

exemption. The Department has determined that it is appropriate to clarify and modify the exemption in the manner requested by the applicant and, accordingly, has revised the final exemption.

4. *Scope of Exemption.* The applicant states that it is possible that a lending agent, upon its appointment by an Equity Owner, may seek to use EquiLend on behalf of an Equity Owner Plan and/or a plan unrelated to an Equity Owner. The applicant inquires whether, in this situation, such arrangement falls within the scope of the exemption. If not, the applicant inquires further whether the arrangement described above constitutes a prohibited transaction for which additional exemptive relief is necessary.

It is the view of the Department that the use of EquiLend by a lending agent appointed by an Equity Owner is outside the scope of the relief provided by this exemption. In this regard, the Department notes that the exemption does not extend relief to the participation in EquiLend's electronic platform by a lending agent appointed by an Equity Owner. Rather, with respect to such participation, the exemption provides relief solely to an Owner Lending Agent (see section II).

The Department notes that any determination as to whether the arrangement described above constitutes a prohibited transaction is inherently factual in nature. In this regard, the Department notes that a violation of section 406 of ERISA would occur if the decision of a lending agent appointed by an Equity Owner to use EquiLend on behalf of a plan is part of an agreement, arrangement, or understanding in which a fiduciary caused plan assets to be used in a manner designed to benefit a party in interest or if the lending agent has an interest in the transaction which affects his judgment as a fiduciary.

After giving full consideration to the entire record, including the written comment submitted by the applicant, the Department has decided to grant the exemption.

For further information regarding the comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D-11026) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N-1513, U.S. Department of Labor, 200

Constitution Avenue, NW., Washington, DC 20210.

For Further Information Contact: Christopher Motta of the Department, telephone (202)693-8544 (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 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) This exemption is 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 this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 3rd day of June, 2002.

Ivan Strasfeld,

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

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02-071)]

NASA Advisory Council, Biological and Physical Research Committee, Physical Science Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Committee, Physical Science Advisory Subcommittee.

DATES: Wednesday, June 19, 2002, from 8 a.m. to 5 p.m..

ADDRESSES: NASA Headquarters, Room MIC-5 (5H46), 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Brad Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202-358-0826.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Introduction
- Program Issues and Status
- OBPR Plans
- Concepts for New Initiatives
- Proposed PSAS Activities 2002-2003
- Discussion and Summary
- Writing Assignments

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 30, 2002.

Sylvia K. Kraemer,

*Advisory Committee Management Officer,
National Aeronautics and Space
Administration.*

[FR Doc. 02-14122 Filed 6-5-02; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02-072)]

NASA Advisory Council, Biological and Physical Research Advisory Committee Meeting, NASA-NIH Advisory Subcommittee and Life Sciences Advisory Subcommittee; Joint Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee, NASA-NIH Advisory Subcommittee