

practitioner be, and it hereby is, denied. This order is effective August 31, 2007.

Dated: July 20, 2007.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. E7-14820 Filed 7-31-07; 8:45 am]

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

[Application No. D-11324]

#### **Withdrawal of the Notice of Proposed Exemption Involving Deutsche Bank AG (DB); Located in Germany, With Affiliates in New York, NY and Other Locations**

In the **Federal Register** dated February 13, 2007, (72 FR 6747), the Department of Labor (the Department) published a notice of pendency (the Notice) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986. The Notice concerned an application filed on behalf of DB and its affiliates (the Applicants) which would have amended and superseded Prohibited Transaction Exemption 2003-24 (PTE 2003-24) (68 FR 48637, August 14, 2003, as corrected, 68 FR 55993, September 29, 2003) with respect to the Applicants.

By e-mail dated June 19, 2007, the Applicants requested that the application for exemption be withdrawn. Accordingly, the Department has determined to withdraw the above-cited Notice.

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

Angelena C. Le Blanc of the Department, telephone (202) 693-8540. (This is not a toll-free number.)

Signed at Washington, DC, this 27th day of July 2007.

**Ivan L. Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
U.S. Department of Labor.*

[FR Doc. E7-14880 Filed 7-31-07; 8:45 am]

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### **Prohibited Transaction Exemption 2007-10 Through 2007-13; Grant of Individual Exemptions Involving; D-11393 & D-11394, (PTE 2007-10), Paul Niednagel IRAs and Lynne Niednagel IRAs (Collectively, the IRAs); D-11406, (PTE 2007-11), The Revlon Employees Savings, Investment and Profit Sharing Plan (the Plan); L-11365, (PTE 2007-12), American Maritime Officers Safety & Education Plan (the S&E Plan); and L-11382, (PTE 2007-13), Sheet Metal Workers Local Union 17 Insurance Fund (the Fund)**

**AGENCY:** Employee Benefits Security 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 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), 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 exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

#### **Paul Niednagel IRAs and Lynne Niednagel IRAs (collectively, the IRAs), Located in Laguna Niguel, California**

[Prohibited Transaction Exemption 2007-10; Exemption Application Numbers: D-11393 and D-11394]

#### *Exemption*

The sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1)(D) and (E) of the Code, shall not apply to the purchase (the Purchase) by the respective IRAs<sup>1</sup> of Paul and Lynne Niednagel (the Account Holders) of certain ownership interests (the Units) from Pacific Island Investment Partners, LLC. (Pacific Island) (the issuer of the Units), an entity which is indirectly controlled by Daniel and Stephen Niednagel (the Principals), both of whom are lineal descendants of the Account Holders and therefore disqualified persons with respect to the IRAs, provided that the following conditions are satisfied:

#### **Conditions**

(a) The Purchase of the Units by each IRA is for cash;

(b) The price paid by each IRA to purchase a Unit (\$10,000) is identical to the price paid by other Pacific Island investors to acquire a Unit;

(c) The terms and conditions of each Purchase are at least as favorable as those available in an arm's length transaction with an unrelated third party;

(d) Each IRA does not pay any commissions or other expenses in connection with each Purchase; and

(e) Each IRA does not acquire Units if, after acquisition, the aggregate fair market value of the Units would exceed 25% of the fair market value of such IRA.

<sup>1</sup> Because each IRA has only one participant, there is no jurisdiction under 29 CFR § 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

### Temporary Nature of Exemption

This grant of exemption is temporary and becomes effective on the date of publication of the grant of the final exemption in the **Federal Register**. The exemption will expire on the date which is five (5) years from the date of the grant of the exemption.

### Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested persons to submit written comments on the proposed exemption within thirty (30) days of the date of the publication of the Notice in the **Federal Register** on June 1, 2007. All comments were due by July 1, 2007.

During the comment period, the Department received one written comment concerning the Notice; this comment was submitted by one of the Account Holders, Mr. Paul Niednagel. In his comment, Mr. Niednagel informed the Department that Condition (a) of the Notice (located at the first column on page 30638 of the June 1, 2007 issue of the **Federal Register**), which proposed that the cash purchase of the Units by each IRA be undertaken as a "one-time transaction", could not be satisfied by the Account Holders because of the limited quantity of Units of Pacific Island available for sale to investors at any given point in time. Accordingly, Mr. Niednagel proposed that Condition (a) be modified to remove the language stipulating that the Purchase of the Units occur as a one-time transaction. In addition, Mr. Niednagel proposed that the exemption be further modified to permit the Account Holders to purchase the Units incrementally over the course of a five year term, beginning from the date of the grant of an exemption for the proposed transaction. Mr. Niednagel stated that permitting the Account Holders to purchase the Units over such an extended period would be consistent with the availability of such Units for acquisition by investors.

After giving full consideration to the entire record, including the written comments provided by Mr. Niednagel, the Department has determined to grant the exemption, subject to the modification of certain conditions initially contained in the Notice. While retaining the language contained in Condition (a) of the Notice stipulating that "the Purchase of the Units by each IRA is for cash," the Department has decided to adopt Mr. Niednagel's comments by: (1) Deleting from the final exemption the requirement that the Purchase occur as a "one-time

transaction", and (2) adding language to the exemption which stipulates that the Department's grant of relief for the Purchase of the Units is temporary in nature, and shall expire five years from the date of publication of the grant of exemption in the **Federal Register**.

In addition, Condition (e) of the Notice (located at the first column of page 30638 of the June 1, 2007 issue of the **Federal Register**) stated that "[t]he IRA assets invested in the Units do not exceed 25% of the total assets of each IRA at the time of the Purchase." For purposes of clarification, the Department has determined to modify Condition (e) to read as follows: "Each IRA does not acquire Units if, after acquisition, the aggregate fair market value of the Units would exceed 25% of the fair market value of such IRA."

The complete application file for this exemption, encompassing all supplemental submissions received by the Department (including the written comment received by the Account Holder, Mr. Niednagel), is made available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, Room N-1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, interested persons should also refer to the notice of proposed exemption published on June 1, 2007 at 72 FR 30637 (as corrected by a notice of technical correction published on June 7, 2007 at 72 FR 31610).

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Judge of the Department, telephone (202) 693-8339. (This is not a toll-free number.)

### The Revlon Employees Savings, Investment and Profit Sharing Plan (the Plan) Located in New York, NY

[Prohibited Transaction Exemption No. 2007-11; [Application No. D-11406]

### Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(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 (E) of the Code, shall not apply, effective December 18, 2006, to (1) The acquisition of certain stock rights (Stock Right(s)) by the Plan in connection with a Stock Rights offering by Revlon, Inc. (Revlon), a holding company that wholly owns Revlon Consumer Products Corporation (RCPC), a party in interest with respect to the Plan; (2) the holding of the Stock Rights by the Plan

during the subscription period of the Stock Rights offering; and (3) the disposition or exercise of the Stock Rights by the Plan, provided that the following conditions were met:

(a) The Stock Rights were acquired pursuant to Plan provisions for individually-directed investment of such accounts;

(b) The Plan's receipt of the Stock Rights occurred in connection with a Stock Rights offering made available on the same terms to all shareholders of common stock of Revlon;

(c) All decisions regarding the holding and disposition of the Stock Rights by the Plan were made, in accordance with the Plan provisions for individually-directed investment of participant accounts, by the individual Plan participants whose accounts in the Plan received Stock Rights in connection with the Stock Rights offering;

(d) The Plan's acquisition of the Stock Rights resulted from an independent act of Revlon as a corporate entity, and all holders of the Stock Rights, including the Plan, were treated in the same manner with respect to the acquisition; and

(e) The Plan received the same proportionate number of Stock Rights as other owners of Class A common stock.

**Effective Date:** This exemption is effective as of December 18, 2006.

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 April 30, 2007 at 72 FR 21303.

**FOR FURTHER INFORMATION CONTACT:** Khalif Ford of the Department, telephone (202) 693-8540 (this is not a toll-free number).

### American Maritime Officers Safety & Education Plan (the S&E Plan) Located in Dania Beach, Florida and Toledo, Ohio

[Prohibited Transaction Exemption No. 2007-12; Exemption Application No. L-11365]

### Exemption

The restrictions of sections 406(a)(1)(C), and 406(a)(1)(D) of the Act shall not apply to the S&E Plan, doing business as the STAR Center, entering into an agreement with Kongsberg Maritime Simulator Inc. (Kongsberg), a party in interest, to provide certain services (the Services) to Kongsberg at the Dania Beach, Florida facility (the Facility) involving hydrodynamic and geographic modeling and training, provided that the following conditions are met:

(a) The S&E Plan will charge and will be paid for the Services at the rates approved by the Board of Trustees of the S&E Plan (the Trustees) for similar services provided to unrelated third parties;

(b) The terms of the arrangement between the S&E Plan and Kongsberg are at least as favorable to the S&E Plan as those obtainable in an arm's length transaction with an unrelated party;

(c) An independent auditor will perform annual audits of the S&E Plan to identify and reconcile any recordkeeping discrepancies involving the Services; and

(d) The S&E Plan will maintain, for a period of six (6) years, the records necessary to determine whether the conditions of this exemption have been met.

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 April 30, 2007, at 72 FR 21305.

The Department received one comment with regard to the Notice. The commenter, the applicant, requested that the Department modify certain language contained in the Notice. Specifically, on page 21305 of the Notice, the operative language states the following:

"The restrictions of sections 406(a)(1)(C) and 406(a)(1)(D) of the Act shall not apply to the S&E Plan's, doing business as STAR Center, entering into an agreement with Kongsberg Maritime Simulator Inc. (Kongsberg), a party in interest, to provide certain services (the Services) to Kongsberg at the Dania Beach, Florida facility (the Facility) involving hydrodynamic and geographic modeling and training required in connection with Kongsberg's contract with the U.S. Navy, provided that the following conditions are met:"

The applicant requests that the services described in the Notice not be limited to services provided in connection with the U.S. Navy contract. The applicant represents that the additional services that the applicant is requesting would be identical to those described in the Notice. The applicant further represents that the modification would be beneficial to the S&E Plan because the STAR Center would provide the services at prices that would be charged to an unrelated third party.

After due consideration, the Department has adopted the commenter's request and accordingly, has modified the operative language to read as follows:

"The restrictions of sections 406(a)(1)(C), 406(a)(1)(D) of the Act shall not apply to the S&E Plan, doing business as the STAR Center, entering into an agreement with Kongsberg Maritime Simulator Inc. (Kongsberg), a party in interest, to provide certain services (the Services) to Kongsberg at the Dania Beach, Florida facility (the Facility) involving hydrodynamic and geographic modeling and training, provided that the following conditions were met:"

The Department hereby grants the exemption and incorporates the modification described above.

**FOR FURTHER INFORMATION CONTACT:** Khalif Ford of the Department, telephone (202) 693-8562 (this is not a toll-free number).

**Sheet Metal Workers Local Union 17 Insurance Fund (the Fund), Located in Boston, Massachusetts**

[Prohibited Transaction Exemption 2007-13; Exemption Application Number: L-11382]

*Exemption*

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act shall not apply to the purchase (the Purchase) by the Fund of a business condominium unit (Unit No. 1) from the Sheet Metal Workers International Association Local 17 Building Association, Inc. (the Building Corporation), a party in interest with respect to the Fund, provided that the following conditions are satisfied:

*Conditions*

(a) The terms and conditions of the transaction are no less favorable to the Fund than those which the Fund would receive in an arm's length transaction with an unrelated party;

(b) The Purchase of Unit No. 1 by the Fund is a one-time transaction for cash;

(c) The Fund will not pay any sales commissions, fees, or other similar expenses to any party as a result of the proposed transaction;

(d) The Fund will purchase Unit No. 1 from the Building Corporation for the lesser of (1) \$800,000 or (2) the fair market value of the Property as determined on the date of the purchase by a qualified, independent appraiser;

(e) The proposed transaction will be consummated only after a qualified, independent fiduciary, acting on behalf of the Fund, negotiates the relevant terms and conditions of the transaction and determines that proceeding with the transaction would be in the interest of the Fund; and

(f) The independent fiduciary monitors the transaction on behalf of the

Fund to ensure compliance with the agreed upon terms.

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 June 1, 2007 at 72 FR 30635.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Judge of the Department, telephone (202) 693-8339. (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 27th day of July, 2007.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
U.S. Department of Labor.*

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