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LEGEND:

Distributing =

Controlled =

Corporation 1 =

Sub 1 =

Sub 1 Subs =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 7 Subs =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

SEC Subs =

SEC LLC =

LLC 1 =

LLC 2 =

LLC 3 =

LLC 3 Subs =

LLC 4 =

Partnership 1 =

Partnership 2 =

F Distributing 1 =

F Distributing 2 =

F Controlled =

FSub 1 =

FSub 2 =

FSub 3 =

FSub 4 =

FSub 5 =

FSub 6 =

FSub 7 =

FSub 8 =

FSub 9 =

FSub 10 =

FSub 11 =

FSub 12 =

FSub 13 =

FSub 14 =

FSub 15 =

FSub 16 =

FSub 17 =

FSub 18 =

FSub 19 =

Entity 1 =

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Entity 22 =

Entity 23 =

Entity 24 =

Entity 25 =

Entity 26 =

Shareholder 1 =

Shareholder 2 =

Shareholder 3 =

Investors =

Insiders =

Business A =

Business B =

Country A =

Country B =

Country C =

Country D =

Country E =

Country F =

Country G =

Country H =

Country I =

Country J =

Country K =

Country L =

Country M =

Country N =

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Dear \_\_\_\_\_ :

This letter responds to your April 15, 2011, letter requesting rulings on certain federal income tax consequences of the Proposed Transactions (defined below). The material information provided in that letter and in subsequent correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer 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 the request for rulings, it is subject to verification on examination. Moreover, this office has not reviewed any information pertaining to, and has made no determination regarding, whether any distribution occurring as part of the Proposed Transactions and for which qualification under section 355 of the Internal Revenue Code (the Code) is sought will (i) satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b), (ii) be used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)), or (iii) be part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation (see section 355(e) and Treas. Reg. § 1.355-7).

#### Summary of Facts

Except where noted, all entities are domestic corporations. Distributing is the common parent of an affiliated group of corporations that files a consolidated federal income tax return (the Distributing Group) and the parent of a multi-national group of corporations that operates Business A and Business B. The authorized and outstanding capital stock of Distributing consists of one class of common stock that is publicly traded. Based on filings with the Securities and Exchange Commission, each of Shareholder 1, Shareholder 2, and Shareholder 3 owns, directly and indirectly, more than 5 percent of the outstanding Distributing common stock.

Distributing will form Controlled and Corporation 1 for purposes of the Proposed Transactions. At its formation and prior to the Proposed Transactions, each has one class of common stock outstanding, all of which is owned by Distributing.

Distributing directly owns all of the stock of Sub 1, Sub 2, Sub 3, Sub 4, Sub 5, Sub 6, and the SEC Subs. Distributing directly owns all of the membership interests of SEC LLC and LLC1, each of which is classified for federal income tax purposes as an entity that is disregarded as separate from Distributing. Sub 1 directly owns all of the

stock of Sub 7, Sub 8, FSub 1, a Country A corporation, and FSub 2, a Country B corporation. Sub 1 also owns, directly and indirectly, all of the stock of the Sub 1 Subs. Sub 7 directly owns all of the stock of FSub 3 and owns, directly and indirectly, all of the stock of the Sub 7 Subs.

Sub 5 directly owns all of the stock of Sub 9. Sub 5 and Sub 9 own all of the partnership interests of Partnership 1, which is classified as a partnership for federal income tax purposes. Sub 2, Sub 3, Sub 4, Sub 5, and Partnership 1 directly own all of the common membership interests of LLC 2, which is also classified as a partnership for federal income tax purposes. Sub 5 directly owns all of the preferred membership interests of LLC 2. LLC 2 directly owns all of the membership interests of LLC 3, which is classified for federal income tax purposes as an entity that is disregarded as separate from LLC 2. LLC 3 directly and indirectly owns all of the equity interests of the LLC 3 Subs, each of which is classified for federal income tax purposes as an entity that is disregarded as separate from LLC 2. LLC 3 and LLC 3 Subs directly and indirectly conduct Business B.

Sub 6 directly owns all of the stock of Sub 10. Distributing indirectly owns all of the stock of Sub 11. Sub 1, Sub 10, and Sub 11 directly own all of the partnership interests of Partnership 2, which is classified as a partnership for federal income tax purposes. Partnership 2 directly owns all of the membership interests of LLC 4, which is classified for federal income tax purposes as an entity that is disregarded as separate from Partnership 2. LLC 4 directly and indirectly conducts Business B.

LLC 1 directly owns all of the stock of F Distributing 1, a Country C corporation. F Distributing 1 directly owns all of the stock of F Distributing 2, a Country C corporation. F Distributing 1 and F Distributing 2 serve as holding companies for a significant portion of the foreign operations of Business A and Business B.

F Distributing 2 directly owns all of the stock of FSub 4, a Country D corporation, all of the stock of FSub 11, a Country D corporation, and all of the equity interests of Entity 1, a Country C entity that is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2. FSub 4 directly owns all of the stock of FSub 5, a country D corporation. FSub 5 directly owns all of the stock of FSub 6, a Country E corporation. FSub 6 directly owns all of the stock of FSub 7, a Country E Corporation. FSub 7 directly owns all of the stock of FSub 8, a Country F corporation. FSub 8 directly owns aa% of the stock of FSub 9.

Entity 1 directly owns all of equity interests of Entity 2, a Country C entity that is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2. Entity 2 directly owns all of the equity interests of Entity 3, a Country C entity that is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2. F Controlled, a Country C corporation,

has recently been incorporated for purposes of the Proposed Transactions and has one class of common stock outstanding, all of which is owned by Entity 3.

Entity 3 directly owns all of the stock of FSub 10, a Country G entity, and all of the equity interests or stock of Entity 4, a Country D entity, Entity 5, a Country H entity, and Entity 6, a Country I entity, each of which is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2. Entity 4 directly owns all of the stock of FSub 12, a Country D entity, and all of the equity interests of Entity 7, a Country I entity, Entity 8, a Country D entity, Entity 9, a Country I entity, and Entity 10, a Country I entity, each of which is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2. FSub 12 directly owns the remaining bb% of the stock of FSub 9. Entity 7 directly owns all of the equity interests of Entity 11, a Country J entity that is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2. Entity 11 directly owns all of the equity interests of Entity 12 and Entity 13, each of which is a Country J entity that is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2.

Entity 5 directly owns all of the equity interests of Entity 14, a Country H entity that is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2. Entity 14 directly owns all of the equity interests of Entity 15, a Country H entity that is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2. Entity 15 directly owns all of the equity interests of Entity 16, a Country H entity that is classified for federal income tax purposes as an entity that is disregarded as separate from F Distributing 2.

FSub 10 directly owns all of the stock of FSub 13 and FSub 14, each of which is a Country N corporation. FSub 10 directly owns all of the equity interests of Entity 17, a Country G entity, Entity 18, a Country K entity, Entity 19, a Country E entity, Entity 20, a Country L entity, and Entity 21, a Country M entity, each of which is classified for federal income tax purposes as an entity that is disregarded as separate from FSub 10. Entity 17 directly owns all of the equity interests of Entity 22, a Country G entity. Entity 21 directly owns all of the stock of FSub 15, a Country E entity, and cc% of the stock of each of FSub 16 and FSub 17, each a Country Q corporation. Entity 21 also directly owns all of the equity interests of Entity 23, a Country E entity, and Entity 24, a Country R entity, each of which is classified for federal income tax purposes as an entity that is disregarded as separate from FSub 10. Entity 23 directly owns the remaining dd% of the stock of each of FSub 16 and FSub 17, and all of the equity interests of Entity 25, a Country P entity, which is classified for federal income tax purposes as an entity that is disregarded as separate from FSub 10. Entity 24 directly owns all of the stock of FSub 18, a Country R Corporation.

FSub 11 directly owns all of the stock of FSub 19, a Country O corporation. FSub 19 directly owns all of the equity interests of Entity 26, a Country L entity that is

classified for federal income tax purposes as an entity that is disregarded as separate from FSub 19.

Distributing and its subsidiaries conduct Business A and Business B. Following the Distribution, Distributing, through its separate affiliated group as defined in section 355(b)(3)(B) (the Distributing SAG), will continue to conduct Business A. Controlled, through its separate affiliated group as defined in section 355(b)(3)(B) (the Controlled SAG), will continue to conduct Business B. Financial information has been received indicating that each of Business A and Business B has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Distributing has determined that it is necessary to separate Business B from Business A for the following corporate business reasons: (i) Fit and Focus (i.e., optimizing the potential of each of Business A and Business B by allowing each separate management team to focus on its respective business), (ii) obtaining the opportunity to raise equity and debt financing based on Business A or Business B alone, (iii) the ability to use stock of Business B as a separate acquisition currency, and (iv) allowing compensatory grants to employees within Business A and Business B of equity awards that are more closely aligned with the performance of such employees (The Corporate Business Purposes).

#### Proposed Transactions

The following series of transactions constitute the Proposed Transactions:

- (i) Sub 7 will distribute all of the stock of FSub 3 to Sub 1.
- (ii) Sub 1 will distribute all of the stock of Sub 8, FSub 1, FSub 2 and FSub 3 to Distributing (together with the stock distribution in step (i), Stock Distributions).
- (iii) LLC 2 will distribute all of the membership interests of LLC3 to Sub 5 in redemption of all or a portion of the common and/or preferred membership interests in LLC2 that are held by Sub 5.
- (iv) Partnership 2 will distribute all of the membership interests of LLC 4 to Sub 10.
- (v) Distributing will contribute the membership interests of the SEC LLC to one of the SEC Subs.
- (vi) Prior to the Corporation 1 Contribution described in step (vii) below, Distributing will enter into an agreement to sell all of the Corporation 1 Preferred Stock (defined below) to Investors and Insiders, which will

create binding obligations for Distributing to sell, and for Investors and Insiders to buy, the Corporation 1 Preferred Stock (Sale Agreement).

- (vii) Distributing will contribute all of the stock of Sub 1 and the SEC Subs to Corporation 1 in exchange for a portion of the common stock of Corporation 1 (Corporation 1 Common Stock) and all of the nonvoting preferred stock of Corporation 1 (Corporation 1 Preferred Stock), which has a liquidation preference of approximately \$ee and will either be mandatorily redeemable after ff years and callable after gg years or mandatorily redeemable after hh years. The \$ee liquidation preference of the Corporation 1 Preferred Stock is expected to represent approximately ii% of the initial fair market value of Corporation 1. In the event of a change-in-control of Controlled or Corporation 1, holders of the Corporation 1 Preferred Stock will have the option of requiring Corporation 1 to redeem the Corporation 1 Preferred Stock for an amount equal to its liquidation preference plus any accrued but unpaid dividends. To the extent dividends remain unpaid on the Corporation 1 Preferred Stock for jj quarterly periods, whether or not consecutive, the holders of the majority of the Corporation 1 Preferred Stock will have the ability to appoint a representative to attend meetings of the board of directors of Controlled in a nonvoting observer capacity until all unpaid dividends have been paid.
- (viii) Sub 5 will contribute all of the membership interests in LLC 3 to Corporation 1, and Sub 10 will contribute all of the membership interests in LLC 4 to Corporation 1, in exchange for the remaining Corporation 1 Common Stock (together with step (vii), Corporation 1 Contribution).
- (ix) Sub 5 will distribute all of its Corporation 1 Common Stock to Distributing. Sub 10 will distribute all of its Corporation 1 Common Stock to Sub 6, and Sub 6 will distribute all of such Corporation 1 Common Stock to Distributing.
- (x) Entity 14 will sell all of the equity interests of Entity 15 to Entity 3 in exchange for cash.
- (xi) FSub 10 will sell all of the stock of FSub 13 and all of the equity interests of Entity 21 to Entity 3 in exchange for cash.
- (xii) FSub 7 will sell all of the stock of FSub 8 to Entity 3 in exchange for cash.
- (xiii) FSub 11 will sell all of the stock of FSub 19 to Entity 3 in exchange for cash.
- (xiv) Entity 3 will contribute cash and all of the equity interests of Entity 4, Entity 6, Entity 15, and Entity 21, and all of the stock of FSub 8, FSub 13, and

- FSub 19 to F Controlled in exchange for all of the common stock of F Controlled (F Controlled Contribution).
- (xv) FSub 10 will sell all of the equity interests of Entity 17, Entity 18, Entity 19, and Entity 20 to F Controlled in exchange for cash.
  - (xvi) Entity 3 will distribute all of the common stock of F Controlled to Entity 2. Entity 2 will distribute all of the common stock of F Controlled to Entity 1. Entity 1 will distribute all of the common stock of F Controlled to F Distributing 2.
  - (xvii) F Distributing 2 will distribute all of the common stock of F Controlled to F Distributing 1 (Internal Distribution 1).
  - (xviii) F Distributing 1 will distribute all of the common stock of F Controlled to LLC 1; LLC 1 will distribute all of the common stock of F Controlled to Distributing (Internal Distribution 2).
  - (xix) Distributing will contribute all of the Corporation 1 Common Stock, all of the common stock of F Controlled and all of the stock of Sub 8, FSub 1, FSub 2, and FSub 3 to Controlled in exchange for all of the common stock of Controlled (Controlled Contribution).
  - (xx) Distributing will sell all of the Corporation 1 Preferred Stock to Investors and Insiders pursuant to a pre-existing binding commitment under the Sale Agreement. Distributing and Corporation 1 will jointly make elections under section 338(h)(10) with respect to Sub 1 and the Sub 1 Subsidiaries, and Sub 7 and the Sub 7 Subsidiaries.
  - (xxi) The U.S. federal consolidated group of Distributing expects to recognize substantial tax losses in respect of the Business B assets held by Sub 1 and the Sub 1 Subs, Sub 7 and the Sub 7 Subs, LLC 3 and the LLC 3 Subs, and LLC 4 in connection with Corporation 1 Contribution, including as a result of the elections under section 338(h)(10) (collectively, Business B Losses).
  - (xxii) Distributing will distribute all of the common stock of Controlled to its shareholders pro rata (Distribution). Fractional shares of Controlled common stock will not be distributed in the Distribution. Instead, fractional shares of Controlled common stock will be aggregated into whole shares and sold in the public markets by the distribution agent for the Distribution, and the distribution agent will distribute the aggregate sales proceeds ratably to Distributing shareholders who otherwise would have received fractional shares of Controlled common stock.

In connection with the Proposed Transactions, Distributing and Controlled and their respective subsidiaries will enter into various agreements (Distribution Agreements) relating to the separation of Business B from Business A and continuing transactions between them following the Distribution. The Distribution Agreements will include a tax sharing and indemnification agreement and a separation agreement. The Distribution Agreements also will include agreements involving obligations that will arise after the Distribution and relate to transitional and administrative support services, including payroll, human resources, tax and financial reporting, that Distributing and its subsidiaries will provide to Controlled and its subsidiaries, or that Controlled and its subsidiaries will provide to Distributing and its subsidiaries, for an interim period while Distributing and Controlled establish separate administrative support and corporate service arrangements (Transitional Agreements). The Transitional Agreements are expected to have terms of kk years and, to the extent extended, the services would be performed on a fair market value basis.

In addition, Distributing and Controlled will enter into license agreements pursuant to which Controlled and its subsidiaries will have the exclusive right, and in certain instances the non-exclusive right, to use certain Distributing trademarks and trade names and related intellectual property in the operation of Business B, subject to certain restrictions (License Agreements). Pursuant to the License Agreements, Controlled will pay Distributing an annual royalty payment that has a fixed component as well as a contingent component that will be based on percentages of sales of products of Business B. The License Agreements will have initial terms of ll years, which, at Controlled's option and subject to certain conditions, can be extended for mm additional nn-year periods. Upon termination of the License Agreements, Controlled and its subsidiaries will have the non-exclusive right to use the Distributing trademarks, trade names and intellectual property for an additional oo years, subject to certain restrictions. The License Agreements will contain restrictions regarding the use of the Distributing trademarks and trade names that will be intended to maintain their value and reputation. In addition, Controlled will be required to obtain Distributing's approval to develop and operate Business B products using the Distributing trademarks and trade names, which approval generally can be withheld only if design standards are not met, the location of the products is not appropriate or contractual or legal restrictions applicable to Distributing would be breached. Finally, so long as the License Agreements are in effect, Controlled and its subsidiaries may use Distributing trade names in their corporate names unless the number of products that use Distributing trademarks and trade names fall below a certain percentage or, after a certain period of time, Controlled acquires a business that is the same business as Business B from a Distributing competitor and uses the trademarks and trade names of such acquired business.

Distributing and Controlled also will enter into an affiliation agreement pursuant to which Business B will offer incentives for the purchase of Business B products and in certain other instances, which can be used towards the purchase of Business A

products (Affiliation Agreement). The Affiliation Agreement will have the same term as the License Agreements. Under the Affiliation Agreement, Controlled will be permitted to purchase these incentives from Distributing so long as Controlled markets the receipt and use of the incentives as a benefit of purchasing or using Business B products. In addition, Controlled may only use these incentives in connection with Business B products that use Distributing trademarks and trade names. Pursuant to the Affiliation Agreement, Controlled will pay Distributing an amount related to the cost of the Business A products for which the incentives can be used when the incentives are issued. With respect to any incentives existing at the time of the Distribution, Controlled will pay Distributing when the incentives are actually used to acquire Business A products, except that on the pp anniversary of the Distribution, any outstanding balance of existing incentives will be repaid in full. Finally, to the extent Distributing customers use incentives to purchase Business B products, Distributing will pay Controlled an amount related to the cost that large purchasers pay for such Business B Products.

The board of directors of Controlled is expected to consist of qq members, rr of which will be independent directors. One of the members of the board of directors of Controlled, who will be subject to re-election, is related to Shareholder 1, the chief executive officer and chairman of the board of directors of Distributing, and will be employed by Distributing following the Distribution.

Controlled will enter into a lending facility with an unrelated group of lenders pursuant to which Controlled will securitize notes receivable originated in Business B in connection with the sale of products to customers (Lending Facility). Under the Lending Facility, Controlled generally will receive all of the cash flows generated from the notes receivable that are in excess of payments made to the lenders. Prior to the Distribution, subsidiaries of Controlled are expected to securitize notes receivable under the Lending Facility and receive funds in the range of \$ss to \$tt (Lending Facility Proceeds). These Controlled subsidiaries will use the Lending Facility Proceeds to repay existing intercompany payables that are owed to Distributing and that were incurred by the Controlled subsidiaries in the ordinary course of business.

### Representations

(a) With respect to any existing gain recognition agreement (GRA) previously entered into by Distributing, as parent of the Distributing consolidated group, in connection with a prior transfer of stock or securities, or any GRA to be entered into in connection with the Proposed Transactions, Distributing will, in accordance with Treas. Reg. §§ 1.367(a)-8(k) and 1.367(a)-8(c)(5), enter into a new GRA (i) identifying all triggering events and exceptions thereto resulting from the Proposed Transactions, (ii) designating a successor transferor corporation, transferee corporation, and/or transferred corporation, as applicable, and (iii) complying with all other requirements for GRAs under Treas. Reg. § 1.367(a)-8. Additionally, Distributing will comply with the notification requirements of Treas. Reg. § 1.367(a)-8 with respect to any such GRA.

(b) Distributing will satisfy the notice requirements of Treas. Reg. § 1.367(b)-1(c), as applicable, with respect to all transfers of assets or stock in the Proposed Transactions.

The following representations are made with respect to the Corporation 1 Contribution:

(c) The Distribution would be pursued by Distributing regardless of whether the Business B Losses would be recognized by virtue of the Proposed Transactions.

(d) Sub 1 and the Sub 1 Subs, and Sub 7 and the Sub 7 Subs would each be entitled to recognize the losses in respect of their Business B assets upon a taxable sale of such Business B assets to an unrelated third party. Sub 5 and Sub 10 would each be entitled to recognize the losses in respect of the Business B assets held by LLC 3 and the LLC 3 Subs and LLC 4, respectively, upon a taxable sale of such Business B assets to an unrelated third party.

(e) All of the stock of Sub 1 will be acquired by Corporation 1 in a single transfer by Distributing pursuant to the Corporation 1 Contribution.

(f) At the time of the Corporation 1 Contribution, Sub 1 will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Sub 1.

(g) The amount of consideration paid for the Sub 1 stock in the Corporation 1 Contribution will be approximately equal to the value of the Sub 1 stock acquired.

(h) The fair market value of the assets of each Sub 1 and Sub 1 Subs, Sub 7 and Sub 7 Subs, will exceed each subsidiary's liabilities, during the Corporation 1 Contribution and after the Distribution.

(i) Distributing will be a member of the selling consolidated group (as defined in section 338(h)(10)(B)) for the taxable period that includes the Corporation 1 Contribution.

(j) For the taxable period that includes the Corporation 1 Contribution, each of Sub 1 and the Sub 1 Subs, and Sub 7 and the Sub 7 Subs, will be a consolidated target within the meaning of Treas. Reg. § 1.338(h)(10)-1(b)(1).

(k) Except for any asset described in Treas. Reg. § 1.338-8(d)(2), neither Corporation 1 nor any member of the Corporation 1 affiliated group (within the meaning of section 338(h)(5)) has any plan or intention to acquire from Sub 1 or any Sub 1 Subs, or Sub 7 or any Sub 7 Subs, any asset described in Treas. Reg. § 1.338-8(b)(1) (after application of Treas. Reg. § 1.338-8(b)(2)).

(l) The Corporation 1 Preferred Stock will constitute stock in Corporation 1 (and not indebtedness) for U.S. federal income tax purposes.

(m) The terms of the Sale Agreement, pursuant to which Distributing will sell the Corporation 1 Preferred Stock to Investors and Insiders, will be determined pursuant to arm's-length negotiations between Distributing, on the one hand, and Investors and Insiders, on the other hand.

(n) No more than 40 percent of the shares of the Corporation 1 Preferred Stock will be acquired by the Insiders.

(o) Investors and Insiders, which will acquire the Corporation 1 Preferred Stock pursuant to the Sale Agreement, will not be parties whose ownership of Corporation 1 would be attributed to Distributing pursuant to section 318.

(p) At the time Distributing transfers the Corporation 1 Preferred Stock to the Investors and Insiders, there will be no current plan or intention to redeem the Corporation 1 Preferred Stock before the first date that the Corporation 1 Preferred Stock is callable, or if the Corporation 1 Preferred Stock is not callable, before the mandatory redemption date.

(q) Immediately after the Proposed Transactions, Corporation 1 will not be attributed any stock held by Distributing under section 318(a) (without regard to section 318(a)(4)).

(r) There is no plan or intention for Distributing, Corporation 1, Sub 1 and Sub 1 Subs, Sub 7 and Sub 7 Subs, to cease to remain in existence as separate corporations for federal income tax purposes.

(s) There is no plan or intention on the part of Corporation 1 to sell or otherwise dispose of any of the shares of Sub 1 acquired in the Corporation 1 Contribution.

(t) Investors and Insiders will not cause Distributing and Corporation 1 (or Sub 1 and the Sub 1 Subs or Sub 7 and the Sub 7 Subs) to be members of the same controlled group as defined in section 267(f)(1) if that section was amended by substituting 20 percent for 50 percent following the Distribution (i.e., 5 or fewer individuals, trusts or estates that hold Corporation 1 Preferred Stock will not own more than 20 percent of the total combined voting power or value of all classes of stock of Distributing, on the one hand and Corporation 1 (or Sub 1 and the Sub 1 Subs or Sub 7 and the Sub 7 Subs), on the other hand).

(u) Distributing, on the one hand, and Corporation 1 (and Sub 1 and the Sub 1 Subs and Sub 7 and the Sub 7 Subs), on the other hand, will cease to be

members of the same controlled group as defined in section 267(f)(1) upon the consummation of the Distribution (i.e., (i) Distributing will not own more than 50 percent of the total voting power or value of all classes of stock of Corporation 1 (or Sub 1 and the Sub 1 Subs or Sub 7 and the Sub 7 Subs), and (ii) 5 or fewer individuals, trusts or estates will not own more than 50 percent of the total voting power or value of all classes of stock of Corporation 1 (and Sub 1 and the Sub 1 Subs and Sub 7 and the Sub 7 Subs).

(v) No holder of Distributing common stock (or Controlled common stock or Corporation 1 stock immediately following the Distribution) will own, within the meaning of section 318, 20 percent or more of the Distributing common stock (or the Controlled common stock or the Corporation 1 stock (other than Controlled in the case of Corporation 1 stock)).

(w) For purposes of Treas. Reg. § 1.197-2(h)(6)(iv)(A)(2), (i) the beneficial ownership interest of Distributing in the stock of each of Controlled and Corporation 1 represents less than 10 percent of the total combined voting power of all classes of stock of Controlled and Corporation 1 entitled to vote and less than 10 percent of the total value of the shares of all classes of stock of Controlled and Corporation 1 outstanding, and (ii) the beneficial ownership interest in each of Controlled and Corporation 1 in stock of Distributing, represents less than 10 percent of the total combined voting power of all classes of stock of Distributing entitled to vote and less than 10 percent of the total value of the shares of all classes of stock of Distributing outstanding.

(x) The distribution of Business B to the shareholders of Distributing pursuant to the Distribution is not being engaged in or structured with a principal purpose to avoid the provisions of section 267(f) (including, for example, by avoiding treatment as an intercompany sale or by distorting the timing of losses or deductions) within the meaning of Treas. Reg. § 1.267(f)-1(h).

(y) The formation of Corporation 1 and the Corporation 1 Contribution is not an acquisition described in section 269(a)(1) or (a)(2), the principal purpose of which is evasion or avoidance of U.S. federal income tax within the meaning of section 269(a).

(z) The acquisition of intangible assets of Sub 1 and the Sub 1 Subs, and Sub 7 and the Sub 7 Subs, pursuant to the elections under section 338(h)(10), and the acquisition of intangible assets of LLC 3, the LLC 3 Subs and LLC 4, in the Proposed Transactions is not being undertaken to avoid the operation of the anti-churning rules of section 197(f)(9) and Treas. Reg. § 1.197-2(h)(11).

The following representations are made with respect to F Controlled Contribution and Internal Distribution 1:

(aa) F Distributing 2's transfer of assets to F Controlled in exchange for all the stock of F Controlled is not an exchange described in Treas. Reg. §§ 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).

(bb) F Distributing 2, F Controlled, and FSub 12, FSub 13, FSub 19, and FSub 8 will be controlled foreign corporations, within the meaning of section 957(a) immediately before and after the Distribution.

(cc) F Distributing 2, F Controlled, and FSub 12, FSub13, Fsub19, and FSub 8 will not be passive foreign investment companies (PFICs) within the meaning of section 1297(a) immediately before or after the Distribution.

(dd) Distributing will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to each of F Distributing 2 and F Controlled and FSub 12, FSub 13, FSub 19, and FSub 8 immediately before and after Internal Distribution 1.

(ee) Any indebtedness owed by F Controlled (and its subsidiaries) to F Distributing 2 (and its subsidiaries) after Internal Distribution 1 will not constitute stock or securities.

(ff) Each of F Distributing 2 and F Controlled will pay its own expenses, if any, incurred in connection with Internal Distribution 1.

(gg) No part of the consideration to be distributed by F Distributing 2 in the Internal Distribution 1 will be received by F Distributing 1 as a creditor, employee, or in any capacity other than that of an F Distributing 2 shareholder.

(hh) Each of F Distributing 2 and F Controlled will treat all members of its respective SAG as one corporation in determining whether it meets the requirements of section 355(b)(2)(A), regarding the active conduct of a trade or business.

(ii) The five years of financial information submitted on behalf of Business A conducted by F Distributing 2 is representative of the present business operations of the Business A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

(jj) The five years of financial information submitted on behalf of Business B to be conducted by F Controlled is representative of the present business operations of Business B, and with regard to such business, there have been no

substantial operational changes since the date of the last financial statements submitted.

(kk) Immediately after the Internal Distribution 1, F Distributing 2 will continue the active conduct of Business A, independently and with its separate employees or employees of the other members of its SAG.

(ll) Immediately after the Internal Distribution 1, F Controlled will continue the active conduct of Business B, independently and with its separate employees or employees of the other members of its SAG.

(mm) Neither Business A nor control of an entity conducting this business will have been acquired during the five-year period ending on the date of Internal Distribution 1 in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, except for transactions that have expanded Business A.

(nn) Neither Business B nor control of an entity conducting this business will have been acquired during the five-year period ending on the date of the Internal Distribution 1 in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, except for transactions that have expanded Business B and transactions that are part of the Proposed Transactions and pursuant to which an entity was sold by a member of the SAG of F Distributing 2 to F Controlled or between members of the SAG of F Distributing 2.

(oo) Internal Distribution 1 is being carried out to facilitate the Distribution, which is being carried out for the Corporate Business Purposes. The distribution of the stock of F Controlled in Internal Distribution 1 is motivated, in whole or substantial part, by this corporate business purpose.

(pp) Internal Distribution 1 will not be used principally as a device for the distribution of the earnings and profits of F Distributing 2 or F Controlled or both.

(qq) The total adjusted bases and the fair market value of the assets transferred to F Controlled in the F Controlled Contribution will each equal or exceed the sum of the liabilities assumed by F Controlled (as determined under section 357(d)).

(rr) Any liabilities assumed (as determined under section 357(d)) by F Controlled in the F Controlled Contribution will have been incurred in the ordinary course of business and will be associated with the transferred assets.

(ss) No property will be transferred by F Distributing 2 to F Controlled for which an investment credit allowed under section 46 has or will be claimed.

(tt) No indebtedness between F Distributing 2 (and its subsidiaries) and F Controlled (and its subsidiaries) has been or will be settled or cancelled in connection with Internal Distribution 1, other than the settlement of intercompany loans and intercompany open account balances attributable to the normal business operations of F Distributing 2 (and its subsidiaries) prior to Internal Distribution 1.

(uu) No intercorporate debt will exist between F Distributing 2 (and its subsidiaries) and F Controlled (and its subsidiaries) at the time of, or after, Internal Distribution 1, other than obligations arising in the ordinary course of business and obligations arising pursuant to the Distribution Agreements, the License Agreement and certain other agreements entered into in connection with the Distribution.

(vv) Payments made in connection with all continuing transactions between F Distributing 2 (and its subsidiaries) and F Controlled (and its subsidiaries) following Internal Distribution 1 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length, except in the case of the Transitional Agreements, which may be provided at cost (or on cost-plus pricing terms).

(ww) Neither F Distributing 2 nor F Controlled is an investment company as defined in sections 368(a)(2)(F)(iii) and (iv).

(xx) For purposes of section 355(d), immediately after the Internal Distribution 1, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of F Distributing 2 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of F Distributing 2 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Internal Distribution 1.

(yy) For purposes of section 355(d), immediately after Internal Distribution 1, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of F Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of F Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Internal Distribution 1 or (ii) attributable to distributions on F Distributing 2 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Internal Distribution 1.

(zz) Internal Distribution 1 is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in F Distributing 2 or F Controlled (including any predecessor or successor of any such corporation).

(aaa) Immediately after the transaction (as defined in section 355(g)(4)), (i) neither F Distributing 2 nor F Controlled will be a disqualified investment corporation (within the meaning of section 355(g)(2)) and (ii) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation immediately after the transaction who did not so hold, directly or indirectly, such interest immediately before the transaction.

(bbb) The total fair market value of the assets transferred to F Controlled in the F Controlled Contribution will exceed the sum of (i) the amount of any liabilities assumed (as determined under section 357(d)) by F Controlled in connection with the F Controlled Contribution and (ii) the amount of any liabilities owed to F Controlled by F Distributing 2 that are discharged or extinguished in connection with the F Controlled Contribution. The fair market value of the assets of F Controlled will exceed the amount of its liabilities immediately after the F Controlled Contribution.

The following representations are made with respect to Internal Distribution 2:

(ccc) F Distributing 1 and F Controlled will be controlled foreign corporations, within the meaning of section 957(a) immediately before and after the Distribution.

(ddd) F Distributing 1 and F Controlled will not be PFICs within the meaning of section 1297(a) immediately before or after the Distribution.

(eee) Distributing will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to each of F Distributing 1 and F Controlled immediately before and after Internal Distribution 2.

(fff) Any indebtedness owed by F Controlled (and its subsidiaries) to F Distributing 1 (and its subsidiaries) after the Internal Distribution 2 will not constitute stock or securities.

(ggg) Each of F Distributing 1 and F Controlled will pay its own expenses, if any, incurred in connection with Internal Distribution 2.

(hhh) No part of the consideration to be distributed by F Distributing 1 in Internal Distribution 2 will be received by Distributing as a creditor, employee, or in any capacity other than that of a F Distributing 1 shareholder.

(iii) Each of F Distributing 1 and F Controlled will treat all members of its respective SAG as one corporation in determining whether it meets the requirements of section 355(b)(2)(A), regarding the active conduct of a trade or business.

(jjj) The five years of financial information submitted on behalf of Business A conducted by F Distributing 1 is representative of the present business operations of Business A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

(kkk) The five years of financial information submitted on behalf of Business B to be conducted by F Controlled is representative of the present business operations of Business B, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

(lll) Immediately after the Internal Distribution 2, F Distributing 1 will continue the active conduct of Business A, independently and with its separate employees or employees of the other members of its SAG.

(mmm) Immediately after the Internal Distribution 2, F Controlled will continue the active conduct of Business B, independently and with its separate employees or employees of the other members of its SAG.

(nnn) Neither Business A nor control of an entity conducting this business will have been acquired during the five-year period ending on the date of Internal Distribution 2 in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, except for transactions that have expanded Business A.

(ooo) Neither Business B nor control of an entity conducting this business will have been acquired during the five-year period ending on the date of Internal Distribution 2 in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, except for transactions that have expanded Business B or that are part of the Proposed Transactions and pursuant to which an entity was sold by a member of the SAG of F Distributing 1 to F Controlled or between members of the SAG of F Distributing 1.

(ppp) Internal Distribution 2 is being carried out to facilitate the Distribution, which is being carried out for the Corporate Business Purposes. The distribution of the stock of F Controlled in Internal Distribution 2 is motivated, in whole or substantial part, by this corporate business purpose.

(qqq) Internal Distribution 2 will not be used principally as a device for the distribution of the earnings and profits of F Distributing 1 or F Controlled or both.

(rrr) No property will be transferred by F Distributing 1 to F Controlled for which an investment credit allowed under section 46 has or will be claimed.

(sss) No indebtedness between F Distributing 1 (and its subsidiaries) and F Controlled (and its subsidiaries) has been or will be settled or cancelled in connection with Internal Distribution 2, other than the settlement of intercompany loans and intercompany open account balances attributable to the normal business operations of F Distributing 1 (and its subsidiaries) prior to Internal Distribution 2.

(ttt) No intercorporate debt will exist between F Distributing 1 (and its subsidiaries) and F Controlled (and its subsidiaries) at the time of, or after, Internal Distribution 2, other than obligations arising in the ordinary course of business and obligations arising pursuant to the Distribution Agreements, the License Agreement and certain other agreements entered into in connection with the Distribution.

(uuu) Payments made in connection with all continuing transactions between F Distributing 1 (and its subsidiaries) and F Controlled (and its subsidiaries) following Internal Distribution 2 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length, except in the case of the Transitional Agreements, which may be provided at cost (or on cost-plus pricing terms).

(vvv) Neither F Distributing 1 nor F Controlled is an investment company as defined in sections 368(a)(2)(F)(iii) and (iv).

(www) For purposes of section 355(d), immediately after Internal Distribution 2, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of F Distributing 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of F Distributing 1 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Internal Distribution 2.

(xxx) For purposes of section 355(d), immediately after Internal Distribution 2, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of F Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of F Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Internal

Distribution 2 or (ii) attributable to distributions on F Distributing 1 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Internal Distribution 2.

(yyy) Internal Distribution 2 is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in F Distributing 1 or F Controlled (including any predecessor or successor of any such corporation).

(zzz) Immediately after the transaction (as defined in section 355(g)(4)), (i) neither F Distributing 1 nor F Controlled will be a disqualified investment corporation (within the meaning of section 355(g)(2)) and (ii) no person will hold a 50-percent or greater interest in any disqualified investment corporation (within the meaning of section 355(g)(3)) immediately after the transaction who did not so hold, directly or indirectly, such interest immediately before the transaction.

The following representations are made with respect to the Controlled Contribution and the Distribution:

(aaaa) Distributing has not been and will not be a United States real property holding corporation (as defined in section 897(c)(2)) (USRPHC) at any time during the five-year period ending on the date of the Distribution.

(bbbb) Distributing will not be a USRPHC immediately after the Distribution.

(cccc) Distributing does not believe that any foreign person will own a 5 percent or greater interest in either Distributing or Controlled after the Distribution.

(dddd) Any indebtedness owed by Controlled (and its subsidiaries) to Distributing (and its subsidiaries) after the Distribution will not constitute stock or securities.

(eeee) Each of Distributing and Controlled will pay its own expenses, if any, incurred in connection with the Distribution.

(ffff) No part of the consideration to be distributed by Distributing in the Distribution will be received by a Distributing shareholder as a creditor, employee, or in any capacity other than that of an Distributing shareholder.

(gggg) Each of Distributing and Controlled will treat all members of its respective SAG as one corporation in determining whether it meets the requirements of section 355(b)(2)(A), regarding the active conduct of a trade or business.

(hhhh) The five years of financial information submitted on behalf of Business A conducted by Distributing is representative of the present business operations of Business A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

(iiii) The five years of financial information submitted on behalf of Business B to be conducted by Controlled is representative of the present business operations of Business B, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

(jjjj) Immediately after the Distribution, Distributing will continue the active conduct of Business A, independently and with its separate employees or employees of the other members of its SAG.

(kkkk) Immediately after the Distribution, Controlled will continue the active conduct of Business B, independently and with its separate employees or employees of the other members of its SAG.

(llll) Neither Business A nor control of an entity conducting this business will have been acquired during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, except for transactions that have expanded Business A.

(mmmm) Neither Business B nor control of an entity conducting this business will have been acquired during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, except for transactions that have expanded Business B.

(nnnn) The Distribution is being carried out for the following corporate business purposes: (i) Fit and Focus (i.e., optimizing the potential of Business A and Business B by allowing separate management teams to focus on its respective business), (ii) obtaining the opportunity to raise equity or debt financing based on Business A or Business B alone, (iii) the ability to use stock of Business B as a separate acquisition currency and (iv) allowing compensatory grants to employees within Business A and Business B of equity awards that are more closely aligned with the performance of such employees (the Corporate Business Purposes). The distribution of the Controlled common stock in the Distribution is motivated, in whole or substantial part, by one or more of these Corporate Business Purposes.

(oooo) The Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.

(pppp) The total adjusted bases and the fair market value of the Business B assets transferred to Controlled in the Controlled Contribution each will equal or exceed the sum of the liabilities (as determined under section 357(d)) assumed by Controlled.

(qqqq) Any liabilities assumed (as determined under section 357(d)) by Controlled in the Controlled Contribution will have been incurred in the ordinary course of business and will be associated with the Business B assets transferred.

(rrrr) No property will be transferred by Distributing to Controlled for which an investment credit allowed under section 46 has or will be claimed.

(ssss) No indebtedness between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) has been or will be settled or cancelled in connection with the Distribution other than the settlement of intercompany loans and intercompany open account balances attributable to the normal business operations of Distributing (and its subsidiaries) prior to the Distribution.

(tttt) No intercorporate debt will exist between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) at the time of, or after, the Distribution, other than obligations arising in the ordinary course of business and obligations arising pursuant to the Distribution Agreements, the License Agreement and certain other agreements entered into in connection with the Distribution.

(uuuu) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by applicable Treasury regulations (see Treas. Reg. §§ 1.1502-13 and -14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; Treas. Reg. § 1.1502-13 as published by T.D. 8597). Further, Distributing's excess loss account, if any, with respect to its Controlled common stock will be included in income immediately before the Distribution to the extent required by Treasury regulations (see Treas. Reg. § 1.1502-19).

(vvvv) Payments made in connection with all continuing transactions between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) following the Distribution will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length, except in the case of the Transitional Agreements, which may be provided at cost (or on cost-plus pricing terms).

(wwww) Neither Distributing nor Controlled is an investment company as defined in sections 368(a)(2)(F)(iii) and (iv).

(xxxx) For purposes of section 355(d), immediately after the Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing

50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution.

(yyyy) For purposes of section 355(d), immediately after the Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution or (ii) attributable to distributions on Distributing stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution.

(zzzz) The Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).

(aaaaa) Immediately after the transaction (as defined in section 355(g)(4)), (i) neither Distributing nor Controlled will be a disqualified investment corporation (within the meaning of section 355(g)(2)) and (ii) no person will hold a 50-percent or greater interest in any disqualified investment corporation (within the meaning of section 355(g)(3)) immediately after the transaction who did not so hold, directly or indirectly, such interest immediately before the transaction.

(bbbbb) The total fair market value of the assets transferred to Controlled in the Controlled Contribution will exceed the sum of (i) the amount of any liabilities assumed (as determined under section 357(d)) by Controlled in connection with the Contribution and (ii) the amount of any liabilities owed to Controlled by Distributing that are discharged or extinguished in connection with the Controlled Contribution. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Controlled Contribution.

#### Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows on the Corporation 1 Contribution.

- (1) The Corporation 1 Contribution, followed by the pre-arranged sale of the Corporation 1 Preferred Stock pursuant to the Sale Agreement, will be treated as (i) a sale of the stock of Sub 1 and each of the SEC Subs by Distributing, (ii) a sale of the assets of LLC 3 and the LLC 3 Subs by Sub 5, and (iii) a sale of the assets of LLC 4 by Sub 10, in each case, to Corporation 1 pursuant to which gain or loss is recognized (section 1001(a) and Revenue Ruling 79-70, 1979-1 C.B. 144).
- (2) Assuming completion of the Proposed Transactions, Corporation 1's acquisition of the Sub 1 stock from Distributing pursuant to the Corporation 1 Contribution will be a "qualified stock purchase" within the meaning of section 338(d)(3).
- (3) Assuming completion of the Proposed Transactions, Distributing and Corporation 1 will be eligible to make the election under section 338(h)(10) in respect of Corporation 1's acquisition of the Sub 1 stock pursuant to the Corporation 1 Contribution.
- (4) Assuming an election under section 338(h)(10) is effected with respect to Sub 1, an election under section 338(h)(10) may be made with respect to the deemed purchase by Corporation 1 of the Sub 7 stock.
- (5) Assuming an election under section 338(h)(10) is effected with respect to Sub 1, an election under section 338(h)(10) can be made for any of the domestic Sub 1 Subs or the domestic Sub 7 Subs, or an election under section 338(g) can be made for any of the foreign Sub 1 Subs or any of the foreign Sub 7 Subs, so long as an election under section 338(h)(10) or (g), as applicable, is made for each higher-tier corporation in the same chain of corporations as the domestic Sub 1 Subs, the domestic Sub 7 Subs, the foreign Sub 1 Subs, or the foreign Sub 7 Subs.
- (6) Assuming an election under section 338(h)(10) is made with respect to the Sub 1 stock and the Sub 7 stock (and any domestic Sub 1 Subs or domestic Sub 7 Subs) immediately before the Distribution, Distributing will take into account the Business B Losses recognized as a result of such elections under section 338(h)(10) (section 267(f)(2)(B) and Treas. Reg. § 1.267(f)-1(c)).
- (7) Assuming an election under section 338(h)(10) is made with respect to Sub 1 and Sub 1 Subs, and Sub 7 and Sub 7 Subs, any goodwill, going concern value and other "section 197 intangibles" for which depreciation or amortization would not have been allowable but for section 197 of Sub 1 and Sub 1 Subs, and Sub 7 and Sub 7 Subs will not be subject to the anti-churning rules of section 197(f)(9) and will constitute "amortizable section 197 intangibles" (Treas. Reg. § 1.197-2(h)(6)).

(8) Assuming an election under section 338(h)(10) is made with respect to the Sub 1 stock and the Sub 7 stock, the distribution of the stock of FSub 3 by Sub 7 to Sub 1, and the distribution of the stock of Sub 8, FSub 1, FSub 2, and FSub 3 by Sub 1 to Distributing, will be treated as distributions pursuant to the deemed liquidations of Sub 7 and Sub 1 (Treas. Reg. § 1.338(h)(10)-1(d)(4)).

(9) Immediately before the Distribution, Sub 5 and Sub 10 will take into account the Business B Losses recognized as a result of Corporation 1 Contribution (section 267(f)(2)(B) and Treas. Reg. § 1.267(f)-1(c)).

(10) Any goodwill, going concern value and other “section 197 intangibles” for which depreciation or amortization would not have been allowable but for section 197 with respect to LLC 3 and the LLC 3 Subs and LLC 4 will not be subject to the anti-churning rules of section 197(f)(9) and will constitute “amortizable section 197 intangibles” (Treas. Reg. § 1.197-2(h)(6)).

Based solely on the information submitted and the representations set forth above, we rule as follows on the F Controlled Contribution and Internal Distribution 1.

(11) For federal income tax purposes, step (xiv) of the Proposed Transactions will be treated as if F Distributing 2 formed F Controlled and contributed (i) cash, (ii) all of the assets of Entity 4 (other than the stock of FSub 12), Entity 6, Entity 7, Entity 8, Entity 9, Entity 10, Entity 11, Entity 12, Entity 13, Entity 15, Entity 16, Entity 21 (other than the stock of FSub 15, FSub 16 and FSub 17), Entity 23 (other than the stock of FSub 16 and FSub 17), Entity 24 (other than the stock of FSub 18) and Entity 25, and (iii) all of the stock of FSub 8, FSub 12, FSub 13, FSub 15, FSub 16, FSub 17, FSub 18 and FSub 19, to F Controlled, in exchange for all of the common stock of F Controlled. For federal income tax purposes, the distributions of all of the common stock of F Controlled pursuant to step (xvi) of the Proposed Transactions will be disregarded.

(12) The F Controlled Contribution and the Internal Distribution 1 together will qualify as a “reorganization” within the meaning of section 368(a)(1)(D). Each of F Distributing 2 and F Controlled will be “a party to a reorganization” within the meaning of section 368(b).

(13) F Distributing 2 will not recognize gain or loss in the F Controlled Contribution (sections 361(a) and 357(a)).

(14) F Controlled will not recognize gain or loss in the F Controlled Contribution (section 1032(a)).

(15) F Controlled’s basis in each asset or the stock received from F Distributing 2 in the F Controlled Contribution will be the same as it would be in the hands of F Distributing 2 (section 362(b)).

- (16) F Controlled's holding period for each asset or the stock received from F Distributing 2 will include the period during which F Distributing 2 held that asset (section 1223(2)).
- (17) No gain or loss will be recognized by (and no amount will be included in the income of) F Distributing 1 upon its receipt of F Controlled stock in the Internal Distribution 1 (section 355(a)(1)).
- (18) No gain or loss will be recognized by F Distributing 2 on its distribution of F Controlled stock in the Internal Distribution 1 (section 361(c)).
- (19) Immediately after the Internal Distribution 1, the sum of the basis of all the F Distributing 2 stock plus the basis of all the F Controlled stock will be the same as the basis of the F Distributing 2 stock with respect to which the distribution is made immediately before the Internal Distribution 1, allocated in the manner described in Treas. Reg. § 1.358-2 (section 358(a)(1) and (b) and Treas. Reg. § 1.358-1(a)).
- (20) The holding period of the F Controlled stock received by F Distributing 1 in the Internal Distribution 1 will include the holding period of the F Distributing 2 stock with respect to which the Internal Distribution 1 is made, provided the F Distributing 2 stock was held as a capital asset on the date of the Internal Distribution 1 (section 1223(1)).
- (21) Earnings and profits will be allocated between F Distributing 2 and F Controlled in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).
- (22) F Distributing 2's transfer of assets to F Controlled in exchange for all the stock of F Controlled will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and -4(a) apply.
- (23) The distribution of F Controlled stock by F Distributing 2 to F Distributing 1 will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c), 1.367(b)-5(a) and 1.367(b)-5(c) apply. If F Distributing 1's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to F Distributing 2 or F Controlled, is less than its predistribution amount with respect to such corporation, then F Distributing 1's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, F Distributing 1's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would reduce its basis below zero, F Distributing 1 must instead include such amount in income as a deemed dividend from such corporation. If F Distributing 1 reduces the basis in the stock of F Distributing 2 or F Controlled (or has an inclusion with respect to such stock), F Distributing 1 must increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).

Based solely on the information submitted and the representations set forth above, we rule as follows on the Internal Distribution 2.

(24) For federal income tax purposes, (i) Internal Distribution 2 will be treated as if F Distributing 1 directly distributed all of the common stock of F Controlled to Distributing, and (ii) the distribution of all of the common stock of F Controlled by LLC 1 to Distributing pursuant to step (xviii) of the Proposed Transactions will be disregarded.

(25) No gain or loss will be recognized by (and no amount will be included in the income of) Distributing upon its receipt of F Controlled in the Internal Distribution 2 (section 355(a)(1)).

(26) No gain or loss will be recognized by F Distributing 1 on its distribution of F Controlled common stock in the Internal Distribution 2 (section 355(c)).

(27) Immediately after the Internal Distribution 2, the sum of the basis of all the F Distributing 1 stock plus the basis of all the F Controlled stock will be the same as the basis of the F Distributing 1 stock with respect to which the distribution is made immediately before the Internal Distribution 2, allocated in the manner described in Treas. Reg. § 1.358-2 (section 358(a)(1) and (b) and Treas. Reg. § 1.358-1(a)).

(28) Distributing will have a holding period in its stock of Foreign Controlled that will include its holding period for the stock of Foreign Distributing 1 with respect to which the stock of Foreign Controlled is received, provided that its stock of Foreign Distributing 1 was held as a capital asset on the date of Internal Distribution 2 (section 1223(1)).

(29) As provided in section 312(h), proper allocation of earnings and profits among F Distributing 1 and F Controlled will be made under Treas. Reg. § 1.312-10(b)

(30) The distribution of F Controlled stock by F Distributing 1 to Distributing will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c), 1.367(b)-5(a) and 1.367(b)-5(c) apply. If Distributing's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to F Distributing 1 or F Controlled, is less than its predistribution amount with respect to such corporation, then 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 reduce its basis below zero, Distributing must instead include such amount in income as a deemed dividend from such corporation. If Distributing reduces the basis in the stock of F Distributing 1 or F Controlled (or has an inclusion with

respect to such stock), Distributing must increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).

Based solely on the information submitted and the representations set forth above, we rule as follows on the Controlled Contribution and the Distribution.

(31) The Controlled Contribution together with the Distribution will qualify as a “reorganization” within the meaning of section 368(a)(1)(D). Each of Distributing and Controlled will be “a party to a reorganization” within the meaning of section 368(b).

(32) Distributing will not recognize gain or loss in the Controlled Contribution (sections 361(a) and 357(a)).

(33) Controlled will not recognize gain or loss in the Controlled Contribution (section 1032(a)).

(34) Controlled’s basis in the Corporation 1 Common Stock, the common stock of F Controlled, the stock of Sub 8, FSub 1, FSub 2, FSub 3, and the SEC Subs received in the Controlled Contribution will be the same as it would be in the hands of Distributing (section 362(b)).

(35) Controlled’s holding period for the Corporation 1 Common Stock, the common stock of F Controlled, the stock of Sub 8, FSub 1, FSub 2, FSub 3, and the SEC Subs received from Distributing will include the period during which Distributing held that stock (section 1223(2)).

(36) No gain or loss will be recognized by (and no amount will be included in the income of) the shareholders of Distributing on receipt of Controlled common stock in the Distribution (section 355(a)(1)).

(37) No gain or loss will be recognized by Distributing on its distribution of Controlled common stock in the Distribution (section 361(c)).

(38) Immediately after the Distribution, the sum of the basis of all the Distributing stock plus the basis of all the Controlled common stock will be the same as the basis of the Distributing stock with respect to which the distribution is made immediately before the Distribution, allocated in the manner described in Treas. Reg. § 1.358-2 (section 358(a)(1) and (b) and Treas. Reg. § 1.358-1(a)).

(39) The holding period of the Controlled common stock received by Distributing shareholders in the Distribution will include the holding period of the Distributing common stock with respect to which the Distribution is made, provided the Distributing stock is held as a capital asset on the date of the Distribution (section 1223(1)).

(40) Earnings and profits will be allocated between Distributing and Controlled in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(f)(2).

(41) The receipt by Distributing shareholders of cash in lieu of fractional shares of Controlled common stock will be treated for federal income tax purposes as if the fractional shares had been distributed to the Distributing shareholders as part of the Distribution and then had been disposed of by such shareholders for the amount of such cash in a sale or exchange. The gain (or loss), if any (determined using the basis allocated to the fractional shares in ruling (34) and the holding period attributed to the fractional shares in ruling (35)) will be treated as a capital gain (or loss), provided the stock was held as a capital asset by the selling stockholder (section 1001).

(42) The earnings and profits of F Controlled, FSub 1, FSub 2, and FSub 3, to the extent attributable to such stock under Treas. Reg. §§ 1.1248-2 or 1.1248-3 (whichever is applicable), that were accumulated in tax years of such foreign corporations beginning after December 31, 1962, and during the period in which such corporations were CFCs, will be attributable to such stock held by Controlled (Treas. Reg. § 1.1248-1(a)(1)).

#### Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In particular, this office has not reviewed any information pertaining to and has made no determination regarding the following:

- (i) Whether the Distribution or any Internal Distribution satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b);
- (ii) Whether the Distribution or any Internal Distribution is being used principally as a device for the distribution of the earnings and profits of applicable distributing corporation or controlled corporation or both (see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d));
- (iii) Whether the Distribution or any Internal Distribution is part of a plan (or series of related transactions) under section 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7;
- (iv) To the extent not otherwise specifically ruled upon above, the adjustments to earnings and profits or deficits in earnings and profits, if any, in any one of the transactions to which section 367(a) or (b) apply;

(v) To the extent not otherwise specifically ruled upon above, any other consequences under section 367 with respect to any transaction described in this letter ruling;

(vi) The federal income tax treatment of step (iii), step (iv), step (v), step (ix), step (x), step (xi), step (xii), step (xiii) and step (xv) of the Proposed Transactions; and

(vii) The potential application of section 482 to any payments made in connection with continuing transactions between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) that are not made for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

#### Procedural Statements

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

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Gerald B. Fleming  
Gerald B. Fleming  
Senior Technician Reviewer, Branch 2  
Office of Associate Chief Counsel  
(Corporate)