

there were no expenses incurred by the Plans or its participants or beneficiaries from the Offering and the resulting transactions; and (e) if no instructions were received by the Plans trustee, the Rights were sold.

**FOR FURTHER INFORMATION CONTACT:** Mr. C.E. Beaver 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 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 accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the

exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 12th day of February, 1997.

Ivan Strasfeld,

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

[FR Doc. 97-3837 Filed 2-14-97; 8:45 am]

**BILLING CODE 4510-29-P**

#### **[Prohibited Transaction Exemption 97-12; Exemption Application No. D-10014, et al.]**

#### **Grant of Individual Exemptions; Wells Fargo Bank, N.A. (Wells Fargo), et al.**

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, 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 proposed to the Secretary of Labor.

#### Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Wells Fargo Bank, N.A. (Wells Fargo)  
Located in San Francisco, CA

[Prohibited Transaction Exemption (PTE) 97-12; Exemption Application No. D-10014]

#### Exemption

##### *Section I. Covered Transactions*

The restrictions of section 406(a) 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 (D) of the Code, shall not apply, effective October 1, 1995, to the purchase or redemption of shares by an employee benefit plan (the Plan), in certain mutual funds that are either affiliated with Wells Fargo (the Affiliated Funds) or are unaffiliated with Wells Fargo (the Third Party Funds)\*, in connection with the participation by the Plan in the Wells Fargo Portfolio Advisor Program (the Portfolio Advisor Program).

In addition, the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (E) and (F) of the Code, shall not apply, effective October 1, 1995, to the provision, by Wells Fargo, of asset allocation services to an independent fiduciary of a participating Plan (the Independent Fiduciary) or to a participant (the Directing Participant) of a Plan covered under the provisions of section 404(c) of the Act (the Section 404(c) Plan) which may result in the selection of portfolios by the Independent Fiduciary or the Directing Participant in the Portfolio Advisor Program for the investment of Plan assets.

This exemption is subject to the conditions set forth below in Section II.

##### *Section II. General Conditions*

(a) The participation by each Plan in the Portfolio Advisor Program is

\* The Affiliated Funds and the Third Party Funds are collectively referred to herein as the Funds.

approved by an Independent Fiduciary or Directing Participant, in the case of a Section 404(c) Plan, and, with the exception of Wells Fargo master and prototype plans, no Plan investing therein is sponsored or maintained by Wells Fargo and/or its affiliates with respect to their own employees.

(b) As to each Plan, the total fees that are paid to Wells Fargo and its affiliates constitute no more than reasonable compensation for the services provided.

(c) With the exception of distribution-related fees pursuant to Rule 12b-1 (the 12b-1 Fees) of the Investment Company Act of 1940 which are offset, no Plan pays a fee or commission by reason of the acquisition or redemption of shares in the Funds.

(d) The terms of each purchase or redemption of shares in the Funds remain at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

(e) Wells Fargo provides written documentation to each Plan's Independent Fiduciary or Directing Participant of its recommendations or evaluations with respect to the Affiliated Funds or the Third Party Funds based upon objective criteria.

(f) Any recommendation or evaluation made by Wells Fargo to an Independent Fiduciary or Directing Participant is implemented only at the express direction of such Independent Fiduciary or Directing Participant.

(g) The quarterly fee that is paid by a Plan to Wells Fargo and its affiliates for asset allocation and related services (the Outside Fee) rendered to such Plan under the Portfolio Advisor Program is offset by all gross investment management fees (the Advisory Fees) and administrative fees (the Administrative Fees) received from the Affiliated Funds by Wells Fargo, its affiliates, its former affiliates and unrelated parties, including all 12b-1 Fees and Administrative Fees that are paid by the Affiliated Funds to Stephens Inc. and all 12b-1 Fees that Wells Fargo receives from the Third Party Funds, such that the sum of the offset and the net Outside Fee will always equal the Outside Fee and the selection of Affiliated or Third Party Funds will always be revenue-neutral.

(h) With respect to its participation in the Portfolio Advisor Program, prior to purchasing shares in the Affiliated Funds and the Third Party Funds,

(1) Each Independent Fiduciary receives the following written or oral disclosures from Wells Fargo:

(A) A brochure describing the Portfolio Advisor Program; a Portfolio Advisor Program Account Agreement; a

description of the allocation models (the Allocation Models); and a reference guide/disclosure statement providing details about the Portfolio Advisor Program, the fees charged thereunder, the procedures for establishing, making additions to and withdrawing from Portfolio Advisor Program Accounts (the Accounts); and other related information.

(B) A risk tolerance and goal analysis questionnaire (the Questionnaire).

(C) Copies of applicable prospectuses (the Prospectuses) for the Funds discussing the investment objectives of the Funds; the policies employed to achieve these objectives; the corporate affiliation existing between Wells Fargo and its affiliates; the compensation paid to such entities; disclosures relating to rebalancing and reallocating Allocation Models; and information explaining the risks attendant to investing in the Affiliated Funds or the Third Party Funds.

(D) Upon written or oral request to Wells Fargo, a Statement of Additional Information supplementing the applicable Prospectus, which describes the types of securities and other instruments in which the Funds may invest, the investment policies and strategies that the Funds may utilize, including a description of the risks.

(E) A copy of the agreement between the Plan and Wells Fargo relating to such Plan's participation in the Portfolio Advisor Program.

(F) A written recommendation of a specific Allocation Model together with a copy of the Questionnaire and response.

(G) Upon written request to Wells Fargo, a copy of its investment advisory agreement and sub-advisory agreement pertaining to the Affiliated Funds as well as its distribution agreement pertaining to the Third Party Funds.

(H) Copies of the proposed exemption and grant notice describing the exemptive relief provided herein.

(I) Written disclosures of Wells Fargo's affiliation or nonaffiliation with the parties who act as sponsors, distributors, administrators, investment advisers and sub-advisers, custodians and transfer agents of the Third Party Funds and the Affiliated Funds; and

(2) In the case of a Section 404(c) Plan,

(A) Wells Fargo provides each Directing Participant or Independent Fiduciary (for dissemination to the Directing Participant) with copies of the documents described above in paragraphs (h)(1) (A)-(I); and,

(B) In addition to the written disclosures, an explanation will be provided to the Independent Fiduciary,

upon request, by a Wells Fargo representative (the Wells Fargo Representative) regarding the services offered under the Portfolio Advisor Program, including the operation and objectives of the Funds. Such information will be given to either the Independent Fiduciary or the Directing Participant.

(3) If accepted as an investor in the Portfolio Advisor Program, an Independent Fiduciary or Directing Participant is required to acknowledge, in writing, to Wells Fargo, prior to purchasing shares of the Funds that such Independent Fiduciary or Directing Participant has received copies of the documents described in paragraph (h)(1) of this Section II.

(4) With respect to a Title I Plan that does not permit participant-directed investments as contemplated under section 404(c) of the Act, written acknowledgement of the receipt of such documents is provided by the Independent Fiduciary (i.e., the Plan administrator, trustee, investment manager or named fiduciary, as the recordholder of shares of the Funds.) Such Independent Fiduciary will be required to represent in writing to Wells Fargo that such fiduciary is—

(A) Independent of Wells Fargo and its affiliates;

(B) Capable of making independent decisions regarding the investment of Plan assets;

(C) Knowledgeable with respect to the Plan in administrative matters and funding matters related thereto; and

(D) Able to make an informed decision concerning participation in the Portfolio Advisor Program.

(5) With respect to a Section 404(c) Plan or a Plan that is covered under Title II of the Act, the Directing Participant or the Independent Fiduciary is required to acknowledge, in writing, receipt of such documents and represent to Wells Fargo that such individual is—

(A) Independent of Wells Fargo and its affiliates;

(B) Knowledgeable with respect to the Plan in administrative matters and funding matters related thereto; and,

(C) Able to make an informed decision concerning participation in the Portfolio Advisor Program.

(i) Subsequent to its participation in the Portfolio Advisor Program, each Independent Fiduciary receives the following written or oral disclosures from Wells Fargo with respect to ongoing participation in the Portfolio Advisor Program:

(1) Written confirmations of each purchase or redemption transaction involving shares of an Affiliated Fund

or a Third Party Fund (including transactions resulting from the realignment of assets caused by a change in the Allocation Model's investment mix and from periodic rebalancing of Account assets).

(2) Telephone quotations of such Independent Fiduciary's Plan Account balance.

(3) A periodic, but not less frequently than quarterly, statement of Account specifying the net asset value of the Plan's assets in such Account, a summary of purchase, sale and exchange activity and dividends received or reinvested and a summary of cumulative realized gains and/or losses.

(4) Semiannual and annual reports that include financial statements for the Affiliated Funds and the Third Party Funds as well as the fees paid to Wells Fargo and its affiliates.

(5) A quarterly newsletter or other report pertaining to the applicable Allocation Model which describes the Allocation Model's performance during the preceding quarter, market conditions and economic outlook and, if applicable, prospective changes in Affiliated Fund and Third Party Fund allocations for the Allocation Model and the reasons therefor.

(6) At least annually, a written or oral inquiry from Wells Fargo to ascertain whether the information provided on the Questionnaire is still accurate and to determine if such information should be updated.

(7) At least annually, a termination form (the Termination Form) as described below in Section II(l) and (m).

(j) In the case of a Section 404(c) Plan, the Independent Fiduciary will decide whether the information described in

Section II(i) above is to be distributed by Wells Fargo to the Directing Participants of such Plan or whether the Independent Fiduciary will receive this information and then provide it to the Directing Participants.

(k) If authorized in writing by the Independent Fiduciary or Directing Participant, the Plan is automatically rebalanced on a periodic basis by Wells Fargo to the Allocation Model previously prescribed by the Independent Fiduciary or Directing Participant, if one or more Fund allocations deviates from the Allocation Model prescribed by the Independent Fiduciary or Directing Participant.

(l) In rebalancing a Plan,

(1) Wells Fargo is bound by the Allocation Model and is limited in the degree of change that it can make to an Allocation Model's investment mix.

(2) Wells Fargo is authorized to make changes in the mix of asset classes in a Plan Account within a range of 0-15

percent (plus or minus) for Stock and Bond Fund investments and within a range of 0-30 percent (plus or minus) for Money Market Fund investments without obtaining the prior written approval of the Independent Fiduciary or Directing Participant.

(3) Wells Fargo may not change the asset mix outside the authorized limits unless it provides the Independent Fiduciary or Directing Participant with 30 days' advance written notice of the proposed change and gives the Independent Fiduciary or Directing Participant time to elect not to have the change made.

(4) Wells Fargo may not divide a Fund sub-class unless it provides 30 days' advance written notice to the Independent Fiduciary or Directing Participant of the proposed change and gives such individual the opportunity to object to the change.

(5) Wells Fargo may not replace a Third Party Fund with an Affiliated Fund.

(m) Although an Independent Fiduciary or Directing Participant may withdraw from the Portfolio Advisor Program at any time, Wells Fargo will provide such Independent Fiduciary or Directing Participant with the Termination Form, at least annually, but in all cases where Wells Fargo changes the asset mix outside of the current Allocation Model, when a Fund sub-class is to be divided, when Wells Fargo determines that it is in the best interest of the Plan or to use a Third Party Fund instead of an Affiliated Fund and whenever the Outside Fee is increased. Wells Fargo will provide such written notice to the Independent Fiduciary or Directing Participant at least 30 days prior to the implementation of the change.

(n) The instructions for the Termination Form must—

(1) State that the authorization is terminable at will by the Independent Fiduciary or Directing Participant, without penalty to such, upon receipt by Wells Fargo of written notice from the Independent Fiduciary or Directing Participant; and

(2) Explain that any of the proposed changes noted above in paragraph (m) of this Section, will go into effect if the Independent Fiduciary or Directing Participant does not elect to withdraw by the effective date.

(o) Wells Fargo maintains, for a period of six years, the records necessary to enable the persons described in paragraph (p) of this Section II to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Wells Fargo and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than Wells Fargo shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (p) of this Section II below.

(p)(1) Except as provided in section (p)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (o) of this Section II are unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission;

(B) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(p)(2) None of the persons described above in paragraphs (p)(1)(B)-(p)(1)(D) of this paragraph (p) are authorized to examine the trade secrets of Wells Fargo or commercial or financial information which is privileged or confidential.

### Section III. Definitions

For purposes of this exemption:

(a) The term "Wells Fargo" means Wells Fargo Bank, N.A. and any affiliate of Wells Fargo, as defined in paragraph (b) of this Section III.

(b) An "affiliate" of Wells Fargo includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Wells Fargo.

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "Plan or Plans" include Keogh plans (Keogh Plans), cash or

deferred compensation plans (e.g., Plans qualified under section 401(k) of the Code), profit sharing plans, pension and stock bonus plans, individual retirement accounts (IRAs), salary reduction simplified employee pension plans (SARSEPs), simplified employee pension plans (SEP-IRAs), custodial account plans as described in section 403(b) of the Code (Section 403(b) Plans), savings incentive match plans for employees (SIMPLEs), and, in the case of a Section 404(c) Plan, the individual account of a Directing Participant.

(e) The term "Independent Fiduciary" means a Plan fiduciary which is independent of Wells Fargo and its affiliates and is either—

(1) A Plan administrator, trustee, investment manager or named fiduciary, as the recordholder of shares of the Funds of a Section 404(c) Plan;

(2) An individual covered by a Keogh Plan which invests in shares of the Funds;

(3) An individual covered under a self-directed IRA, SEP-IRA or SARSEP, SIMPLE or Section 403(b) Plan which invests in shares of the Funds;

(4) An employee, officer or director of Wells Fargo and/or its affiliates covered by an IRA, a SEP-IRA or a SARSEP not subject to Title I of the Act; or

(5) A Plan administrator, trustee, investment manager or named fiduciary responsible for investment decisions in the case of a Title I Plan that does not permit individual direction as contemplated by Section 404(c) of the Act.

(f) The term "Directing Participant" is a participant in a Plan, such as a Section 404(c) Plan, who is permitted under the terms of the Plan to direct, and who elects to so direct the investment of the assets of his or her account in such Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) on December 3, 1996 at 61 FR 64150.

#### Written Comments

The Department received one written comment with respect to the Notice. The comment was submitted by Wells Fargo and is intended to clarify the Notice in the following areas:

(1) *Inclusion of Master and Prototype Plans in the Portfolio Advisor Program.* Section II(a) of the General Conditions states, in part, that no Plan investing in the Portfolio Advisor Program may be sponsored or maintained by Wells Fargo and/or its affiliates. Wells Fargo wishes to clarify that this exclusion does not preclude the participation in the

Portfolio Advisor Program by a master or prototype Plan sponsored by Wells Fargo and/or its affiliates. Rather, Wells Fargo points out that the exclusion is limited to Plans sponsored by Wells Fargo and its affiliates with respect to their own employees.

(2) *Substitution of Term "Wells Fargo Representative" for "Wells Fargo Personal Financial Officer."* Section II(H)(2)(B) of the General Conditions states that a Wells Fargo Personal Financial Officer (the Personal Financial Officer) will provide an explanation of the services offered under the Portfolio Advisor Program, including the operation and objectives of the Funds to an Independent Fiduciary or the Directing Participant of a Section 404(c) Plan, upon request. Wells Fargo requests that the term "Personal Financial Officer" be deleted and that the term "Wells Fargo Representative" be substituted for that term because the title "Personal Financial Officer" has been changed. In addition, Wells Fargo requests that the term "Wells Fargo Representative" be substituted throughout the Notice, particularly at pages 64155 and 64157.

(3) *Distribution of the Termination Form.* Section II(m) of the General Conditions requires, in part, that Wells Fargo provide an Independent Fiduciary or a Directing Participant with a Termination Form, at least annually, during the first quarter of each calendar year. Wells Fargo requests that this condition be revised to require annual distribution of the Termination Form without any requirement that the Termination Form be delivered during the first calendar quarter of each year. Wells Fargo states that the condition would then be consistent with Representation 27 of the Notice which contains no reference to distribution of the Termination Form within the first quarter of each calendar year.

(4) *Definition of the Term "Plan or Plans."* Section III(d) of the Definitions covers the types of Plans that may invest in the Portfolio Advisor Program. Wells Fargo requests that the term include Section 403(b) Plans as well as SIMPLEs. In addition, Wells Fargo wishes to clarify that the term "cash or deferred compensation plans" includes Plans qualified under Section 401(k) of the Code.

(5) *Acronym for Wells Fargo Institutional Trust Company N.A. (WFITC).* In Representations 3 and 7 of the Summary of Facts and Representations of the Notice, Wells Fargo notes that the letters "I" and "T" of the acronym "WFITC" have been transposed and should read "WFITC" instead of "WFTIC."

(6) *Description of the Portfolio Advisor Program.* The first sentence of Footnote 9 of the Summary of Facts and Representations of the Notice states that for any Allocation Model, not more than 30 percent of an investor's assets can be placed in the Money Market Funds. Wells Fargo points out that this sentence is only applicable to the sample Allocation Model shown in Table 4 of the Notice but it is inapplicable to other Allocation Models which may hold more than 30 percent of their assets in Money Market Funds. Accordingly, Wells Fargo requests that this sentence be deleted and states that the remaining text is accurate.

Thus, after giving full consideration to the entire record, including the written comment, the Department has made the aforementioned changes to the Notice. In addition, the Department has decided to grant the exemption subject to the modifications or clarifications described above. The comment letter has been included as part of the public record of the exemption application. The complete application file, as well as all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N-5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

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

GE Capital Investment Advisors, Inc.  
Located in New York, New York

[Prohibited Transaction Exemption 97-13;  
Exemption Application No. D-10318]

#### Exemption

GE Capital Investment Advisors, Inc. (GECIA) and GECIA Holdings, Inc. (Holdings) shall not be precluded from functioning as a "qualified professional asset manager" pursuant to Prohibited Transaction Class Exemption 84-14 (PTE 84-14, 49 FR 9494, March 13, 1984) solely because of a failure to satisfy section I(g) of PTE 84-14, as a result of General Electric Company's ownership interest in them, including any of their subsidiaries or successors which provides investment advisory, management or related services and is registered under the Securities and Exchange Act of 1934, as amended, or the Investment Advisors Act of 1940, as amended; provided the following conditions are satisfied:

(A) This exemption is not applicable to any affiliation by GECIA or Holdings with any person or entity convicted of

any of the felonies described in part I(g) of PTE 84-14, other than General Electric Company; and

(B) This exemption is not applicable with respect to any convictions of General Electric Company for felonies described in part I(g) of PTE 84-14 other than those involved in the G.E. Felonies, described in the Notice of Proposed Exemption.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on November 25, 1996 at 61 FR 59912.

**EFFECTIVE DATE:** This exemption is effective as of January 29, 1996.

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

Givens 401(k) Savings and Retirement Plan (the Plan) Located in Chesapeake, VA

[Prohibited Transaction Exemption 97-14; Exemption Application No. D-10364]

#### Exemption

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 the purchase from the Plan of the Plan's interest in a group annuity contract (the GAC Interest) by Givens, Incorporated, a sponsor of the Plan; provided the following conditions are satisfied:

(a) The sale is a one-time transaction for cash;

(b) The Plan suffers no loss nor incurs any expense in connection with the sale; and

(c) The Plan receives a purchase price of no less than the fair market value of the GAC Interest as of the date of the sale.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on December 17, 1996 at 61 FR 66331.

**FOR FURTHER INFORMATION CONTACT:** Mr. 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 are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 12th day of February, 1997.

Ivan Strasfeld,

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

[FR Doc. 97-3838 Filed 2-14-97; 8:45 am]

BILLING CODE 4510-29-P

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### NATIONAL CAPITAL PLANNING COMMISSION

**Environmental Impact Statement; Public Meeting; Availability Washington, D.C. Convention Center, Construction and Operation**

**AGENCY:** National Capital Planning Commission.

**SUMMARY:** The National Capital Planning Commission (Commission) announces the availability of a Draft Environmental Impact Statement (DEIS) prepared by the Commission and the District of

Columbia Government as part of the requirements for Commission consideration of a proposed Urban Renewal Plan modification and site and building plans for the proposed construction and operation of a Convention Center in Downtown Washington, D.C. The DEIS analyzes impacts on land use, the environment, transportation and historic and cultural resources as well as socio-economic impacts of three proposed alternatives. These alternatives include: (1) The Mount Vernon Square site (bounded by K, 7th, 9th and N Streets, NW.); (2) Northeast No. 1 (generally between First Street, NE. and the railroad track); and (3) a No Action Alternative which would result in no new construction.

In addition, a public meeting will be held to elicit public comments on the DEIS prior to the issuance of a final EIS. That meeting will also serve as part of the public consultation process required by the National Historic Preservation Act.

**DATES:** The public meeting will be held on Tuesday, March 18, 1997 at the D.C. Convention Center at 900 9th St. NW., beginning at 7:30 p.m. Parties interested in speaking at that time, should contact the Commission at (202) 482-7200. Speakers will be recognized in the order that they call. In addition, individuals may sign up to speak at the door.

All written comments on issues regarding the environmental review of the proposed Convention Center must be postmarked by March 31, 1997 and sent to the National Capital Planning Commission, 801 Pennsylvania Avenue, NW., Suite 301, Washington, D.C. 20576. Attention: Maurice Foushee, Community Planner, Phone (202) 482-7240.

**FOR FURTHER INFORMATION CONTACT:** Please contact Ms. Sandra H. Shapiro, General Counsel at (202) 482-7223. Sandra H. Shapiro, General Counsel, National Capital Planning Commission.

[FR Doc. 97-3822 Filed 2-14-97; 8:45 am]

BILLING CODE 7502-02-M

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### NUCLEAR REGULATORY COMMISSION

[Docket No. 40-3453-MLA; ASLBP No. 97-723-02-MLA]

**Atlas Corporation; Designation of Presiding Officer**

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 F.R. 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and