

Dated at Rockville, Maryland, this 7th day of July 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 95-17295 Filed 7-13-95; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Financial Management; Equipment Capitalization Threshold Waivers for Universities and Non-Profit Organizations (OMB Circulars A-21 and A-122)

AGENCY: Office of Federal Financial Management, OMB.

ACTION: Notice.

SUMMARY: This Notice provides a copy of an Office of Management and Budget (OMB) memorandum to the agencies regarding equipment capitalization threshold waivers under OMB cost principles circulars for universities (OMB Circular A-21, "Cost Principles for Educational Institutions") and non-profit organizations (OMB Circular A-122, "Cost Principles for Non-Profit Organizations").

DATES: The effective date is June 29, 1995.

FOR FURTHER INFORMATION CONTACT: Non-Federal organizations should contact their cognizant Federal agency. Federal agencies should contact the Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, Room 6025 New Executive Office Building, Washington, DC 20503. Telephone (202) 395-3993.

SUPPLEMENTARY INFORMATION: This Notice provides a copy of a July 29, 1995 Office of Management and Budget (OMB) memorandum to the agencies entitled "Equipment Capitalization Threshold Waivers Under OMB Cost Principles Circulars for Universities and Non-Profit Organizations."

Norwood J. Jackson, Jr.,
Acting Controller.

Herein follows the text of the Office of Management and Budget's memorandum to the agencies: June 29, 1995.

Memorandum for the Heads of Executive Departments and Establishments
From: Alice M. Rivlin, Director
Subject: Equipment Capitalization Threshold Waivers under OMB Cost Principles Circulars for Universities and Non-Profit Organizations

This memorandum authorizes Federal agencies with cost negotiation cognizance to

increase the equipment cost threshold for capitalization from \$500 to \$5000 under Office of Management and Budget (OMB) Circulars A-21, "Cost Principles for Educational Institutions," and A-122, "Cost Principles for Non-Profit Organizations." However, this waiver authority does not extend to nonprofit organizations subject to Circular A-122 that are also subject to Cost Accounting Standards 9904.404 and 9904.409.

This waiver authority is provided at the request of the Department of Health and Human Services and the Department of Defense, Office of Naval Research, the major Federal cost cognizant agencies. The increased capitalization thresholds under Circulars A-21 and A-122 provide conformity with Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Non-Profit Organizations," and the agencies' Grants Management Common Rule, all of which have a \$5000 capitalization threshold.

OMB has proposed revising the equipment capitalization threshold under Circular A-21, and is preparing a similar proposal for Circular A-122. However, we do not expect to publish final notices of revised threshold amounts until other issues to be included in the same notices have been resolved. We expect this waiver to reduce the accounting and recordkeeping requirements for many recipients of sponsored agreements and to eliminate any confusion that may result from different capitalization thresholds.

If you have any questions concerning this waiver, please call OMB Deputy Controller, Norwood J. Jackson, Jr., at (202) 395-3993.

[FR Doc. 95-17274 Filed 7-13-95; 8:45 am]

BILLING CODE 3110-01-P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Reclearance of RI 20-001

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for a reclearance of an information collection. RI 20-1, Application for Minimum Annuity, is completed by annuitants to determine if they qualify for minimum annuity under certain provisions of 5 U.S.C. 8345(f).

Approximately 50 RI 20-1s are completed annually. We estimate that it takes 15 minutes to fill out the form. The annual burden is 13 hours.

For copies of this proposal, contact Doris R. Benz on (703) 908-8564.

DATES: Comments on this proposal should be received on or before August 13, 1995.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Service, Operations Support Division, U.S. Office of Personnel Management, 1900 E. Street, NW., Room 3349, Washington, DC 20415

and
Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING

ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Forms Analysis and Design, (202) 606-0623.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95-17279 Filed 7-13-95; 8:45 am]

BILLING CODE 6325-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer who Contributes to a Multiemployer Plan; Associated Wholesale Grocers, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Associated Wholesale Grocers, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Central States Southeast and Southwest Areas Pension Plan. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not result in a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for the five-plan-year period beginning after the sale. The PBGC is authorized to grant individual and class exemptions from this requirement. Before granting an exemption the PBGC is required to give interested persons an opportunity to

comment on the exemption request. The purpose of this notice is to advise interested persons of the exemption request and solicit their views on it.

DATES: Comments must be submitted on or before August 28, 1995.

ADDRESSES: All written comments (at least three copies) should be addressed to: Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street, N.W., Washington, D.C. 20005-4026, or hand-delivered to Suite 340 at the above address between 9 a.m. and 4 p.m., Monday through Friday. The non-confidential portions of the request for an exemption and the comments received will be available for public inspection at the PBGC

Communications and Public Affairs Department, Suite 240, at the above address, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gennice D. Brickhouse, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, N.W., Washington, D.C. 20005-4025; telephone 202-326-4029 (202-326-4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("ERISA" or the "Act"), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years

beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transactions satisfies the other requirements of section 4204(a)(1). Such questions are to be decided by the plan sponsor in the first instance, and any disputes are to be resolved in arbitration. 29 U.S.C. Sections 1382, 1399, 1401.

Under the PBGC's regulation on variances for sales of assets (29 C.F.R. part 2643), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (29 C.F.R. 2643.12-2643.14) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the four regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. section 552(b)(4) (the Freedom of Information Act).

Under section 2643.3 of the regulation, the PBGC shall approve a request for a variance or exemption if it

determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Associated Wholesale Grocers, Inc. (the "Buyer"), for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its purchase of certain assets of Homeland Stores, Inc. (the "Seller"), on April 21, 1995. In support of the request, the Buyer represents among other things that:

1. On February 6, 1995, the Buyer and the Seller entered into an Asset Purchase Agreement for the Buyer to purchase, among other things, assets of the Seller in the form of a distribution center located in Oklahoma City and a number of retail stores located in Oklahoma. The final closing of the transaction occurred on April 21, 1995.

2. Pursuant to a collective bargaining agreement, the Seller contributes to the Central States Southeast and Southwest Areas Pension Fund (the "Plan") for employees at operations subject to the sale.

3. The Buyer is a privately owned cooperative with 300 to 400 members whose principal business is the operation of independent distribution centers. Pursuant to collective bargaining agreements, the Buyer is also a contributing employer under the Plan.

4. On or about April 21, 1995, Buyer and Seller also entered into a Supply Agreement under which the Buyer will supply grocery and other items to the Seller for use in the retail grocery stores that are being retained by the Seller. In addition, the Seller will become a member of the Buyer's cooperative after the sale.

5. It is anticipated that the Buyer will enter into a collective bargaining agreement whereby the Buyer will be required to contribute to the Plan for substantially the same number of contributions base units with respect to employees of the Seller who work at operations subject to the sale.

6. The Supplemental Agreement further provides that the Seller agrees to be secondarily liable for any withdrawal

liability it would have had with respect to the sold operations (if not for section 4204) should the Buyer withdraw from the Plan within the five plan years following the sale and fail to pay withdrawal liability.

7. The estimated amount of the unfunded vested benefits allocated to the Seller with respect to the operations subject to the sale is \$4,282,764.37, and the estimated amount of the unfunded vested benefits allocable to the Buyer with respect to its operations covered under the Plan is \$14,230,560.30.

8. The amount of the bond/escrow that would be required under section 4204(a)(1)(B) of ERISA is approximately \$1,000,000.

9. The Buyer submitted financial statements that show that it meets the net income test described in 29 C.F.R. section 2643.14(a)(1), and the net tangible asset test described in 29 C.F.R. section 2643.14(a)(2)(ii), with respect to the amount of unfunded vested benefits allocable to the operations subject to the sale and its pre-sale operations. The Buyer has requested confidential treatment of these statements on the ground that they are confidential within the meaning of 5 U.S.C. section 552.

10. The Buyer has sent by certified mail, return receipt requested, a complete copy of the request, excluding the agreements between the Seller and Buyer, certain exhibits, financial statements of the Buyer, and certain financial data recited in the request, to the Plan and the collective bargaining representative of the Seller.

Comments

All interested persons are invited to submit written comments on the pending exemption request to the above address.

All comments will be made a part of the record. Comments received, as well as the relevant non-confidential information submitted in support of the request, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 10th day of July, 1995.

Martin Slate,

Executive Director.

[FR Doc. 95-17310 Filed 7-13-95; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35940; File No. SR-DTC-95-07]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Relating to DTC's Short Position Reclamation Procedures

July 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 20, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-95-07) as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through December 31, 1995.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks permanent approval of DTC's existing procedures to recall securities deliveries which have created short positions as a result of call lotteries or rejected deposits. The Commission previously granted temporary approval to proposed rule changes establishing DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries.² The Commission also previously granted temporary approval to expand the procedures to recall securities deliveries which have created short positions as a result of rejected deposits.³

¹ 15 U.S.C. 78s(b)(1) (1988).

² For a complete description and discussion of the procedures designed to eliminate short positions caused by call lotteries, refer to Securities Exchange Act Release Nos. 30552 (April 2, 1992), 57 FR 12352 [File No. SR-DTC-90-02] (order granting temporary approval through April 1, 1994, of DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries) and 35034 (November 30, 1994), 59 FR 63396 [File No. SR-DTC-94-08 SR-DTC-94-09] (order granting temporary approval through May 1, 1995, of DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries and rejected deposits).

³ Securities Exchange Act Release No. 35034.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.⁴

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change seeks permanent approval of procedures that: (1) Enable participants to recall book-entry deliveries of callable securities⁵ if the participant's account became short as a result of deliveries made between the call publication date⁶ and the date of DTC's call lottery⁷ and (2) enable participants to recall securities deliveries which have created short positions as a result of rejected deposits.⁸

Pursuant to DTC's proposal, a participant with a short position created either because of a delivery made between the call publication date and

⁴ The Commission has modified the text of the summaries submitted by DTC.

⁵ Callable securities are either preferred stock or bonds which the issuer is permitted or required to redeem before the stated maturity date at a specified price.

⁶ The call publication date is the date on which the issuer gives notice of redemption.

⁷ DTC has established a lottery process to allocate called securities in a partially called issue among participants having positions in the issue. DTC allocates the called securities among participants that had positions in the issue on the call publication date rather than on the day when the lottery is held. For a description of DTC's lottery processing procedures, refer to Securities Exchange Act Release No. 21523 (November 27, 1984), 49 FR 47352 [File No. SR-DTC-84-09] (notice of filing and immediate effectiveness of proposed rule change).

⁸ Under DTC procedures, a participant depositing securities receives immediate credit in its securities account (*i.e.*, before the certificates are sent to the transfer agent for transfer and registration in DTC's nominee name). Once the participant's account is credited, the securities are available to the depositing participants for deliveries, withdrawals, and pledges. If the transfer agent rejects a deposit after the depositing participant has made a book-entry delivery of the credited securities, elimination of the credit from the participant's account may create a short position. If the securities are rejected by the transfer agent after ninety days of the deposit for registered securities and after nine months for bearer securities, the participant will not be able to recall the book-entry delivery and the participant's account will remain short.