

**Notice to Employees and Eligible Employees of Sealed Air of  
Tentative Authorization under Prohibited Transaction Exemption 96-62**

You are hereby notified that Sealed Air Corporation ("Sealed Air") and its indirect wholly-owned captive insurance company Saddle Brook Insurance Company ("Saddle Brook") have applied to the U.S. Department of Labor ("DOL") seeking tentative authorization, pursuant to Prohibited Transaction Exemption 96-62 ("PTE 96-62"), 61 FR 39988, July 31, 1996, as amended by 67 FR 44622, July 3, 2002, to engage in the reinsurance transaction described below. The transaction involves the reinsurance of risks and the receipt of premiums by Saddle Brook from insurance contracts currently funding Sealed Air's Life and AD&D programs.

The authorization under PTE 96-62 is necessary because Saddle Brook is an affiliate of Sealed Air. Because of the relationship between Sealed Air and Saddle Brook such reinsurance would otherwise constitute a prohibited transaction under sections 406(a)(1)(D) and 406(b) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

This notice informs you of the application to the DOL and certain changes to the Life and AD&D program benefits, and describes your right to comment to the DOL about these changes.

**Tentative Authorization**

The proposed transaction described in this Notice has met the requirements for tentative authorization from the DOL under PTE 96-62. If final authorization is granted by the DOL, sections 406(a)(1)(D) and 406(b) of ERISA will not apply for the reinsurance transaction described below, effective on April 27, 2015, provided the conditions specified in Exhibit A are complied with.

**Overview of the Reinsurance Transaction**

Sealed Air's Plan provides Life Insurance and Accidental Death & Dismemberment ("AD&D") benefits, and covers Union, Non Union and Active Employees, as well as Retirees. The Plan is insured with Zurich Corporate Life & Pensions North America ("Zurich"). Under the transaction, Zurich will insure Plan risks. However, Zurich will reinsure up to 100% of risks with Saddle Brook. Zurich's reinsurance agreement with Saddle Brook will be indemnity only, which means that Zurich will not be relieved of its liability to the Plan for Life and AD&D benefits if Saddle Brook is unable or unwilling to cover liability arising from the reinsurance arrangement.

The final authorization by the DOL, if granted, will be subject to the conditions described below and set forth in more detail in Exhibit A, which provide certain protections to the Plan. Furthermore, the terms of the reinsurance agreement will not affect your benefits in any way, as it is simply an internal arrangement between Saddle Brook and Zurich. Zurich will insure the benefits provided to you under the Plan, including the benefit improvements.

**Parties to the Proposed Reinsurance Transaction**

**Company**

**Company:** Sealed Air Corporation

**Headquarters:** Elmwood Park, New Jersey, USA

**Type of Business:** Global Packaging Business

**Number of Employees:** Approximately 25,000

**Annual sales:** \$7.7 billion

**Net income:** \$124 million

### **Captive**

Saddle Brook is a captive insurance subsidiary wholly owned by Sealed Air. Saddle Brook was organized in 2004 under the Vermont Captive Insurance Act to provide coverage to operating subsidiaries of Sealed Air. Saddle Brook writes a number of lines to meet the various needs of Sealed Air's business units.

Today, Saddle Brook provides the following coverages: Worker's Compensation, General Liability, Auto Liability, US and Global Product Liability, US and Global Property, and US and Global Goods/Transit Liability.

### **The Plan**

Sealed Air maintains the Plan for eligible active, union and non-union employees as well as retirees. Under the Plan, Sealed Air provides Basic, Supplemental and Dependent Life and AD&D coverage. The Plan is currently insured with Zurich. The cost of Basic Life and AD&D coverage is paid by Sealed Air, with employees paying for Supplemental and Dependent coverage.

The official name of the Plan under which the coverages are provided is the Sealed Air Corporation Life, AD&D and LTD Plan. The plan number is 555. The federal employer identification number of Sealed Air, the plan sponsor, is 65-0654331.

### **Changes to the Plan**

Sealed Air recently formulated a plan to utilize Saddle Brook for the reinsurance of benefits and will make improvements to the Plan if the DOL authorization is granted. Zurich will insure the Plan with the new enhanced benefits. However, Zurich will reinsure up to 100% of risks with Saddle Brook. The benefit enhancements are not required as part of a legal proceeding, court order or judgment under state or federal law, but they are required by the DOL in order to receive final authorization for the reinsurance transaction under PTE 96-62. Generally, the DOL requires an "Independent Fiduciary," described below, to, among other things, opine whether these benefit enhancements will provide an immediate and objectively determined benefit to plan participants in the form of increased benefits. The following improvements to the Plan's benefits will become effective within the same year as the implementation of the reinsurance transaction.

Sealed Air will enhance the benefits under the Plan as follows:

- i) **Employee Assistance Program ("EAP"):** Zurich is providing an EAP and work life program. Characteristics of this plan include a broad range of options including:

- a) Basic employee assistance:
    - (i) Intake, assessment and other general counseling services for employees and household members
    - (ii) Counseling service and crisis response services available 24/7/365 toll-free
    - (iii) Up to three counseling sessions per issue
    - (iv) Referral for further treatment, as appropriate
  - b) Work-life services
    - (i) Consultations, assessments and customized referrals to service providers, care giving resources and other services nationwide
    - (ii) Unlimited telephone consultation, including full exploration of care giving issues
    - (iii) Educational materials and guides
    - (iv) 24-hour service availability via a toll free help line
    - (v) Follow-up services and cross referral to other EAP services, when appropriate
  - c) Legal and financial services
    - (i) Face-to-face or telephonic consultations with experienced attorneys; initial 30-minute consultation is free
    - (ii) Access to qualified mediators who can assist with resolving civil matters, family matters, disputes with neighbors or co-workers, and other emotionally charged issues
    - (iii) Consultation with financial professionals; one initial 30-minute telephone consultation available per each separate financial matter at no cost
    - (iv) Identity theft counseling with a highly trained Fraud Resolution Specialist™ who will assist with restoring identity and good credit following an identity theft incident
    - (v) Online access to an array of legal forms, including wills, living wills, powers of attorney, contracts and many more
- ii) **Accelerated Death Benefit:** Sealed Air will enhance the accelerated death benefit that is offered to plan participants. Currently, Sealed Air's plan allows an insured employee who is terminally ill to receive payments under the life insurance policy in advance of his or her death within 6 months of death. The advance allowed may not exceed 90% of the insured's basic life insurance coverage with a maximum of \$500,000. Under the captive arrangement with Zurich, the amount that the insured can received will be increased to 100% of his or her life insurance coverage to a maximum of \$500,000 within 12 months of death.
- i) **Conversion Charges:** When an employee leaves Sealed Air, the conversion charges for guarantee issued life insurance will be lower than the current charges. The table below summarizes the difference in cost for each age bracket:

Age Bracket	Difference
<24	(\$100)
25 – 29	(\$90)
30 – 34	(\$105)
35 – 39	(\$120)
40 – 44	(\$150)
45 – 49	(\$130)
50 – 54	(\$175)
55 – 59	(\$160)
60 – 64	(\$290)
65 – 75	(\$285)
76+	\$100

- iii) **Estate Probating Services:** The estate probing services provides and initial consultation with financial experts/attorneys at no cost. Additionally, there is unlimited access to a legal form database and additional legal/financial consultations will be available at a 25% discount to employees.
- iv) **Wellness Services:** Upon transitioning to Zurich, Sealed Air employees will have access to professional counselors available 24/7 to assist with stress, depression, family issues and health and wellness. Additionally, thousands of articles and other resources on health and wellness and many other topics will be available.
- v) **Funeral Preparation:** Included in Zurich’s coverage are consultation services and referral services following the passing of a loved one.

As stated above, the reinsurance agreement will not affect Plan benefits in any way, as it is simply an internal arrangement between Saddle Brook and Zurich. Zurich will insure the benefits provided to you under the Plan, including the improved benefits, and Sealed Air will continue to bear the cost of the benefits enhancements.

**Independent Fiduciary**

In connection with the application to the DOL, Sealed Air has retained, at its sole expense, Milliman, Inc., (“Milliman”), which provides specialized fiduciary services on behalf of employee benefit plans. Milliman, as the Independent Fiduciary for the Plan, has analyzed the transaction and rendered an opinion that the requirements of subsections (a) through (f) and (h) of the draft requested authorization, attached as Exhibit A, have been complied with. According to Milliman, the annual cost to Sealed Air for the benefit enhancements is likely to be approximately \$400,000.

In addition, Milliman will represent the interests of the Plan, as the Independent Fiduciary at all times with respect to the proposed transaction. Milliman will monitor compliance by the parties with the terms and conditions of the proposed transaction on an on-going basis, and will take whatever action is necessary and appropriate to safeguard the interests of the Plan and its

participants and beneficiaries with respect thereto, and to ensure that the proposed transaction remains in the interest of the Plan and its participants and beneficiaries.

### **Exemption Conditions**

The following is a list of the principal conditions that would be imposed by the DOL authorization (a full version of the proposed exemption is attached as Exhibit A):

(a) Saddle Brook:

- (1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with Sealed Air that is described in Section 3(14)(E) or (G) of ERISA;
  - (2) Is licensed to sell insurance or conduct reinsurance operations in the state of Vermont;
  - (3) Has obtained a Certificate of Authority (or similar document) from the Vermont Department of Financial Regulation, which has neither been revoked nor suspended;
  - (4) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction covered by this exemption; or has undergone a financial examination by the Vermont Department of Financial Regulation within five years prior to the end of the year preceding the year in which such reinsurance transaction has occurred; and
  - (5) Is licensed to conduct reinsurance transactions by the state of Vermont, whose law requires that an actuarial review of reserves be conducted annually by an independent firm of actuaries and reported to the appropriate regulatory authority.
- (b) The Plan will pay no more than adequate consideration for the insurance contracts.
- (c) No commissions will be paid by the Plan with respect to the direct sale of such contracts or the reinsurance thereof.
- (d) In the initial year of every reinsurance contract involving Saddle Brook and Zurich or its successor, there is an immediate and objectively determined benefit to participants and beneficiaries of the Plan in the form of increased benefits, and such benefits continue in all subsequent years of each such contract of reinsurance and in every renewal of each such contract, and will at least approximate the increase in benefits effective in the initial year, as described above.
- (e) In the initial year and in subsequent years of coverage provided by Zurich or its successor, the formula used by Zurich or its successor to calculate premiums will be similar to formulae used by other insurers providing comparable coverage under similar programs. Furthermore, the premium charge calculated in accordance with the formula will be reasonable and will be comparable to the premium charged by the Zurich or its successor and its competitors with the same or a better rating providing the same coverage under comparable programs.
- (f) Zurich or its successor will have a financial strength rating of "A" or better from A. M. Best Company. The reinsurance arrangement between the Zurich or its successor and Saddle

Brook will be indemnity insurance only, (i.e., the Zurich will not be relieved of liability to the Plan should Saddle Brook be unable or unwilling to cover any liability arising from the reinsurance arrangement).

- (g) The Plan retains an independent, qualified fiduciary (the Independent Fiduciary), Milliman or its successor, to analyze the transactions and to render an opinion that the requirements of (a) through (f) and (h) here have been satisfied. If a successor Independent Fiduciary is appointed, there will be no lapse between the resignation or termination of the former Independent Fiduciary and the appointment of the successor. The Independent Fiduciary is not Sealed Air or Saddle Brook, or an affiliate of either entity; and:
- (1) Does not have an ownership interest in Sealed Air, Saddle Brook, or in an affiliate of either;
  - (2) Is not a fiduciary with respect to the Plan prior to its appointment to serve as the Independent Fiduciary;
  - (3) Has acknowledged in writing acceptance of fiduciary responsibility and has agreed not to participate in any decision with respect to any transaction in which it has an interest that might affect its best judgment as a fiduciary;
  - (4) Has appropriate training, experience, and facilities to act on behalf of the Plan regarding the subject transactions in accordance with the fiduciary duties and responsibilities prescribed by ERISA. No organization or individual may serve as an Independent Fiduciary for any fiscal year if the gross income received by such organization or individual (or partnership or corporation of which such individual is an officer, director, or 10 percent or more partner or shareholder) for that fiscal year exceeds two percent (2%) of that organization's or individual's annual gross income from all sources for the prior fiscal year from Sealed Air or Saddle Brook, or from an affiliate of either (including amounts received for services as Independent Fiduciary under any prohibited transaction exemption granted by the Department). In addition, no organization or individual who is an Independent Fiduciary, and no partnership or corporation of which such organization or individual is an officer, director, or 10 percent (10%) or more partner or shareholder, may acquire any property from, sell any property to, or borrow any funds from Sealed Air or Saddle Brook, or from any affiliate of either during the period that such organization or individual serves as an Independent Fiduciary, and continuing for a period of six (6) months after such organization or individual ceases to be the Independent Fiduciary, or negotiates any such transaction during the period that such organization or individual serves as the Independent Fiduciary.
- (h) Participants and beneficiaries in the Plan will receive in subsequent years of every contract of reinsurance involving Saddle Brook and Zurich or its successor no less than the immediate and objectively determined increased benefits such participants and beneficiaries received in the initial year of each such contract involving Saddle Brook and Zurich.
- (i) The Independent Fiduciary will: Monitor the transactions described herein on behalf of the Plan on a continuing basis to ensure such transactions remain in the interest of the Plan; take all appropriate actions to safeguard the interests of the Plan; and enforce compliance with all conditions and obligations imposed on any party dealing with the Plan.

- (j) In connection with the provision to participants in the Plan of the insurance coverage provided by Zurich or its successor, which is reinsured by Saddle Brook, the Independent Fiduciary will review all contracts (and any renewal of such contracts) of the reinsurance of risks and the receipt of premiums therefrom by Saddle Brook and must determine that the requirements of this exemption, and the terms of the increased benefits continue to be satisfied.

### **Substantially-Similar Approved Transactions**

In general, under PTE 96-62, an applicant must identify two substantially similar individual exemptions granted by the Department within the past 60 months, or one individual exemption granted by the Department within the past 120 months and one transaction that has received Final Authorization pursuant to PTE 96-62 within the past 60 months (each an "Authorized Transaction"). The following granted individual exemptions (together, the "Approved Transactions") satisfy this requirement:

- PTE 2014-03 (Intel Corporation, 79 FR 11760, April 10, 2014)
- PTE 2013-06 (The Coca Cola Company and Red Re, Inc., 78 FR 19323, March 29, 2013).

1. PTE 2014-03 (Intel Corporation 79 FR 11760, April 10, 2014).
  - a. This transaction is substantially similar because, as in the proposed Reinsurance Transaction here:
    - i. The transaction involved the reinsurance of risk (including basic and supplemental group term life insurance risk, and in connection with these lines, the accidental death and dismemberment (AD&D) insurance risk) and receipt of premiums connected with the plan by a captive insurer (TAL) that was an affiliate of the plan sponsor (Intel);
    - ii. The plans provided group term life insurance benefits;
    - iii. The fronting insurance carrier (MN Life) was AM Best "A" rated and is an unrelated fronting insurer;
    - iv. The captive was licensed by, regulated by, and in good standing with a state insurance regulator (Hawaii);
    - v. The captive had been audited by an independent public accountant in the prior year or had undergone a financial examination by the division of insurance (HIDOI);
    - vi. The plan paid no more than adequate consideration for the insurance contracts;
    - vii. No commissions were paid by the plan with respect to the direct sale of such contracts or the reinsurance thereof;
    - viii. The transaction provided an immediate and objectively determined benefit to the participants and beneficiaries in the form of increased benefits, including will services, some legacy services, financial counseling services and a significant financial impact to the employer; and
    - ix. The transaction was overseen by an Independent Fiduciary with the authority to review and approve the transaction, and to monitor the

arrangement for compliance with the conditions of the exemption and to ensure the transaction remains in the interest of the plans.

- b. The differences between the proposed Reinsurance Transaction and the Intel exemption are not material because:
  - i. While different states regulate the captive, the regulatory requirements are not materially different;
  - ii. While different fronting insurers are used, their solvency and risk profiles are not materially different;
  - iii. While the specific benefit enhancements may differ slightly, the differences are not material. For example, Sealed Air provides a broad-based employee assistance program with many significant benefits including basic employee assistance with up to three counseling sessions per issue, work-life services, and various legal and financial services; an accelerated death benefit; probate services; lower conversion charges; a wellness program and funeral preparation services, some of which Intel did not offer. The value of the package of enhanced benefits is substantial to the participants and a material expense for the plan sponsor. Further, Intel and Coca-Cola (discussed below) provided different types of enhanced benefits. These differences demonstrate that it is the enhanced benefits package as a whole, rather than the specific component parts, that is material. The differences here, therefore, are not material.

2. PTE 2013-06 (The Coca Cola Company and Red Re, Inc., 78 FR 19323, March 29, 2013).

- a. This transaction is substantially similar because, as in the proposed Reinsurance Transaction here:
  - i. The transaction involved the reinsurance of risk (including basic and supplemental group term life insurance risk, and in connection with these lines, the accidental death and dismemberment (AD&D) insurance risk) and receipt of premiums connected with the plan by a captive insurer (Red Re) that was an affiliate of the plan sponsor (Coca Cola);
  - ii. The plans provided group term life insurance benefits; and in connection with these lines the accidental death and dismemberment (AD&D);
  - iii. The fronting insurance carrier (MetLife) was AM Best "A" rated;
  - iv. The captive was licensed by, regulated by, and in good standing with a state insurance regulator (South Carolina);
  - v. The captive had been audited by an independent public accountant in the prior year;
  - vi. The plan paid no more than adequate consideration for the insurance contracts;
  - vii. No commissions were paid by the plan with respect to the direct sale of such contracts or the reinsurance thereof;
  - viii. The transaction provided an immediate and objectively determined benefit to the participants and beneficiaries in the form of increased benefits; these include will preparation services, some legacy services and a significant financial impact to the employer;



- ix. The transaction was overseen by an Independent Fiduciary with the authority to review and approve the transaction, and to monitor the arrangement for compliance with the conditions of the exemption and to ensure the transaction remains in the interest of the plans.
  
- b) The differences between the Proposed transaction and the Coca-Cola exemption are not material because:
  - i. While different states regulate the captive, the regulatory requirements are not materially different;
  - ii. While different fronting insurers are used, their solvency and risk profiles are not materially different;
  - iii. While the specific benefit enhancements may differ slightly, the differences are not material. For example, Sealed Air provides a broad-based employee assistance program with many significant benefits including basic employee assistance with up to three counseling sessions per issue, work-life services, and various legal and financial services (as described above); an accelerated death benefit, probate services, lower conversion charges, a wellness program and funeral preparation services, some of which Coca-Cola did not offer. The value of the package of enhanced benefits is substantial to the participants and a material expense for the plan sponsor. Further, Intel (discussed above) and Coca-Cola provided different types of enhanced benefits. These differences demonstrate that it is the enhanced benefits package as a whole, rather than the specific component parts, that is material. The differences here, therefore, are not material.

You can find descriptions of these other transactions in the Federal Register as PTE 2014-03 (Intel Corporation, 79 FR 11760, April 10, 2014) and PTE 2013-06 (The Coca Cola Company and Red Re, Inc., 78 FR 19323, March 29, 2013). To summarize, these are substantially similar to the proposed Reinsurance Transaction described herein. In those cases, each respective employer proposed using its captive insurance company to reinsure employee benefits, and agreed to provide improved benefits, retain an Independent Fiduciary, contract only with insurers with an A rating or better with A.M. Best Company or a similar rating agency, and arrange the transaction with the captive as indemnity insurance only. Based on these representations, the DOL granted relief from the prohibited transaction restrictions under sections 406 (a) and (b) of ERISA.

**Your Right to Comment on Tentative Authorization**

As a person who may be affected by the Reinsurance Transaction, you have the right to comment on the tentative authorization during a twenty-five (25) day comment period. Written comments should be sent to:

Office of Exemption Determinations  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Room N-5700  
Washington, D.C. 20210

Attention Scott Ness, Submission No. E-00759

Comments may also be submitted by facsimile to (202) 219-0204 or by e-mail to Ness.Scott@dol.gov.

Furthermore, please direct any questions regarding this notice or the proposed Reinsurance Transaction to Scott Ness at 202-693-8561. Questions regarding your benefits should be directed to Michael Konchan in the HR Department at the Plan Sponsor.

The comment period will close on April 24, 2015. Final Authorization will not occur until the Department reviews all comments received in response to this notice.

## Exhibit A

### Authorization

The restrictions of Section 406(a)(1)(D) and 406(b) of ERISA shall not apply to the reinsurance of risks and the receipt of premiums therefrom by Saddle Brook Insurance Company ("Saddle Brook") in connection with insurance contracts sold by Zurich ("the Fronting Insurance Company") or any successor insurance company which is unrelated to Sealed Air Corporation ("Sealed Air") to provide Life Insurance and Accidental Death & Dismemberment ("AD&D") (collectively, the "Plan") to participants, provided the following conditions are met:

(a) Saddle Brook:

- (1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with Sealed Air that is described in Section 3(14)(E) or (G) of ERISA;
- (2) Is licensed to sell insurance or conduct reinsurance operations in the state of Vermont;
- (3) Has obtained a Certificate of Authority (or similar document) from the Vermont Department of Financial Regulation, which has neither been revoked nor suspended;
- (4) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction covered by this exemption; or has undergone a financial examination by the Vermont Department of Financial Regulation within five years prior to the end of the year preceding the year in which such reinsurance transaction has occurred; and
- (5) Is licensed to conduct reinsurance transactions by the state of Vermont, whose law requires that an actuarial review of reserves be conducted annually by an independent firm of actuaries and reported to the appropriate regulatory authority.

(b) The Plan pays no more than adequate consideration for the insurance contracts;

(c) No commissions are paid by the Plan with respect to the direct sale of such contracts or the reinsurance thereof;

(d) In the initial year of any contract involving Saddle Brook and Zurich or its successor, there is an immediate and objectively determined benefit to the Plan's participants and beneficiaries in the form of increased benefits, and such benefits continue in all subsequent years of each such contract of reinsurance and in every renewal of each such contract, and will at least approximate the increase in benefits effective in the initial year, as described above.

(e) In the initial year and in subsequent years of coverage provided by Zurich or its successor, the formula used by Zurich or its successor to calculate premiums will be similar to formulae used by other insurers providing comparable coverage under similar programs. Furthermore, the premium charge calculated in accordance with the formula will be reasonable and will be comparable to the premium charged by Zurich or its successor and its

competitors with the same or a better rating providing the same coverage under comparable programs.

- (f) Zurich or its successor will have a financial strength rating of ``A'' or better from A. M. Best Company. The reinsurance arrangement between the Zurich or its successor and Saddle Brook will be indemnity insurance only, (i.e., Zurich or its successor will not be relieved of liability to the Plan should Saddle Brook be unable or unwilling to cover any liability arising from the reinsurance arrangement).
- (g) The Plan retains an independent, qualified fiduciary (the Independent Fiduciary), Milliman or its successor, to analyze the transactions and to render an opinion that the requirements of (a) through (f) and (h) herein have been satisfied.
- (h) Participants and beneficiaries in the Plan will receive in subsequent years of every contract of reinsurance involving Saddle Brook and Zurich or its successor no less than the immediate and objectively determined increased benefits such participants and beneficiaries received in the initial year of each such contract involving Saddle Brook and Zurich or its successor.
- (i) The Independent Fiduciary will: Monitor the transactions described herein on behalf of the Plan on a continuing basis to ensure such transactions remain in the interest of the Plan; take all appropriate actions to safeguard the interests of the Plan; and enforce compliance with all conditions and obligations imposed on any party dealing with the Plan.
- (j) In connection with the provision to participants in the Plan of the insurance coverage provided by Zurich or its successor, which is reinsured by Saddle Brook, the Independent Fiduciary will review all contracts (and any renewal of such contracts) of the reinsurance of risks and the receipt of premiums therefrom by Saddle Brook and must determine that the requirements of this exemption, and the terms of the increased benefits continue to be satisfied.

Definitions:

- (a) The term ``affiliate'' of a person includes any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;
- (b) The term ``control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.
- (c) The term ``Independent Fiduciary'' describes a person, or a successor to such person, who is not Sealed Air or Saddle Brook or an affiliate of either entity; and:
  - (1) Does not have an ownership interest in Sealed Air, Saddle Brook, or in an affiliate of either;
  - (2) Is not a fiduciary with respect to the Plans prior to its appointment to serve as the Independent Fiduciary;
  - (3) Has acknowledged in writing acceptance of fiduciary responsibility and has agreed not to participate in any decision with respect to any transaction in which it has an interest that might affect its best judgment as a fiduciary; and

- (4) Has appropriate training, experience, and facilities to act on behalf of the Plans regarding the subject transactions in accordance with the fiduciary duties and responsibilities prescribed by ERISA. For the purposes of this definition of an “Independent Fiduciary,” no organization or individual may serve as an Independent Fiduciary for any fiscal year if the gross income received by such organization or individual (or partnership or corporation of which such individual is an officer, director, or 10 percent or more partner or shareholder) for that fiscal year exceeds two percent (2%) of that organization's or individual's annual gross income from all sources for the prior fiscal year from Sealed Air or Saddle Brook, or from an affiliate of either (including amounts received for services as Independent Fiduciary under any prohibited transaction exemption granted by the Department). In addition, no organization or individual who is an Independent Fiduciary, and no partnership or corporation of which such organization or individual is an officer, director, or 10 percent (10%) or more partner or shareholder, may acquire any property from, sell any property to, or borrow any funds from Sealed Air or Saddle Brook, or from any affiliate of either during the period that such organization or individual serves as an Independent Fiduciary, and continuing for a period of six (6) months after such organization or individual ceases to be the Independent Fiduciary, or negotiates any such transaction during the period that such organization or individual serves as the Independent Fiduciary.
- (5) In the event a successor Independent Fiduciary is appointed to represent the interests of the Plan with respect to the Reinsurance Transaction, there may be no lapse in time between the resignation or termination of the former Independent Fiduciary and the appointment of the successor Independent Fiduciary.