

**DEPARTMENT OF LABOR****Employment and Training  
Administration**

[NAFTA-006531]

**Venice T-Shirt and Medical  
Corporation, Venice, CA; Notice of  
Termination**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-1) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on August 30, 2002, in response to a petition filed on behalf of workers at Venice T-Shirt and Medical Corporation, Venice, California. Workers produced knit t-shirts.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 18th day of November, 2002.

**Elliott S. Kushner,***Certifying Officer, Division of Trade  
Adjustment Assistance.*

[FR Doc. 02-31291 Filed 12-11-02; 8:45 am]

BILLING CODE 4510-30-P

**DEPARTMENT OF LABOR****Pension and Welfare Benefits  
Administration**

[Application Number: D-10934]

**Amendment to Prohibited Transaction  
Exemption 97-11 (PTE 97-11) for the  
Receipt of Certain Investment Services  
by Individuals for Whose Benefit  
Individual Retirement Accounts or  
Retirement Plans for Self-Employed  
Individuals Have Been Established or  
Maintained**

**AGENCY:** Pension and Welfare Benefits Administration, U.S. Department of Labor.

**ACTION:** Adoption of amendment to PTE 97-11.

**SUMMARY:** This document amends PTE 97-11, a class exemption that permits the receipt of services at reduced or no cost by an individual for whose benefit an individual retirement account (IRA) <sup>1</sup>

<sup>1</sup> In Advisory Opinion 98-03A (March 6, 1998), the Department stated that a Roth IRA which satisfies the definition of an individual retirement plan contained in section 7701(a)(37)(A) of the

or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from a broker-dealer, provided that the conditions of the exemption are met. The amendment affects individuals with beneficial interests in such plans who receive such services as well as the broker-dealers who provide such services.

**FOR FURTHER INFORMATION CONTACT:** Ms. Allison Padams Lavigne or Mr. Christopher Motta, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 693-8540, (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On June 18, 2002, the Department proposed an amendment to PTE 97-11 (67 FR 41504) <sup>2</sup> PTE 97-11 provides relief from the restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of sections 4975(a) and (b), 4975(c)(3) and 408(e)(2) of the Code by reason of section 4975(c)(1)(D), (E) and (F) of the Code. <sup>3</sup> The amendment to PTE 97-11 was requested in an exemption application dated September 26, 2000, filed on behalf of American Funds Distributors, Inc. (AFD), a broker-dealer registered under the Securities Exchange Act of 1934.

The notice of pendency gave interested persons an opportunity to comment on the proposed amendment. Two comments were received pursuant to the provisions of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B. No requests for a public hearing were received.

For the sake of convenience, the entire text of PTE 97-11, as amended, has been reprinted.

Internal Revenue Code of 1986 (the Code) is an "individual retirement account" described in section 408(a) of the Code. Therefore, a Roth IRA which is not an employee benefit plan covered by Title I of ERISA (except for certain Simplified Employee Pensions and Simple Retirement Accounts described in section 408(k) and 408(p) of the Code, respectively) would be covered by the relief provided in PTE 97-11, if all conditions therein are met. In this regard, the Department wishes to clarify that this proposed modification of section III(b) of PTE 97-11 would include Roth individual retirement annuities described in section 7701(a)(37)(B) of the Code.

<sup>2</sup> PTE 97-11 was granted on February 7, 1997 (62 FR 5855) and amended on March 8, 1999 (64 FR 11042). Any references to PTE 97-11 include the 1999 amendment.

<sup>3</sup> Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978 (5 U.S.C. App. 1 (1996)) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

**1. Description of the Exemption**

PTE 97-11 permits the receipt of services at reduced or no cost by an individual for whose benefit an IRA or Keogh Plan is established or maintained or by members of his or her family, from a broker-dealer registered under the Securities Exchange Act of 1934 pursuant to an arrangement in which the account value of, or the fees incurred for services provided to, the IRA or Keogh Plan is/are taken into account for purposes of determining eligibility to receive such services, provided that certain conditions are met.

Relief under PTE 97-11, as originally amended, was limited to transactions involving IRAs, as defined in section III(b) of the class exemption. In this regard, section III(b) defined the term "IRA" as "an individual retirement account described in Code section 408(a) or an education individual retirement account described in section 530 of the Code." The exemption stated further that "(f)or purposes of the exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions."

AFD requested that PTE 97-11 be amended to expand the definition of IRA contained in section III(b) of PTE 97-11 to include Individual Retirement Annuities, as such term is defined in section 408(b) of the Code.

**2. Discussion of the Comments Received**

The Department received two comments on the proposed amendment to PTE 97-11. One of the commenters, the American Council of Life Insurers (ACLI), supported the amendment. The second commenter sought clarification with respect to the reduction of commissions in connection with the aggregation of variable annuity contracts and mutual funds that are offered and/or managed by unaffiliated entities. Specifically, the commenter asked the Department whether the amendment to PTE 97-11 is applicable to situations where the distributor of the annuity contract, the investment manager of the variable annuity separate account and mutual funds, and the provider of the annuity contracts are not affiliated.

As stated above, PTE 97-11 permits a broker-dealer to offer reduced or no cost services to individuals for whose benefit an IRA or Keogh Plan is established or maintained, provided that the conditions of the exemption have been met. The Department notes that the exemption does not limit relief to those services that are offered pursuant to an arrangement involving only affiliated entities.

Accordingly, a broker-dealer offering reduced commissions to an individual in connection with the purchase of a variable annuity contract under circumstances where the broker-dealer, the investment manager of the variable annuity separate account and mutual funds, and the provider of the annuity contracts are unaffiliated would be covered by the class exemption are met. In particular, the Department notes that PTE 97-11 requires, among other things, that the services offered under the relationship brokerage arrangement must be of the type that the broker-dealer itself could offer consistent with all applicable federal and state laws regulating broker-dealers. Additionally, the services offered under the arrangement must be provided by the broker-dealer or its affiliate in the ordinary course of the broker-dealer's business to customers who qualify for reduced or no cost services, but do not maintain IRAs or Keogh Plans with the broker-dealer.

#### General Information

The attention of interested persons is directed to the following:

(1) The Department finds that the amendment is administratively feasible, in the interest of the IRAs and Keogh Plans and their participants and beneficiaries and protective of the rights of the participants and beneficiaries of such plans.

(2) The amendment is supplemental to, and not in derogation of, any other provisions of ERISA and the Code including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The amendment is applicable to a transaction only if the conditions specified in the class exemption are met.

#### Exemption

Accordingly, PTE 97-11 is amended under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part

2570, Subpart B (55 CFR 32836, August 10, 1990).

#### Section I: Covered Transactions

Effective January 1, 1998, the restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of section 4975 of the Code, including the loss of exemption of an IRA pursuant to section 408(e)(2)(A) of the Code, by reason of the section 4975(c)(1)(D), (E) and (F) of the Code, shall not apply to the receipt of services at reduced or no cost by an individual for whose benefit an IRA or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from a broker-dealer registered under the Securities Exchange Act of 1934 pursuant to an arrangement in which the account value of, or the fees incurred for services provided to, the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services, provided that each condition of Section II of this exemption is satisfied.

#### Section II: Conditions

(a) The IRA or Keogh Plan whose account value or whose fees are taken into account for purposes of determining eligibility to receive services under the arrangement is established and maintained for the exclusive benefit of the participant covered under the IRA or Keogh Plan, his or her spouse or their beneficiaries.

(b) The services offered under the relationship brokerage arrangement must be of type that the broker-dealer itself could offer consistent with all applicable federal and state laws regulating broker-dealers.

(c) The services offered under the arrangement are provided by the broker-dealer (or an affiliate of the broker-dealer) in the ordinary course of the broker-dealer's business to customers who qualify for reduced or no cost services, but do not maintain IRAs or Keogh Plans with the broker-dealer.

(c) For the purpose of determining eligibility to receive services, the arrangement satisfies one of the following:

(i) Eligibility requirements based on the account value of the IRA or Keogh Plan are as favorable as any such requirements based on the value of any other type of account which the broker-dealer includes to determine eligibility; or

(ii) Eligibility requirements based on the amount of fees incurred by the IRA or Keogh Plan are as favorable as any requirements based on the amount of fees incurred by any other type of

account which the broker-dealer includes to determine eligibility.

(e) The combined total of all fees for the provision of services to the IRA or Keogh Plan is not in excess of reasonable compensation within the meaning of section 4975(d)(2) of the Code.

(f) The investment performance of the IRA or Keogh Plan investment is no less favorable than the investment performance of an identical investment(s) that could have been made at the same time by a customer of the broker-dealer who is not eligible for (or who does not receive) reduced or no cost services.

(g) The services offered under the arrangement to the IRA or Keogh Plan customer must be the same as are offered to non-IRA or non-Keogh Plan customers with account values of the same amount or the same amount of fees generated.

#### Section III: Definitions

The following definitions apply to this exemption:

(a) The term "broker-dealer" means a broker-dealer registered under the Securities Exchange Act of 1934.

(b) The term "IRA" means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b) or an education individual retirement account described in section 530 of the Code. For purposes of this exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.

(c) The term "Keogh Plan" means a pension, profit-sharing, or stock bonus plan qualified under Code section 401(a) and exempt from taxation under Code section 501(a) under which some or all of the participants are employees described in section 401(c) of the Code. For purposes of this exemption, the term Keogh Plan shall not include a Keogh Plan which is an employee benefit plan covered by Title I of ERISA.

(d) The term "account value" means investments in cash or securities held in the account for which market quotations are readily available. For purposes of this exemption, the term cash shall include savings accounts that are insured by a federal deposit insurance

agency that constitute deposits as that term is defined in section 29 CFR 2550.408b-4(c)(3). The term account value shall not include investments in securities that are offered by the broker-dealer [or its affiliate] exclusively to IRAs and Keogh Plans.

(e) An affiliate or a broker-dealer includes any person directly or indirectly controlling, controlled by, or under common control with the broker-dealer. The term control means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) The term "members of his or her family" refers to beneficiaries of the individual for whose benefit the IRA or Keogh Plan is established or maintained, who would be members of the family as that term is defined in Code section 4975(e)(6), or a brother, a sister, or a spouse of a brother or sister.

(g) The term "service" includes incidental products of a de minimis value which are directly related to the provision of services covered by the exemption.

(h) The term "fees" means commissions and other fees received by the broker-dealer from the IRA or Keogh Plan for the provision of services, including, but not limited to, brokerage commissions, investments management fees, custodial fees, and administrative fees.

Dated: Signed at Washington, DC, this 9th day of December, 2002.

**Ivan L. Strasfeld,**

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

[FR Doc. 02-31366 Filed 12-11-02; 8:45 am]

**BILLING CODE 4520-29-M**

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## NATIONAL COUNCIL ON DISABILITY

### Youth Advisory Committee Meeting (Teleconference)

*Time and Date:* 12 p.m., EST, January 24, 2003.

*Place:* National Council on Disability, 1331 F Street, NW, Suite 850, Washington, DC.

**AGENCY:** National Council on Disability (NCD).

*Status:* All parts of this meeting will be open to the public. Those interested in participating in the meeting (teleconference) call should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for the conference call.

*Agenda:* Roll call, announcements, reports, new business, adjournment.

**FOR FURTHER INFORMATION CONTACT:** Geraldine Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW, Suite 850, Washington, DC 20004; 202-272-2004 (voice), 202-272-2074 (TTY), 202-272-2022 (fax), [ghawkins@ncd.gov](mailto:ghawkins@ncd.gov) (e-mail).

*Youth Advisory Committee Mission:* The purpose of NCD's Youth Advisory Committee is to provide input into NCD activities consistent with the values and goals of the Americans with Disabilities Act.

Dated: December 6, 2002.

**Ethel D. Briggs,**

*Executive Director.*

[FR Doc. 02-31379 Filed 12-11-02; 8:45 am]

**BILLING CODE 6820-MA-P**

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## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meeting Notice

**AGENCY HOLDING MEETING:** National Science Foundation, National Science Board, Task Force on National Workforce Policies for Science & Engineering.

**DATE AND TIME:** December 17, 2002, 1:30 p.m.-2:30 p.m. Open Session.

**PLACE:** The National Science Foundation, Stafford One Building, 4201 Wilson Boulevard, Room 120, Arlington, VA 22230.

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

**Tuesday, December 17, 2002.**

*Open Session (1:30 p.m. to 2:30 p.m.)—* Discussion of comments on the draft report of the NSB/EHR Task Force on National Workforce Policies for S&E.

**FOR FURTHER INFORMATION CONTACT:** Gerald Glaser, Executive Officer, NSB, (703) 292-7000, <http://www.nsf.gov/nsb>.

**Gerard Glaser,**

*Executive Officer.*

[FR Doc. 02-31428 Filed 12-10-02; 10:55 am]

**BILLING CODE 7555-01-M**

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## OFFICE OF MANAGEMENT AND BUDGET

### Budget Analysis Branch; Final Sequestration Report

**AGENCY:** Office of Management and Budget, Budget Analysis Branch.

**ACTION:** Notice of transmittal of the Final Sequestration Report to the President and Congress for Fiscal Year 2003.

**SUMMARY:** Pursuant to Section 254(b) of the Balanced Budget and Emergency

Control Act of 1985, as amended, the Office of Management and Budget hereby reports that it has submitted the Final Sequestration Report for Fiscal Year 2003 to the President, the Speaker of the House of Representatives, and the President of the Senate.

**FOR FURTHER INFORMATION CONTACT:** Sarah Lee, Budget Analysis Branch—202/395-3674.

Dated: December 6, 2002.

**Richard P. Emery, Jr.,**

*Assistant Director for Budget Review.*

[FR Doc. 02-31357 Filed 12-11-02; 8:45 am]

**BILLING CODE 4810-25-P**

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27611]

### Filings Under the Public Utility Holding Company Act of 1935, As Amended ("Act")

December 6, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 31, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 31, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### System Energy Resources, Inc. et al. (70-7561)

Entergy Corporation ("Entergy"), a registered holding company, 639 Loyola Avenue, New Orleans, Louisiana 70113;