

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 14th day of December, 1999.

**Ivan Strasfeld,**

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

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99-47;  
Exemption Application No. D-10688, et al.]

#### Grant of Individual Exemptions; Bankers Trust Co., (BTC), 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, DC. 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.

#### Bankers Trust Company (BTC) Located in New York, New York

[Prohibited Transaction Exemption 99-47;  
Exemption Application Nos. D-10688  
through D-10691]

#### Exemption

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 to the execution by certain employee benefit plans (the Plans) investing in Transwestern Office Partners II, L.P. (the LP) of a partner agreement and estoppel (the Estoppel) under which the Plans agree to honor capital calls made to the Plans by BTC as the representative of certain lenders (the Lenders) that will fund a so-called "credit facility" providing credit to the LP in connection with the Plans' capital commitments to the LP where the LP has granted to BTC security interests in the capital commitments, and where the Lenders are parties in interest with respect to the Plans; provided that (a) the grants and agreements are on terms no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties; (b)

the decisions on behalf of each Plan to invest in the LP and to execute such grants and agreements in favor of BTC are made by a fiduciary which is not included among, and is independent of and unaffiliated with, the Lenders and BTC; (c) with respect to Plans that have invested or may invest in the LP in the future, such Plans have or will have assets of not less than \$100 million and not more than 5% of the assets of any such Plan are or will be invested in the LP. For purposes of this condition (c), in the case of multiple plans maintained by a single employer or single controlled group of employers, the assets of which are invested on a commingled basis, (e.g., through a master trust), this \$100 million threshold will be applied to the aggregate assets of all such plans; and d) the general partner of the LP must be independent of BTC, the Lenders and the Plans.

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) published on September 24, 1999 at 64 FR 51794.

**WRITTEN COMMENTS:** The Department received one written comment, which was submitted by the applicant to correct a typographical error that appeared in the Notice. The applicant notes that the first sentence of paragraph 6 of the Summary of Facts and Representations (the Summary) should read as follows: "BTC will become agent for a group of Lenders providing a \$37 million revolving Credit Facility to the LP." [emphasis added] The Department notes this correction to the information contained in the Summary.

No other comments were received from interested persons. Accordingly, the Department has determined to grant the exemption as proposed.

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

#### Information Systems Development, Inc. Employees Profit Sharing Plan (the Plan) Located in Cincinnati, Ohio

[Prohibited Transaction Exemption 99-48;  
Exemption Application No. D-10787]

#### 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 sale by the Plan of certain illiquid limited partnership interests (collectively; the

Interests) to CONVERGYS Information Management Group Inc. (the Company), the sponsor of the Plan and a party in interest with respect to the Plan, provided that the following conditions are met:

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

(2) The Plan receives an amount equal to the greater of: (a) The Plan's cost for the Interests, less all cash distributions received as a result of owning the Interests (*i.e.*, the adjusted cost), (b) the fair market value of the Interests on the date of the sale, as established by a qualified independent appraiser, or (c) the estimated value of the Interests, as determined by the general partner of each partnership and reported on the most recent account statements available at the time of the sale;

(3) The Plan pays no commissions or any other expenses relating to the sale; and

(4) The Plan suffers no loss, as a result of its acquisition and holding of the Interests, taking into account all cash distributions received by the Plan as a result of owning the Interests.

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 published on October 22, 1999 at 64 FR 57151.

#### *Tax Consequences of Transaction*

The Department of Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or an affiliate thereof) results in the plan either paying less or receiving more than fair market value, such excess may be considered a contribution by the sponsoring employer to the plan, and therefore must be examined under the applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

#### **FOR FURTHER INFORMATION CONTACT:**

Ekaterina A. Uzlyan of the Department, telephone (202) 219-8883. (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 14th day of December, 1999.

**Ivan Strasfeld,**

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

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## **NORTHEAST DAIRY COMPACT COMMISSION**

### **Notice of Meeting**

**AGENCY:** Northeast Dairy Compact Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Compact Commission will hold its monthly meeting to consider matters relating to administration and enforcement of the price regulation, including the reports and recommendations of the Commission's standing Committees. The Commission will also continue its deliberative meeting, which was convened at the December 1, 1999 Commission meeting, to consider

whether to implement an assessment/refund supply management program.

**DATES:** The meeting is scheduled for 10:00 a.m. on Wednesday, January 5, 2000.

**ADDRESSES:** The meeting will be held at The Centennial Inn, Armenia White Room, 96 Pleasant Street, Concord, New Hampshire (I-93 Exit 14).

**FOR FURTHER INFORMATION CONTACT:** Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, VT 05602. Telephone (802) 229-1941.

**Authority:** 7 U.S.C. 7256.

Dated: December 13, 1999.

**Kenneth M. Becker,**

*Executive Director.*

[FR Doc. 99-32744 Filed 12-16-99; 8:45 am]

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## **NUCLEAR WASTE TECHNICAL REVIEW BOARD**

### **Potential Yucca Mountain, Nevada, Repository; Board Meeting**

Board meeting: January 25-26, 2000 Las Vegas, Nevada: Discussion of the sources and types of uncertainty associated with a performance assessment of a potential Yucca Mountain repository; update on scientific studies undertaken at the Yucca Mountain site; and status report on the DOE's development of a safety strategy for a potential Yucca Mountain repository.

Pursuant to its authority under section 5051 of Public Law 100-203, Nuclear Waste Policy Amendments Act of 1987, on Tuesday, January 25, and Wednesday, January 26, 2000, the Nuclear Waste Technical Review Board (Board) will meet in Las Vegas, Nevada, to discuss the sources and types of technical and scientific uncertainty associated with an assessment of the performance of a potential Yucca Mountain repository and the U.S. Department of Energy's (DOE) proposed safety strategy for such a repository. The Board also will be briefed by the DOE on the status of scientific and technical studies being conducted in connection with the characterization of the Yucca Mountain site. The DOE is evaluating the Yucca Mountain site, located about 100 miles northwest of Las Vegas, to determine its suitability as the location of a repository for the permanent disposal of spent nuclear fuel and high-level radioactive waste.

The meeting will be held at the Alexis Park Hotel, 375 East Harmon Avenue, Las Vegas, Nevada 89109. The telephone numbers for the Alexis Park