions attributable to Corporation B. An Electing Shareholder of Corporation B should increase its basis in Corporation A by the amount of its pro rata share of the QEF inclusion allocable to Corporation B which such shareholder is required to include as gross income. Reductions in basis should be done correspondingly for a distribution from Corporation B that has been previously included in income.

Results of making QEF election for Corporation A

Corporation A is also a PFIC. For purposes of this ruling, the first U.S. persons in the chain of ownership eligible to make a QEF election related to Corporation A are the public shareholders of Corporation A that are U.S. persons (Public Shareholders). Thus, pursuant to Treas. Reg. § 1.1295-1(d)(1), a Public Shareholder may make a QEF election with respect to Corporation A (an Electing Shareholder of Corporation A). To satisfy the annual election requirements described in Treas. Reg. § 1.1295-1(g), Corporation A must provide the required information and statements to each Electing Shareholder of Corporation A.

Under Code section 1293(a)(1), an Electing Shareholder of Corporation A must include in gross income (A) as ordinary income, its pro rata share of the ordinary earnings of Corporation A for the year, and (B) as long term capital gain, its pro rata share of the net capital gain of Corporation A for the year.

Code section 1293(d) provides that the basis of an Electing Shareholder of Corporation A will be increased by the amount of the QEF inclusion required to be included in gross income by such shareholder. To the extent any distribution of Corporation A is treated as a previously taxed amount under Code section 1293(c), the Electing Shareholder of Corporation A will reduce its basis in Corporation A stock by the amount treated as previously taxed.

Determination of Marketable Stock

Any U.S. person that owns, directly or indirectly, marketable stock in a PFIC may make a MTM election. Under Code section 1296(e), marketable stock means any stock that is regularly traded on any exchange or market that the Secretary determines has rules adequate to carry out the purposes of the mark to market provisions.

To the extent Corporation A stock is traded in more than de minimis quantities on at least 15 days during each calendar quarter of the year, it is regularly traded within the meaning of Treas. Reg. § 1.1296-2(b). To the extent Corporation A stock is traded on an exchange that is monitored and supervised by a regulatory authority that satisfies the requirements of Treas. Reg. § 1.1296-2(c), it is traded on a qualified exchange. However, due to the factual nature of these determinations, and in the interest of sound tax administration, no ruling is provided on whether the Class A stock of Corporation A is marketable stock under Code section 1296(e).

RULINGS

Based on the information submitted and the representations made, we rule as follows:

1. Solely with respect to the Electing Shareholders, Partnership Y will be treated as a U.S. partnership for purposes of making QEF elections pursuant to Code section 1295 with respect to each of the Subsidiary PFICs;

2. Solely with respect to the Electing Shareholders, Partnership Y's Code section 1295 election with respect to each of the Subsidiary PFICs will be effective for all purposes of Part IV of Subchapter P of Chapter 1 of the Code;

3. Solely with respect to the Electing Shareholders, Partnership Y is the owner of each of the Subsidiary PFICs for purposes of Code sections 1291 through 1298, and the Electing Shareholders are not the owners of the Subsidiary PFICs for purposes of Code sections 1291 through 1298;

4. Only Partnership Y will be required to file Forms 8621 with respect to each of the Subsidiary PFICs, and as such, only Partnership Y will be required to receive an Annual Information Statement (AIS) from each Subsidiary PFIC and only Partnership Y will have access to the books and records of each Subsidiary PFIC under Treas. Reg. § 1.1295-1(g);

5. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the earnings and profits (E&P) under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, under Code sections 1293(a) and 702(a), *r* percent of Partnership Y's QEF inclusions with respect to each of the Subsidiary PFICs will be allocable and

includable as income to Partnership X, and *s* percent of such QEF inclusions will be allocable and includable as income to Corporation B; further, such inclusions will retain their character as either ordinary earnings or net capital gain in the hands of Partnership X and Corporation B pursuant to Code section 702(b);

6. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A with respect to the Electing Shareholders, regarding Partnership X's QEF inclusions allocated under Code section 1293(a) and 702(a), *q* percent will be allocable and includable as income to Corporation A under Code section 702(a); further, such inclusions will retain their character as either ordinary earnings or net capital gain in the hands of Corporation A pursuant to Code section 702(b);

7. An Electing Shareholder's pro rata share of ordinary earnings and net capital gain in connection with such Electing Shareholder's QEF inclusions with respect to Corporation A and Corporation B will include, respectively, Corporation A's and Corporation B's pro rata amounts of the Subsidiary PFICs ordinary earnings and net capital gain for which Partnership Y has made QEF elections, but will not include any net operating loss or net capital loss (computed without regard to their respective QEF inclusions attributable to the Subsidiary PFICs) of Corporation A and Corporation B, nor their respective share of distributions of previously taxed amounts under Code section 1293(c) attributable to the Subsidiary PFICs;

8. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a), Partnership Y will correspondingly increase its basis in each of the directly or indirectly owned Subsidiary PFICs pursuant to Code section 1293(d) by an amount equal to such inclusion;

9. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a) resulting from its indirect ownership of a Subsidiary PFIC through a Foreign Fund, Partnership Y will increase its basis in its interest in such Foreign Fund under Code section 1293(d) and the principles of Code section 1293(g)(2), by an amount equal to the inclusion;

10. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a) attributable to the Subsidiary PFICs and Partnership X and Corporation B are required to include corresponding distributive share amounts under Code section 702(a), pursuant to Code section 705(a), Partnership X and Corporation B will increase their bases in their respective interests in Partnership Y by an amount equal to such inclusion;

11. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a) attributable to the Subsidiary PFICs, Partnership X is required to include a corresponding distributive share under Code section 702(a) with respect to its interest in Partnership Y, and Corporation A is similarly required to include an amount under Code section 702(a) with respect to its interest in Partnership X, Corporation A will correspondingly increase its basis in its interest in Partnership X under Code section 705(a), by an equal amount of such inclusion;

12. To the extent that an Electing Shareholder has a QEF inclusion with respect to Corporation A or Corporation B, the Electing Shareholder will correspondingly increase its basis in Corporation A under Code section 1293(d), by an amount equal to such inclusion(s);

13. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A with respect to the Electing Shareholders, to the extent the Electing Shareholders are required to include an amount under Code section 1293(a) with respect to Corporation B, Partnership X will increase its basis in Corporation B under Code section 1293(d) and Corporation A will increase its basis in Partnership X under Code section 1293(d) and the principles of Code section 1293(g)(2), by an equal amount of the inclusion;

14. The Electing Shareholders will only be required to have access to the books and records of Corporation A and/or Corporation B, as applicable, for purposes of the annual election requirements of Treas. Reg. § 1.1295-1(g), but will not be required to have access to the books and records of Partnership X, Partnership Y, or any Subsidiary PFIC; and

15. Solely for purposes of determining inclusions under Code section 1293 with respect to the Electing Shareholders and calculating the E&P under Code section 312 of Corporation A and Corporation B with respect to the Electing Shareholders, to the extent that Partnership Y is required to include an amount under Code section 1293(a), a corresponding amount of the relevant Subsidiary PFIC's E&P is treated as a previously taxed amount under Code section 1293(c) and will not be further taken into account with respect to the Electing Shareholders under Code section 1293(g)(2) principles.

No opinion is expressed regarding the marketability of the stock of any PFIC identified in this letter ruling.

This private letter ruling is directed only to the taxpayer who requested it. Code section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter ruling must be attached to any federal income tax return to which it is relevant.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to Taxpayer's first and second representatives.

Sincerely,

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