



July 16, 2004

Ivan L. Strasfeld  
Director of Exemption Determinations  
Employee Benefits Security Administration  
U.S. Department of Labor  
Room N-5669  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Re: Cross-Trading and INHAM/QPAM Exemptions

Dear Ivan:

As you know, CIEBA has two different interests in any modifications of the INHAM class exemption. Our first interest is to make sure that INHAM continues to give us the ability to do business with service provider parties-in-interest, the original objective CIEBA sought when we applied for the exemption. We understand that some financial institutions want INHAM to be amended – principally on account of proposed changes to QPAM – to allow them the benefits of the exemption. Specifically, we understand that some of them object to meeting the original INHAM standards that were proposed by CIEBA in 1993 and were incorporated into the exemption. As I wrote in my letter to you dated May 11, 2004, we think the original definition of an INHAM – requiring the INHAM to be an entity separate from the plan sponsor that is subject to regulation as an investment advisor by the U.S. Securities and Exchange Commission – provides important protections to plan participants and should not be watered down. The INHAM bar was deliberately set high both to protect against potential abuses and to provide a certain level of “transparency” to the regulators and the industry; it should not be modified as a way to address a completely separate issue.

Our second interest is in using the INHAM exemption as the underlying structure that would allow cross-trading involving in-house plans. We continue to fear that making INHAM available to financial institutions who would not otherwise qualify for INHAM status might make it more difficult for DOL to grant our request.

The purpose of this letter is to suggest that financial institutions that do not meet the CIEBA-INHAM standards might be better served by proposing a new type of class exemption, separate and distinct from both QPAM and INHAM (perhaps FINHAM), that is narrowly crafted to address the particular concerns of financial institutions whose principal business is managing unaffiliated client assets and who manage their own plan assets incidental to that business. This would alleviate CIEBA’s concern about potential abuse of INHAM and our concern about the status of our cross-trading exemption request. It is also consistent with the Department’s stated goal of moving away from “one-size-fits-all” class exemptions.

Pending development of such a separate class exemption, we recommend either postponing the Department’s modification of QPAM making it unavailable to in-house plans of financial institutions, or providing some kind of transition relief during which financial institutions may better make their case for separate and *appropriate* relief.



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Jonathan G. Katz  
Re: File No. S7-10-03  
Page 2 of 2

Specifically with respect to cross-trading, I have reviewed my files and diaries and have put together a chronology of our work, which is attached to this letter. It shows that CIEBA has been asking for a cross-trading exemption for more than six years. We remind you that the Department itself invited us to seek separate cross-trading relief for INHAMS based on the unique and narrow focus of the INHAM exemption. We are now concerned that the Department no longer supports this approach. We would welcome a meeting with you to discuss any remaining areas of concern on our proposed cross-trading exemption.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Gary", written in a cursive style.

Gary A. Glynn

Cc: Ann Combs  
Alan Lebowitz  
CIEBA Working Group  
Richard K. Matta  
Donald J. Myers