minimum purchase price for the Property. The commenter believes that a reappraisal of the Property should be required before the exemption is granted.

The Trustee responds that the Property will be reappraised prior to final determination of the purchase price, as described in the Summary. The Trustee and the representatives of WANC Leasing Company (WANC) have agreed that as part of the sale transaction the Property is to be reappraised by both C. David Matthews and William R. Bartlett II, and if the mean of the two reappraisals is higher than $8,555,000 the purchase price will be increased to such higher mean. As part of the application for the proposed exemption, the Trustee explained that the agreement with respect to the purchase price for the Property resulted from arm's-length negotiations between the Trustee and WANC over a two-month period.

(2) The commenter states that a recently-approved casino river boat project will affect values of real estate in downtown Evansville in ways which should be taken into consideration in establishing the purchase price of the Property.

The Trustee again notes that the Property will be reappraised by Matthews and Bartlett prior to final determination of the purchase price. The Trustee states that any increase in the Property's value attributable to the casino river boat project will be reflected in the reappraisals. The Trustee further maintains, however, that its own investigation into the matter indicates that the site of the river boat development, in the southwest corner of downtown, is too far from the Property's location, in the northeast section of downtown, to affect the value of the Property.

(3) The commenter, referring to the Summary's description of WANC as a partnership with 65 general partners, states that the actual number of general partners is in excess of 65.

The Trustee responds that the comment is correct and that the actual number of general partners is 80.

After careful consideration of the entire record, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

The Neiman Marcus Group, Inc., Employee Savings Plan (the Plan), Located in Chestnut Hill, Massachusetts; Exemption

[Prohibited Transaction Exemption 95–44; Exemption Application No. D–09917]

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) Loans to the Plan (the Loans) by The Neiman Marcus Group, Inc., the sponsor of the Plan, with respect to guaranteed investment contract number 62638 (the GIC) issued by Confederation Life Insurance Company (Confederation Life); and (2) the Plan's potential repayment of the Loans (the Repayments); provided that the following conditions are satisfied:

(A) No interest and/or expenses are paid by the Plan;

(B) The Loans are made in lieu of amounts due the Plan under the terms of the GIC;

(C) The Repayments are restricted to cash proceeds paid to the Plan by Confederation Life and/or any state guaranty association or other responsible third party making payment with respect to the GIC (the GIC Proceeds), and no other Plan assets are used to make the Repayments; and

(D) The Repayments will be waived to the extent the Loans exceed the GIC Proceeds.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on April 14, 1995 at 60 FR 1909.

WRITTEN COMMENTS: The Department received one written comment and no requests for a hearing. The comment was submitted by a Plan participant who expressed support for the proposed exemption. After consideration of the entire record, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 2nd day of June, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–13911 Filed 6–6–95; 8:45 am]

BILLING CODE 4510–29–P

[Application No. D–09909, et al.]

Proposed Exemptions; Phillips Petroleum Company

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone

number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Phillips Petroleum Company (Phillips), Located in Bartlesville, OK; Proposed Exemption

[Application No. D–09909]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) The proposed making of interest-free loans to the Thrift Plan of Phillips Petroleum Company (the Plan) by Phillips, the Plan sponsor pursuant to the terms of a credit facility arrangement; and (2) the proposed repayment of such loans by the Plan to Phillips.

This proposed exemption is conditioned on the following requirements:

(a) Each loan executed under the proposed credit facility arrangement provides short-term funds to the Plan in connection with inter-fund transfers, withdrawals and participant loans and permits the orderly disposal of Phillips common stock.

(b) Each loan made under the proposed credit facility arrangement is unsecured and no interest, commissions or expenses are paid by the Plan.

(c) In the event of a loan default or delinquency, Phillips has no recourse against the Plan.

(d) Each loan is initiated, accounted for and administered by an independent fiduciary who monitors the terms and conditions of the exemption, if granted.

Summary of Facts and Representations

1. Phillips, which maintains its principal place of business in Bartlesville, Oklahoma, was incorporated in the State of Delaware on June 13, 1917. Phillips is engaged in various business activities ranging from worldwide petroleum exploration and production to the production and distribution of chemicals. Phillips is also a leader in research and development and it holds 3,400 patents in technology that support company business lines. As of December 31, 1993, Phillips had assets of approximately $10.9 billion, liabilities of approximately $7.8 billion, annual revenues totaling $12.5 billion and net income of $243 million. As of September 30, 1994, Phillips had 74,300 shareholders and 18,796 employees.

2. The Plan, of which Phillips is the sponsor, is a defined contribution plan having 15,394 participants and total assets of $1.27 billion as of May 16, 1994. The trustee of the Plan (the Trustee) is Bankers Trust Company of New York, New York.

3. The Plan permits participants to direct the investment of their account balances among several investment funds (the Funds) and to receive participant loans from their accounts. Generally, any regular employee on the payroll of Phillips is eligible to participate in the Plan except non-managerial retail outlet marketing employees. Plan participants may have up to 15 percent of their pay deposited in the Plan each month. The first 5 percent is designated as regular deposits with any excess being designated as supplemental deposits. Deposits may be further designated by a participant as ''before-tax'' or ''after-tax'' deposits. Before-tax deposits represent participant contributions made pursuant to an election by the participant under section 401(k) of the Code to have his or her salary reduced in exchange for the contribution. Before-tax deposits are participant contributions to the Plan that are made from participant earnings prior to the payment of Federal or state taxes. After-tax deposits are Plan contributions made by a participant from the participant's pay after Federal and state taxes have been paid. Plan participants are allowed to change their investment directions and deposit rates only during designated enrollment periods.

4. Employee deposits are placed in a special investment fund called the ''Temporary Investment Fund.'' The deposits are initially invested in certain short-term securities for up to 45 days after receipt by the Trustee. Then, the deposits and earnings thereon are paid into four other Funds, namely, Funds A, B, E or F as directed by the participant, and invested as follows:

a. In Fund A, a commingled trust government/corporate bond index fund held by Wells Fargo Institutional Trust Company.

b. In Fund B which holds Phillips common stock.

c. In Fund E, a Standard and Poor's equity index commingled fund held by the Trustee.

d. In Fund F, a commingled money market fund managed by the Trustee.[1]

[1] The applicant represents that investments by the Plan in Fund E and Fund F are covered by and comply with section 408(b)(8) of the Act. However,

Continued

In addition to the above, there are two other Funds that comprise the trust funds. They are Fund C and Fund D. Fund C is composed primarily of Phillips common stock. Fund D, which is closed to new deposits, holds guaranteed investment contracts.

Phillips contributes 25 percent of an employee's regular deposits to Fund B and 15 percent of regular deposits to any of the other investment Funds. The interest of a participant in each Fund is represented by units allocated to such participant.

5. The Plan allows a participant to elect a direct rollover of most distributions to an individual retirement account (the IRA) or to another tax qualified plans. The Plan also provides for participant loans as well as for transfers among certain of the Funds. In this regard, the Plan does not permit transfers to Fund C, Fund D or the Temporary Investment Fund.[2] However, it does allow transfers from these Funds with limited exceptions.[3]

6. Phillips represents that the right to transfer monthly from Fund to Fund and to borrow from the Plan has given participants greater control of their plan investments. Thus, for any valuation date (the Valuation Date) (i.e., the first working day for the Trustee and The New York Stock Exchange following the 14th of each month), participants may elect (to the extent permitted by the Plan) to transfer their account balances from one investment alternative to another, to withdraw funds or to borrow a portion of their account. As of the Valuation Date, Phillips common stock will be valued based on the closing sales prices for such stock. The steps that a participant may undertake in effecting transfers, withdrawals or participant loans are described as follows:

a. Inter-Fund Transfers. In order to transfer assets from one Fund to another, a participant must complete a standard transfer form applicable to all transfers or withdrawals. The transfer form must be delivered to the Plan Administrator by the last business day before the monthly Valuation Date. The transfer will be effective on the next Valuation Date.

b. Withdrawals from Funds. If the participant wishes to withdraw assets from a Fund, the procedure for withdrawal is essentially the same as that to transfer Funds. The participant must complete a withdrawal form and deliver it to the Plan Administrator by the last business day before the monthly Valuation Date. The withdrawal is effective as of the Valuation Date and it is usually paid within two weeks. If the participant intends to have the assets paid to an IRA or a qualified plan, the participant must provide the Plan Administrator with descriptive information concerning such plan or IRA, including the name and address. The participant must also verify that the recipient plan or IRA will accept the direct payment from the Plan.

c. Participant Loans. Assuming the participant requests a participant loan, such participant must be an active employee of Phillips with a vested account in the Plan of $2,000 or more. A participant may have up to two regular loans (any loan except a home loan) and one home loan outstanding at any one time. The maximum amount of any loan is limited to the lesser of: $50,000 less the highest loan balance in the last 12 months (determined as of the previous month's Valuation Date) or 50 percent of the vested account balance less the current outstanding loan balance for all loans, with values determined as of the previous month's Valuation Date. A participant may not apply for a loan if he or she has the maximum number of loans outstanding, has borrowed the maximum amount in the last 12 months or has an outstanding loan that is delinquent. The minimum amount of any single loan is $1,000.[4]

A participant may apply for a participant loan by telephone, then sign a transaction authorization form approved by the Plan Administrator and consent to irrevocable payroll deductions that will provide the amount necessary to repay the loan. Loan applications can be made only by telephone during the first 10 calendar days of each month. Loans will be processed once a month on the applicable Valuation Date. Proceeds will be paid within two to three weeks after the date the loan is processed. Participants may not make a withdrawal on the same Valuation Date that the loan is processed, even if the withdrawal form is submitted first.

7. To effect the aforementioned transfers, withdrawals or participant loans, the Trustee is required to liquidate assets held in the Fund or Funds from which the proceeds are needed. In this regard, the Plan document provides that the Trustee must take reasonable steps to invest deposits received for Funds B and C in Phillips common stock as soon as reasonably possible provided, however, that up to $10 million of cash equivalent investments may be maintained in the Funds to effect transfers, withdrawals and loans on the next regular Valuation Date. The Trustee must take reasonable steps to effect transfers, withdrawals or participant loans from Funds B and C[5] within 5 business days (on which both the Trustee and The New York Stock Exchange are in business) following the appropriate Valuation Date. The Trustee is also required to spread the sales of Phillips common stock that will be used to effect the transfers, withdrawals or participant loans ratably over the remaining trading days before the next regular Valuation Date.[6] However, if the number of shares which are to be sold would result in ratable sales of less than 10,000 shares a day, the Trustee is not required to sell less than 10,000 shares per day.

To the extent that the cash necessary to effect the transfers, withdrawals and participant loans within the 5 day trading period exceeds $10 million, the Trustee is permitted to borrow funds to provide sufficient liquidity to Funds B and C. Expenses and other costs attributable to such borrowings will be allocated to Funds B and C.

8. To bridge the gap between the immediate need for assets to fund transfers, withdrawals or participant loans and the disposal of Phillips common stock, the Trustee entered into a one-year, renewable revolving credit facility arrangement with NationsBank of Dallas, Texas on July 14, 1993. By its terms, the credit facility arrangement initially permitted the Trustee, on behalf of the Plan, to borrow up to $50

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the Department expresses no opinion herein on whether such investments satisfy the terms and conditions of section 408(b)(8) of the Act.

[2] For example, with respect to the Temporary Investment Fund, the applicant represents that its purpose is to hold participant contributions until they are transferred to the elected investment Fund. Due to the short-term nature of this Fund, the applicant explains that participants are not entitled to transfer deposits to the Temporary Investment Fund from any other Fund.

[3] In the case of Fund C, the applicant explains that participants may make a one-time transfer from Fund C after retirement. In the case of Fund D, the applicant represents that a participant may not transfer from Fund D except to transfer upon the expiration of such participant's Class Year (guaranteed investment contract) Account.

[4] The applicant represents that the Plan's participant loan provisions are designed and administered to comply with section 408(b)(1) of the Act and applicable regulations. However, the Department expresses no opinion herein on whether such loans satisfy the terms and conditions of section 408(b)(1) of the Act and the regulations promulgated thereunder.

[5] Although transfers are restricted from Fund C, withdrawals are permitted of vested company contributions. Loans can be taken from Fund C after all of the other Funds have been depleted subject to the loan limitation rules in the Plan.

[6] Although the Department expresses no opinion herein on the requirement that the Trustee spread the sales of Phillips common stock over the remaining trading days before the next regular Valuation Date, it notes that Trustee's decision to spread stock sales should be in the interests of the Plan and consistent with the provisions of section 404 of the Act.

million on a short-term and unsecured basis. Interest is charged on a sliding scale margin above the London Interbank Offered Rate. The Plan is required to repay each loan in cash within 30 days of its making with proceeds from the sale of Phillips common stock. In addition, NationsBank charges the Plan a commitment fee of .10 percent of any unused amount of funds and a margin of .25 percent over NationsBank's actual cost of funds.

The Trustee has drawn upon the credit facility arrangement three times, resulting in loans to the Plan in the following amounts over the following time frames: (a) $3.3 million for 10 days; (b) $850,000 for 12 days; and (c) $10,000 for 8 days. As of March 10, 1995, the Plan had repaid all principal for the loans, including interest and expenses totaling $94,144. Although the credit facility arrangement was expected to expire in July 1994, it has been extended by NationsBank until July 12, 1995. However, the credit facility amount has been reduced from $50 million to $25 million.

9. The Plan wishes to terminate its credit facility arrangement with NationsBank. Therefore, Phillips requests an administrative exemption from the Department in order that it may provide the Plan with a similar lending arrangement. Phillips represents that it is aware that Prohibited Transaction Exemption (PTE) 80–26 (45 FR 28545, April 29, 1980) permits interest-free loans to a plan by a party in interest. In this regard, Phillips notes that PTE 80–26 permits an unsecured loan by a party in interest to a plan for a purpose incidental to the ordinary operation of the plan and for a period not exceeding 3 days. If the loan proceeds are used only for the payment of operating expenses of the plan, including the payment of benefits, Phillips explains that no time limit is imposed under PTE 80–26.

In view of the foregoing, Phillips represents that the extent to which PTE 80–26 would cover the proposed credit facility arrangement is unclear. Phillips believes that the inter-fund transfers and participant loans that would be initially funded by its proposed extension of credit may not be viewed as ordinary operating expenses of the Plan under PTE 80–26. Even if viewed as ordinary operating expenses, Phillips states that it is not clear whether the loans could be repaid within 3 days inasmuch as the Plan documents require the Trustee to spread sales of stock ratably over a Plan month to prevent sales from negatively impacting the market.

10. Under its proposed credit facility arrangement, Phillips will extend an initial line of credit of $25 million. The line of credit may be renewed annually by Phillips and the Plan. Each loan made thereunder will be unsecured and no administrative fees or interest will be charged to the Plan in connection with any of the loans. Each loan will be repaid within 31 days of its making. Funds for repaying the loans will be derived from the Trustee's sale of stock held in Funds B and C. Assets held in the other investment Funds will not be utilized for such repayments. Further, Phillips will have no recourse against the Plan or against any participant in the event of a loan default or delinquency and it will also not charge any late fees.

11. The Trustee will serve on behalf of the Plan as the independent fiduciary and, in such capacity, it will activate and administer the proposed credit facility arrangement. The Trustee represents that it is a leading provider of global financial services and that it has been providing services to employee benefit plans since 1927. As of March 10, 1995, the Trustee represents that it had employee benefit plan assets under management of over $165 billion and serves as a trustee for more than $115 billion in defined contribution plan assets. As of December 31, 1994, the Trustee states that it provided trust/custody services to 575 clients with total assets under administration of approximately $394 billion.

The Trustee represents that it is familiar with the Plan and its investment portfolios since it has access to information regarding Plan assets and can ascertain the extent to which the proposed credit facility arrangement will affect the Plan's investment needs. The Trustee also represents that it is independent of Phillips. In this regard, the Trustee states that during 1994, the fees paid to it by Phillips represented less than one percent of its total fiduciary and funds management revenues.

The Trustee explains that the Plan and its trust document were amended in 1993 to permit the credit facility arrangement with NationsBank. In view of its experience in negotiating and monitoring the NationsBank credit facility on behalf of the Plan, the Trustee states that it is fully familiar with the terms and costs associated with such arrangements. The Trustee points out that it has had to resort to the NationsBank credit facility arrangement on only a small number of occasions in the past 18 months. However, the costs associated with using the facility and assuring its continued availability could be avoided if Phillips were permitted to make similar, short-term extensions of credit to the Plan on an interest-free basis.

Consistent with relevant Plan provisions, the Trustee states that it will be responsible for determining when and how much to borrow and to cause the Plan to repay each loan within a 31 day period. The Trustee represents that it will not receive an additional fee or other compensation from the Plan as the result of the proposed credit facility arrangement between the Phillips and the Plan.

In view of the above, the Trustee concludes that the proposed interest-free loan program is in the best interest of the Plan and its participants and beneficiaries. The Trustee believes that such arrangement will result in cost savings to the Plan and enable the Plan to complete transactions in a timely manner. Further, the Trustee asserts that its ongoing, independent involvement in and oversight of the program will provide protection for the Plan and its participants and beneficiaries.

12. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) Each loan executed under the proposed credit facility arrangement will provide short-term funds to the Plan in connection with inter-fund transfers, withdrawals and participant loans and it will permit the orderly disposal of Phillips common stock.

(b) Each loan made under the proposed credit facility arrangement will be unsecured and no interest, commissions or expenses will be paid by the Plan.

(c) In the event of a loan default or delinquency, Phillips will have no recourse against the Plan.

(d) Each loan will be initiated, accounted for and administered by the Trustee, which will also monitor the terms and conditions of the exemption, if granted.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Universal Underwriters Group Thrift Plan (the Plan), Located in Overland Park, Kansas; Proposed Exemption

[Application No. D–09947]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If

the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the proposed extensions of credit (the Loans) to the Plan from Universal Underwriters Insurance Company (the Employer), with respect to a guaranteed investment contract (the GIC) issued by Confederation Life Insurance Company (Confederation); (2) the Plan's potential repayment of the Loans upon the receipt by the Plan of payments under the GIC; and (3) the assignment by the Plan to the Employer of all claims or causes of action it may have against the Plan's former GIC placement advisor for recommending that the Plan purchase the GIC; provided the following conditions are satisfied:

(A) All terms and conditions of such transaction are no less favorable to the Plan than those which the Plan could obtain in arm's-length transactions with unrelated parties;

(B) No interest or expenses are paid by the Plan in connection with the proposed transaction;

(C) The Loans will be repaid only out of amounts paid to the Plan by Confederation, its successors, or any other responsible third party;

(D) Repayment of the Loans will be waived to the extent that the Loans exceed GIC proceeds;

(E) A qualified independent fiduciary will represent the interests of the Plan throughout the duration of the proposed transaction; and

(F) The Employer's recovery resulting from a cause of action assigned to the Employer by the Plan will be limited to the amount necessary to pay for litigation expenses and to pay off the Plan's outstanding Loan balance and any excess recovery will be transferred back to the Plan.

Summary of Facts and Representations

1. The Plan is a defined contribution 401(k) plan which provides for individual participant accounts and participant-directed investments. The Plan had approximately 1,100 participants as of December 30, 1993 and $45,924,914.96 in assets as of June 30, 1994. The Plan trustee is United Missouri Bank, N.A. (UMB), located in Kansas City, Missouri. The Employer is a Missouri corporation that provides insurance protection for automobile dealerships and other businesses. Under the terms of the Plan, participants have the option of investing in any of six investment funds, including the Stable Interest Fund, which invests primarily in interest-paying contracts with insurance companies. As of December 31, 1994, the Stable Interest Fund held ten guaranteed investment contracts and several other interest bearing contracts, as well as approximately $74,413 in a deposit account. The GIC, which was issued on February 10, 1994, is part of the Stable Interest Fund. The GIC is a single-deposit non-participating contract which allows the Plan to make benefit-responsive withdrawals to fund benefit payments, investment fund transfers, hardship withdrawals and participant loans (collectively, the Withdrawal Events). The terms of the GIC provide for interest on the $5,500,000 principal amount at a guaranteed interest rate of 6.12% over a period of 61 months. Interest payments are to be made annually to the Plan on April 1 (beginning April 1, 1995), up to the scheduled maturity date of April 1, 1999. As of June 30, 1994, the GIC had an accumulated book value of $5,615,769.50.

2. Confederation is a Canadian corporation doing business in the United States through branches in Michigan and Georgia. The Employer represents that on August 11, 1994, the Canadian insurance regulatory authorities placed Confederation into a liquidation and winding-up process, and on August 12, 1994, the insurance authorities of the State of Michigan commenced legal action to place the U.S. operations of Confederation into a rehabilitation proceeding. As a result of these actions, Confederation suspended interest and maturity payments under the GIC and significantly limited the circumstances under which withdrawals may be obtained from the GIC. The Employer represents that it has established a separate fund to which the portion of the Stable Interest Fund attributable to the GIC has been transferred. This separate fund has been frozen so that no payments for Withdrawal Events are permitted.[7]

3. The Employer proposes to advance interest free loans to the Plan at such times and in such amounts as required to fully realize the interest payments due the Plan under the GIC, but only to the extent that such amounts are not timely paid by or on behalf of Confederation. Consequently, each Loan will be reduced by any amounts actually received by the Plan, with respect to the particular interest payment due, from Confederation or any other party making payment with respect to Confederation's obligations under the GIC. In addition to the Loans required to guarantee interest payments, the Employer is also proposing a final Loan upon the GIC's final maturity date to the extent that Confederation fails to pay the full amount due. The amount of interest accrual and the final maturity payment due will be determined on the basis of the GIC's principal plus interest at the guaranteed rate, less previous withdrawals, as of the date of the Loan.

4. The Loans and their repayments will be made pursuant to a written agreement (the Loan Agreement) between the Plan and the Employer. The Plan and the Employer will also enter into a separate agreement (the Assignment Agreement) under which the Plan will agree to assign to the Employer any and all claims or causes of action it may have as holder of the GIC against the Plan's former GIC placement adviser, Buck Pension Fund Services, Inc. and its employees, agents, and related entities (collectively referred to as Buck). The Employer's recovery under the Assignment Agreement will be limited to the amount necessary to pay for litigation expenses and to pay off the Plan's outstanding Loan balance. If, pursuant to a cause of action assigned by the Plan, the Employer recovers from Buck an amount exceeding such litigation expenses and the outstanding Loan balance, the excess recovery will be transferred back to the Plan.

5. UMB (see section 1—above) has agreed to serve as independent fiduciary on behalf of the Plan throughout the duration of the transaction. UMB has acknowledged its duties, responsibilities and liabilities in acting as a fiduciary with respect to the proposed transaction. UMB represents that the Employee Benefit Division of its Trust Department has extensive experience as a provider of services to employee benefit plans. UMB maintains that less than 1% of its business is associated with the Employer. As independent fiduciary, UMB has concluded that the proposed transaction is in the best interests of, and protective of, the rights of the Plan's participants and beneficiaries. In this regard, UMB represents that the Loan Agreement will ensure that the Plan suffers no investment loss from its investment in the GIC, will make it possible for Plan Participants to gain access to their funds which have been frozen, and will allow the Plan to reinvest the funds that were previously invested in the GIC. In addition, UMB represents that the proposed transaction is protective of the

[7] The Department notes that the decisions to acquire and hold the GIC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GIC issued by Confederation.

Plan in that it provides the Plan with the cash it needs to fund Withdrawal Events and permits the Employer to pursue any claims that the Plan may have against the Plan's former GIC placement advisor. UMB represents that, under this arrangement, the Employer, not the Plan bears the risk of an uncertain recovery on a claim that would be expensive and time consuming for the Plan to pursue. If the Employer does bring any claim or cause of action against Buck, UMB has agreed to monitor the division of any recovery obtained in such litigation to assure that the Plan receives the portion to which it is entitled.

6. The Employer represents that it wishes to enter into the proposed transaction in order to protect the Plan participants from the effects of a prolonged rehabilitation process and from any potential loss resulting from Confederation's inability to meet its obligations under the GIC. In this regard, the Employer represents that the proposed transaction would ensure the availability of benefits equivalent to those anticipated by participants prior to the failure of Confederation, at no additional cost to participants. In addition, the Employer represents that the Loans will contribute to the Plan's ability to fund Withdrawal Events. The Employer also represents that the Loans will be non-interest-bearing and the Plan will not incur any expenses in connection with the proposed transaction.

7. Repayment of the Loans under the Agreement is limited to payments made to the Plan by or on behalf of Confederation, or its successor, or any other responsible third parties. No other assets of the Plan will be available for repayment of the Loans. If the payments by or on behalf of Confederation are not sufficient to fully repay the Loans, the Loan Agreement provides that the Employer will have no recourse against the Plan, or against any participants or beneficiaries of the Plan, for the unpaid amount. To the extent the Plan receives GIC proceeds in excess of the total amount of the Loans, such additional amounts will be retained by the Plan and allocated among the accounts of the Plan's participants.

8. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The transaction will preserve the Plan's ability to timely fund participants' benefits; (2) The transaction will preserve any cause of action that may exist against the Plan's GIC placement advisor; (3) The Plan will not incur any expenses with respect to the transaction; (4) Repayment of the Loans will be made only from amounts paid to the Plan by Confederation, its successor, or any other third party; (5) If the payments by or on behalf of Confederation are not sufficient to fully repay the Loans, the Employer will have no recourse against the Plan, or against any participants or beneficiaries of the Plan, for the unpaid amount; and (6) Repayment of the Loans will be waived with respect to the amount by which the Loans exceed the amount the Plan receives from GIC proceeds.

FOR FURTHER INFORMATION CONTACT: Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

BlackRock Financial Management L.P. (BlackRock), Located in New York, New York; Proposed Exemption

[Application No. D–09963]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a)(1)(A) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) of the Code, shall not apply to the proposed cross-trading of equity or debt securities between various accounts managed by BlackRock (the Accounts) where at least one Account involved in any cross-trade is an employee benefit plan account (Plan Account) for which BlackRock acts as a fiduciary.

Conditions and Definitions

This proposed exemption is subject to the following conditions:

1. (a) A Plan's participation in the cross-trade program is subject to a written authorization executed in advance by a fiduciary with respect to each such Plan, the fiduciary of which is independent of BlackRock;

(b) The authorization referred to in paragraph (a) is terminable at will without penalty to such Plan, upon receipt by BlackRock of written notice of termination; and

(c) Before an authorization is made, the authorizing Plan fiduciary must be furnished with any reasonably available information necessary for the authorizing fiduciary to determine whether the authorization should be made, including (but not limited to) a copy of this exemption (if granted), an explanation of how the authorization may be terminated, a description of BlackRock's cross-trade practices, and any other reasonably available information regarding the matter that the authorizing fiduciary requests.

2. (a) No more than three (3) business days prior to the execution of any cross-trade transaction, BlackRock must inform an independent fiduciary of each Plan involved in the cross-trade transaction: (i) That BlackRock proposes to buy or sell specified securities in a cross-trade transaction if an appropriate opportunity is available; (ii) the current trading price for such securities; and (iii) the total number of shares to be acquired or sold by each such Plan;

(b) Prior to each cross-trade transaction, the transaction must be authorized either orally or in writing by the independent fiduciary of each Plan involved in the cross-trade transaction;

(c) If a cross-trade transaction is authorized orally by an independent fiduciary, BlackRock will provide written confirmation of such authorization in a manner reasonably calculated to be received by such independent fiduciary within one (1) business day from the date of such authorization;

(d) The authorization referred to in this paragraph (2) will be effective for a period of three (3) business days; and

(e) No more than ten (10) days after the completion of a cross-trade transaction, the independent fiduciary authorizing the cross-trade transaction must be provided a written confirmation of the transaction and the price at which the transaction was executed.

3. (a) Each cross-trade transaction is effected at the current market value for the security on the date of the transaction, which shall be, for equity securities, the closing price for the security on the date of the transaction, and for debt securities, the fair market value for the security as determined in accordance with paragraph (b) of Rule 17a–7 issued by the Securities and Exchange Commission (SEC) under the Investment Company Act of 1940 (the 1940 Act);

(b) The cross-trade transaction is effected at a price that: (1) In the case of any equity security, is within 10 percent of the closing price for the security on the day before the date on which BlackRock receives authorization from the independent Plan fiduciary to engage in the cross-trade transaction; and (2) in the case of any debt security, is within 10 percent of the fair market value of the security on the last valuation date preceding the date on which BlackRock receives authorization by the independent Plan fiduciary to engage in the cross-trade transaction as

determined in accordance with SEC Rule 17a–7(b) of the 1940 Act;

(c) The securities involved in the cross-trade transaction are those for which there is a generally recognized market;

(d) The cross-trade transaction is effected only where the trade involves less than five (5) percent of the aggregate average daily trading volume of the securities which are the subject of the transaction for the week immediately preceding the authorization of the transaction. A cross-trade transaction may exceed this limit only by express authorization of independent fiduciaries on behalf of Plans affected by the transaction, prior to the execution of the cross-trade.

4. For all accounts participating in the cross-trading program, if the number of units of a particular security which any accounts need to sell on a given day is less than the number of units of such security which any accounts need to buy, or vice versa, the direct cross-trade opportunity must be allocated among the buying or selling accounts on a pro rata basis.

5. (a) BlackRock furnishes the authorizing Plan fiduciary at least once every three months, and not later than 45 days following the period to which it relates, a report disclosing: (i) a list of all cross-trade transactions engaged in on behalf of the Plan; and (ii) with respect to each cross-trade transaction, the prices at which the securities involved in the transaction were traded on the date of such transaction; and

(b) The authorizing Plan fiduciary is furnished with a summary of the information required under this paragraph 4(a) at least once per year. The summary must be furnished within 45 days after the end of the period to which it relates, and must contain the following: (i) A description of the total amount of Plan assets involved in cross-trade transactions during the period; (ii) a description of BlackRock's cross-trade practices, if such practices have changed materially during the period covered by the summary; (iii) a statement that the Plan fiduciary's authorization of cross-trade transactions may be terminated upon receipt by BlackRock of the fiduciary's written notice to that effect; and (iv) a statement that the Plan fiduciary's authorization of the cross-trade transactions will continue in effect unless it is terminated.

6. The cross-trade transaction does not involve assets of any Plan established or maintained by BlackRock or any of its affiliates.

7. All Plans that participate in the cross-trade program have total assets of at least $25 million.

8. BlackRock receives no fee or other compensation (other than its agreed upon investment management fee) with respect to any cross-trade transaction.

9. BlackRock is a discretionary investment manager with respect to Plans participating in the cross-trade program.

10. For purposes of this proposed exemption:

(a) *Cross-trade transaction* means a purchase and sale of securities between accounts for which BlackRock or an affiliate is acting as an investment manager;

(b) *Affiliate* means any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with BlackRock;

(c) *Plan Account* means an account holding assets of one or more employee benefit plans that are subject to the Act, for which BlackRock acts as a fiduciary.

Summary of Facts and Representations

1. BlackRock is a Delaware limited partnership with its principal office located in New York City. BlackRock Management Partners L.P. (BMP) is the general partner of BlackRock. The partners of BlackRock and BMP executed an agreement with PNC Bank on February 28, 1995, whereby all of the interests in BlackRock and BMP were sold to a wholly-owned subsidiary of PNC Bank, N.A. In this regard, BlackRock continues to conduct its business in the same manner as it did prior to the sale. BlackRock provides a broad range of financial services to a variety of clients, including corporations, financial institutions, registered investment companies and employee benefit plans. BlackRock serves as investment manager for a substantial number of qualified pension plans and currently has more than $24 billion of assets under management.

2. With respect to the employee benefit plans that will participate in the proposed cross-trading program (the Plans), BlackRock will be acting as a discretionary investment manager. The Plan Accounts maintained by BlackRock are all considered ''managed accounts'' under which BlackRock and the sponsor or other named fiduciary of the underlying Plan have agreed that the investment of the assets in question will be managed actively at the discretion of BlackRock, pursuant to written guidelines as to which types of securities to buy or sell for the account.

Under the investment guidelines for many of the Plan Accounts, BlackRock manages the assets in accordance with investment parameters that are designed to invest the assets in various types of fixed-income securities, such as mortgage-backed securities, U.S. Government securities or corporate debt securities. BlackRock primarily manages such Plan assets using duration management techniques with the performance and composition of the assets for the Plan Account measured against a specified benchmark, such as various Salomon Brothers, Lehman Brothers or Merrill Lynch indices that are selected by the Plan sponsor or other named fiduciary. The duration of the assets held by the Plan Account will be comparable to the portfolio specified by the referenced benchmark. BlackRock states that the objective factors contained in or required by these investment parameters may not be changed or otherwise altered without the prior written approval of the Plan sponsor or other named fiduciary. The types of securities held in these accounts are generally the same for each Plan Account that retains BlackRock for purposes of managing such an account, although the specific mix of securities varies depending on the investment objectives of the particular Plan Account.

3. Securities sales and purchases for Plan Accounts may result from either: (a) The active decision-making by BlackRock's account manager relating to new investments for the Plan Account; or (b) a change in the overall level of investment as a result of investments and withdrawals made to the Plan Account by the Plan sponsor or other named fiduciary requiring a rebalancing of the account with transactions involving the Plan Account's existing securities. Under either of these circumstances, BlackRock's disposition of a particular security for one Plan Account may involve a security that is desirable for another Plan Account, presenting an opportunity to save substantial dealer markups for both the liquidating Plan Account and the acquiring Plan Account. This saving could be effected by a cross-trade transaction, which involves matching BlackRock's sell orders for a particular day with its buy orders for the same day in nondealer transactions.

The execution of such cross-trades between various BlackRock accounts could involve trades between Plan Accounts, or between Plan Accounts and investment companies managed by BlackRock, or between Plan Accounts and private institutional accounts managed by BlackRock. In this regard, because BlackRock has special expertise in fixed-income securities, registered

investment companies and institutional accounts for which BlackRock or an affiliate serves as the investment advisor also hold the same types of securities as the Plan Accounts, although in different combinations based on their particular investment objectives.

4. BlackRock proposes to take advantage of opportunities to eliminate unnecessary third-party dealer markups by cross-trading securities, whenever possible, directly between Plan Accounts or directly between Plan Accounts and other client accounts. BlackRock represents that comparable trades of such securities on the open market between unrelated parties often require dealer markups equal to between one-sixteenth to one percent of the price of the securities for each sale or purchase transaction. BlackRock proposes to execute cross-trade transactions on behalf of the Plan Accounts without charging any commissions or receiving any dealer markups.

5. BlackRock represents that by participating in the cross-trading program, the Plan Accounts will benefit by not incurring the cost, in terms of price, of dealing with a person or firm acting as ''market-maker'' for the particular security involved in the cross-trade transaction. This cost is generally measured by the spread between the bid and offer prices for the security which would be paid to the market-maker. The Plan Accounts will also benefit under the cross-trading program by avoiding false pricing differentials that result in transactions with a market-maker where the securities in question are traded in odd-lot sizes. For example, in the case of debt securities, BlackRock states that both buyer and seller will benefit by cross-trading because the securities involved will be priced either by reference to the last sale price for the securities on the date of the transaction or, if no transactions have occurred that day, by averaging the spread between the highest independent bid and lowest independent offer obtained from at least two independent dealers, in accordance with SEC Rule 17a–7(b) of the 1940 Act (see Paragraph 10 below). Thus, in situations where an average of the current bid/offer prices is used, the seller will receive a higher price than the dealers' bid price and the buyer will pay a lower price than the dealers' offer price, which would not, in all instances, be the case in an open market transaction or a transaction directly with a dealer. BlackRock states further that where trading of a particular debt or equity security is ''thin'' (i.e. limited number of securities available) or round lots are not available, participation in the cross- trading program may enable the Plan Accounts to obtain early opportunities to acquire or sell such securities at favorable prices. Therefore, by participating in the cross-trading program, BlackRock represents that the Plan Accounts will incur substantially lower expenses for the particular transactions and will be better able to effect purchase and sale transactions.

6. BlackRock makes decisions regarding which securities to purchase or sell for client accounts considering all of the relevant facts and circumstances, including the composition of the portfolios and the liquidity requirements of the accounts. BlackRock states that such decisions will not be influenced by the fact that an opportunity for a cross-trade may be available. In this regard, BlackRock represents that the matching of sale and purchase orders for its accounts on any particular day will be largely automatic.

With respect to the allocation of cross-trade opportunities among various accounts, including the Plan Accounts, BlackRock proposes to use a non-discretionary pro-rata allocation system. For example, if the number of units of a particular security that any accounts need to sell on a given day is less than the number of units of such security which other accounts need to buy on that date, the cross-trade opportunity would be allocated among the buying accounts on a pro-rata basis. The same procedure would apply where the number of units of a particular security to be sold by various accounts is more than the number of units of such security which other accounts need to buy on that date, so that in such instances the cross-trade opportunity would be allocated among the selling accounts on a pro-rata basis. Thus, all accounts participating in BlackRock's cross-trading program, including the Plan Accounts, will have opportunities to participate on a proportional basis in cross-trade transactions during the operation of the program. BlackRock represents that this aspect of the cross-trading program will be part of the information disclosed in writing to the fiduciaries of the Plan Accounts prior to their authorization for participation in the program (as discussed further below).

7. Under the requested exemption, only Plans with at least $25 million in total assets will be eligible to participate in the cross-trading program. A Plan fiduciary that is independent of BlackRock must provide written authorization allowing the Plan's participation in the program before any specific cross-trade transactions can be executed for such Plan. This authorization will be terminable at will upon written notice by the appropriate independent Plan fiduciary. BlackRock will receive no fee or other compensation (other than its agreed upon investment management fee) with respect to any cross-trade transaction. Thus, a Plan will not pay any separate fees to BlackRock for cross-trading services. No penalty or other charge will be made as a result of the termination of a Plan's participation in the cross-trading program. In addition, before any authorization is made by a Plan for participation in the cross-trading program, BlackRock must provide the authorizing Plan fiduciary with all materials necessary to permit an evaluation of the program. These materials will include a copy of the proposed exemption and final exemption, if granted, an explanation of how the authorization may be terminated, a description of BlackRock's cross-trading practices, and any other available information that the authorizing Plan fiduciary may reasonably request.

8. In addition to requiring a general authorization of a Plan's participation in BlackRock's cross-trading program, an independent fiduciary of each Plan must specifically authorize each cross-trade transaction. Any such authorization will be effective only for a period of three (3) business days and will be subject to certain pricing limitations (as discussed below in Paragraph 10). The authorization to proceed with the transaction may be either oral or written. If a cross-trade transaction is authorized orally by an independent fiduciary, BlackRock will provide a written confirmation of such authorization in a manner reasonably calculated to be received by the independent fiduciary within one (1) business day from the date of the authorization. The Plan fiduciary will be sent a written confirmation of the cross-trade, including the price at which it was executed, within ten (10) days of the completion of the transaction.

9. BlackRock will provide the authorizing Plan fiduciary with a report, at least once every three (3) months and not later than forty-five (45) days following the period to which it relates, that sets forth: (a) A list of all the cross-trade transactions conducted on behalf of the Plan Account during the previous period; and (b) with respect to each cross-trade transaction, the prices at which the subject securities were traded on the date of the transaction. Each Plan fiduciary will also be provided with a summary of the quarterly reports, at least once a year and not later than 45 days after the end of the period to which

it relates, that includes: (a) A description of the total amount of Plan assets involved in cross-trade transactions completed during the year; (b) a statement that the Plan fiduciary's authorization to participate in the cross-trading program can be terminated without penalty upon BlackRock's receipt of a written notice to that effect; (c) a statement that the fiduciary's authorization of the Plan's participation in the program will continue unless it is terminated; and (d) a description of any material change in BlackRock's cross-trade practices during the period covered by the summary. These reports will provide the Plan fiduciaries with a mechanism for monitoring the operation of the cross-trade program. The applicant represents that the authorization of each cross-trade will prevent BlackRock from favoring one account at the expense of another in the cross-trade transaction.

10. The securities involved in any cross-trade transaction will be only those for which there is a generally recognized market. BlackRock represents that each cross-trade transaction will be effected at the current market value for the securities on the date of the transaction. For all equity securities, the current market value shall be the closing price for the security on the date of the transaction. For all debt securities, the current market value shall be the fair market value of the security as determined on the date of the transaction in accordance with SEC Rule 17a–7 under the 1940 Act. In this regard, SEC Rule 17a–7(b) contains four possible means of determining ''current market value'' depending on such factors as whether the security is a reported security and whether its principal market is an exchange. This Rule is also applicable to registered investment companies for which BlackRock acts as an investment advisor.

In addition, BlackRock states that each cross-trade transaction will be effected at a price that: (a) In the case of any equity security, is within 10 percent of the closing price for the security on the day before the date on which BlackRock receives authorization from the independent Plan fiduciary to engage in the cross-trade transaction; and (b) in the case of any debt security, is within 10 percent of the fair market value of the security on the last valuation date preceding the date on which BlackRock receives authorization by the independent Plan fiduciary to engage in the cross-trade transaction. This safeguard prevents BlackRock from effecting cross-trades at prices that were not contemplated at the time the independent fiduciary authorized the transaction.

Finally, each cross-trade transaction will be effected only where the trade involves less than five (5) percent of the aggregate average daily trading volume of the securities which are the subject of the transaction for the week immediately preceding the authorization of the transaction. BlackRock states that a particular cross-trade transaction may exceed this limit only by express authorization of independent fiduciaries on behalf of Plans affected by the transaction, prior to the execution of the cross-trade.

11. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because, among other things: (a) An independent Plan fiduciary must provide written authorization, terminable at will and without penalty, for each Plan's participation in the cross-trading program; (b) oral or written authorization must be provided by the independent Plan fiduciary to BlackRock prior to each cross-trade transaction; (c) all cross-trades will be executed at the current market price for the security on the date of the transaction, as determined by an independent third party source; (d) a cross-trade transaction will be effected only if certain price requirements are satisfied; (e) all securities involved in cross-trades will be ones for which there is a generally recognized market; (f) BlackRock will receive no commissions or additional fees as a result of the proposed cross-trades; (g) BlackRock will provide periodic reporting on cross-trade transactions to the participating Plan's independent fiduciary; (h) Plans participating in the cross-trading program will realize savings on their transactions due to the elimination of brokerage commissions, transaction fees and dealer markups; (i) the Plans participating in the cross-trading program will have assets of at least $25 million; and (j) the Plans participating in the cross-trading program will not include any employee benefit plan established or maintained by BlackRock or its affiliates.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 2nd day of June, 1995.

Ivan Strasfeld,

Director of Exemption Determinations Pension and Welfare Benefits Administration, U.S. Department of Labor.

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NATIONAL INSTITUTE FOR LITERACY

Agency Information Collection Activities Under OMB Review

AGENCY: National Institute for Literacy.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that