(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) Type of information collection: Extension of currently approved collection.

(2) The title of the form/collection: *State Criminal Alien Assistance Program.*

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract.

Primary: States and local units of general government including the 50 state governments, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, and the more than 3,000 counties and cities with correctional facilities.

Other: None.

Abstract: In response to the Violent Crime Control and Law Enforcement Act of 1994 Section 130002(b), as amended in 1996, BJA administers the State Criminal Alien Assistance Program (SCAAP) with the Bureau of Immigration and Customs Enforcement (ICE), and the Department of Homeland Security (DHS). SCAAP provides federal payments to States and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and who are incarcerated for at least 4 consecutive days during the designated reporting period and for the following correctional purposes:

Salaries for corrections officers
Overtime costs
Performance based bonuses
Corrections work force recruitment and retention
Construction of corrections facilities
Training/education for offenders
Training for corrections officers related to offender population management
Consultants involved with offender population
Medical and mental health services
Vehicle rental/purchase for transport of offenders
Prison Industries
Pre-release/reentry programs
Technology involving offender management/inter-agency information sharing
Disaster preparedness continuity of operations for corrections facilities

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that no more than 748 respondents will apply. Each application takes approximately 90 minutes to complete and is submitted once per year (annually).

(6) An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the applications is 1122 hours.

748 × 90 minutes = 67,320/60minutes per hour = 1122 burden hours

If additional information is required, contact the Clearance Officer, U.S. Department of Justice, Policy and Planning Staff, Justice Management Division, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: January 11, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–752 Filed 1–16–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application Nos. and Grant of Individual Exemptions involving; D–11318, Barclays Global Investors, N.A., (BGI) and its Investment Advisory Affiliates, including Barclays Global Fund Advisors (BGFA; together, the Applicants); and D–11417, Citigroup, Inc. (Citigroup)]

Prohibited Transaction Exemption 2008–01

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.

Barclays Global Investors, N.A., (BGI) and its Investment Advisory Affiliates, including Barclays Global Fund Advisors (BGFA; together, the Applicants)

Located in San Francisco, California

[Prohibited Transaction Exemption 2008–01; Exemption Application No. D–11318]

Exemption

Section I. Transactions Involving Open-End Management Investment Companies Other Than Exchange-Traded Funds

Effective as of September 10, 2007, the restrictions of sections 406(a) and (b)

of the Act, section 8477(c)(1) and (c)(2) of FERSA, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the acquisition, sale or exchange by an Account of shares, including through in-kind redemptions of shares or acquisitions of shares in exchange for Account assets transferred in-kind from an Account, of an open-end investment company (''the Fund'') registered under the Investment Company Act of 1940 (the 1940 Act), other than an exchange-traded fund (an ''ETF''), the Investment Adviser for which is also a fiduciary with respect to the Account (or an affiliate of such fiduciary) (hereinafter, BGI and all its affiliates will be referred to as ''Investment Adviser''), and the receipt of fees for acting as an investment adviser for such Funds, as well as fees for providing other services to the Funds which are ''Secondary Services,'' as defined herein, in connection with the investment by the Accounts in shares of the Funds, provided that the conditions set forth in Section II are met.

Section II. Conditions

(a) The Account does not pay a sales commission or other similar fees to the Investment Adviser or its affiliates in connection with such acquisition, sale, or exchange.

(b) The Account does not pay a redemption or similar fee to the Investment Adviser in connection with the sale by the Account to the Fund of such shares, and the existence of any other redemption fee is disclosed in the Fund's prospectus in effect at all times.

(c) The Account does not pay an investment management, investment advisory or similar fee with respect to Account assets invested in Fund shares for the entire period of such investment. This condition does not preclude the payment of investment advisory fees by the Fund under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940 (the 1940 Act). This condition also does not preclude payment of an investment advisory fee by the Account under the following circumstances:

(1) For Accounts billed in arrears, an investment advisory fee may be paid based on total Account assets from which a credit has been subtracted representing the Account's pro rata share of investment advisory fees paid by the Fund;

(2) For Accounts billed in advance, the Investment Adviser must employ a reasonably designed method to ensure that the amount of the prepaid fee that constitutes the fee with respect to the Account assets invested in the Fund shares:

(A) Is anticipated and subtracted from the prepaid fee at the time of payment of such fee,

(B) Is returned to the Account no later than during the immediately following fee period or

(C) Is offset against the prepaid fee for the immediately following fee period or for the fee period immediately following thereafter. For purposes of this paragraph, a fee shall be deemed to be prepaid for any fee period if the amount of such fee is calculated as of a date not later than the first day of such period; or

(3) An investment advisory fee may be paid based on total plan assets if the Account will receive a cash rebate of such Account's proportionate share of all fees charged to the Fund by the Investment Adviser for investment management, investment advisory or similar services no later than one business day after the receipt of such fees by the Investment Adviser.

(d) The rebating, crediting, or offsetting of any fees in paragraph (c) is audited at least annually by the Investment Adviser through a system of internal controls to verify the accuracy of the fee mechanism adopted by the Investment Adviser under paragraph (c).

(e) The combined total of all fees received by the Investment Adviser for the provision of services to an Account, and for the provision of any services to a Fund in which an Account may invest, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act;

(f) The Investment Adviser and its affiliates do not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions covered by this exemption;

(g) In advance of any initial investment in a Fund by a Separately Managed Account or by a new Plan investor in a Pooled Fund, a Second Fiduciary with respect to that Plan, who is independent of and unrelated to the Investment Adviser or any affiliate thereof, receives in written or in electronic form, full and detailed written disclosure of information concerning such Fund(s). The disclosure described in this paragraph (g) includes, but is not limited to:

(1) A current prospectus issued by each of the Fund(s);

(2) A statement describing the fees for investment advisory or similar services, any Secondary Services, and all other fees to be charged to or paid by the Account and by the Fund(s), including the nature and extent of any differential between the rates of such fees;

(3) The reasons why the Investment Adviser may consider such investment to be appropriate for the Account;

(4) A statement describing whether there are any limitations applicable to the Investment Adviser with respect to which Account assets may be invested in shares of the Fund(s) and, if so, the nature of such limitations, and

(5) A copy of the proposed exemption and this final exemption, and any other reasonably available information regarding the transaction described herein that the Second Fiduciary requests.

(h) After receipt and consideration of the information referenced in paragraph (g), the Second Fiduciary of the Separately Managed Account or the new Plan investing in a Pooled Fund approves in writing the investment of Plan assets in each particular Fund and the fees to be paid by a Fund to the Investment Adviser.

(i)(1) In the case of existing Plan investors in a Pooled Fund, such Pooled Fund may not engage in any covered transactions pursuant to this exemption, unless the Second Fiduciary receives in written or in electronic form, the information described in paragraph (2) of this paragraph (i) not less than 30 days prior to the Investment Adviser's engaging in the covered transactions on behalf of the Pooled Fund pursuant to this exemption.

(2) The information required by paragraph (1) of this section includes:

(A) A notice of the Pooled Fund's intent to engage in the covered transactions described herein, a copy of the notice of proposed exemption, and a copy of this final exemption;

(B) Any other reasonably available information regarding the covered transactions that a Second Fiduciary requests; and

(C) A Termination Form, within the meaning of paragraph (j).

Approval to engage in any covered transactions pursuant to this exemption may be presumed notwithstanding that the Investment Adviser does not receive any response from a Second Fiduciary.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to the Investment Adviser will be subject to an annual reauthorization wherein any such prior authorization shall be terminable at will by an Account, without penalty to the Account, upon receipt by the Investment Adviser of written notice of termination. A form expressly providing an election to terminate the authorization (''Termination Form'') with instructions

on the use of the form will be supplied to the Second Fiduciary no less than annually, in written or in electronic form. The instructions for the Termination Form will include the following information:

(1) The authorization is terminable at will by the Account, without penalty to the Account, upon receipt by the Investment Adviser of written notice from the Second Fiduciary. Such termination will be effected by the Investment Adviser by selling the shares of the Fund held by the affected Account within one business day following receipt by the Investment Adviser of the Termination Form or any other written notice of termination; provided that if, due to circumstances beyond the control of the Investment Adviser, the sale cannot be executed within one business day, the Investment Adviser shall have one additional business day to complete such sale; and provided further that, where a Plan's interest in a Pooled Fund cannot be sold within this timeframe, the Plan's interest will be sold as soon as administratively practicable;

(2) Failure of the Second Fiduciary to return the Termination Form will result in continued authorization of the Investment Adviser to engage in the covered transactions on behalf of an Account; and

(3) The identity of BGI, the asset management affiliate of BGI, and the affiliated investment advisers, and the address of the asset management affiliate of BGI. The instructions will state that this exemption is not available, unless the fiduciary of each Plan participating in the covered transactions as an investor in a Pooled Fund is, in fact, independent of the Investment Adviser. The instructions will also state that the fiduciary of each such Plan must advise the asset management affiliate of BGI, in writing, if it is not a ''Second Fiduciary,'' as that term is defined, below, in Section V(l).

However, if the Termination Form has been provided to the Second Fiduciary pursuant to this paragraph or paragraphs (i), (k), or (l), the Termination Form need not be provided again for an annual reauthorization pursuant to this paragraph unless at least six months has elapsed since the form was previously provided.

(k) In situations where the Fund-level fee is neither rebated nor credited against the Account-level fee, the Second Fiduciary of each Account invested in a particular Fund will receive full disclosure, in written or in electronic form, in a statement, which is separate from the Fund prospectus, of any proposed increases in the rates of fees for investment advisory or similar services, and any Secondary Services, at least 30 days prior to the implementation of such increase in fees, accompanied by a Termination Form. In situations where the Fund-level fee is rebated or credited against the Account-level fee, the Second Fiduciary will receive full disclosure, in a Fund prospectus or otherwise, in the same time and manner set forth above, of any increases in the rates of fees to be charged by the Investment Adviser to the Fund for investment advisory services. Failure to return the Termination Form will be deemed an approval of the increase and will result in the continued authorization of the Investment Adviser to engage in the covered transactions on behalf of an Account.

(l) In the event that the Investment Adviser provides an additional Secondary Service to a Fund for which a fee is charged or there is an increase in the rate of any fees paid by the Funds to the Investment Adviser for any Secondary Services resulting from either an increase in the rate of such fee or from a decrease in the number or kind of services provided by the Investment Adviser for such fees over an existing rate for such Secondary Service in connection with a previously authorized Secondary Service, the Second Fiduciary will receive notice, at least 30 days in advance of the implementation of such additional service or fee increase, in written or in electronic form, explaining the nature and the amount of such services or of the effective increase in fees of the affected Fund. Such notice shall be accompanied by a Termination Form. Failure to return the Termination Form will be deemed an approval of the Secondary Service and will result in continued authorization of the Investment Adviser to engage in the covered transactions on behalf of the Account.

(m) On an annual basis, the Second Fiduciary of an Account investing in a Fund, will receive, in written or in electronic form:

(1) A copy of the current prospectus for the Fund and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Fund, which contains a description of all fees paid by the Fund to the Investment Adviser;

(2) A copy of the annual financial disclosure report of the Fund in which such Account is invested, which includes information about the Fund portfolios as well as audit findings of an independent auditor of the Fund, within 60 days of the preparation of the report; and

(3) With respect to each of the Funds in which an Account invests, in the event such Fund places brokerage transactions with the Investment Adviser, the Investment Adviser will provide the Second Fiduciary of such Account, in the same manner described above, at least annually with a statement specifying the following (and responses to oral or written inquiries of the Second Fiduciary as they arise):

(A) The total, expressed in dollars, brokerage commissions of each Fund's investment portfolio that are paid to the Investment Adviser by such Fund;

(B) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to the Investment Adviser;

(C) The average brokerage commissions per share, expressed as cents per share, paid to the Investment Adviser by each portfolio of a Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to the Investment Adviser.

(n) In all instances in which the Investment Adviser provides electronic distribution of information to Second Fiduciaries who have provided electronic mail addresses, such electronic disclosure will be provided in a manner similar to the procedures described in 29 CFR section 2520.104b–1(c).

(o) Any Separately Managed Account does not hold assets of a Plan sponsored by the Investment Adviser or an affiliate. If a Pooled Fund holds assets of a Plan or Plans sponsored by the Investment Adviser or an affiliate, the total assets of all such Plans shall not exceed 15% of the total assets of such Pooled Fund.

(p) In-kind transactions with an Account shall only involve publicly-traded securities for which market quotations are readily available, as determined pursuant to procedures established by the Funds under Rule 2a–4 of the 1940 Act, and cash in the event that the aforementioned securities are odd lot securities, fractional shares, or accruals on such securities. Such securities will not include:

(1) Securities that, if publicly offered or sold, would require registration under the Securities Act of 1933;

(2) Securities issued by entities in countries that (i) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Funds, or (ii) permit transfers of ownership of securities to be effected only by

transactions conducted on a local stock exchange;

(3) Certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions, certificates of deposit and repurchase agreements), that, although liquid and marketable, involve the assumption of contractual obligations, require special trading facilities, or can be traded only with the counter-party to the transaction to effect a change in beneficial ownership;

(4) Cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements);

(5) Other assets that are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable); and

(6) Securities subject to ''stop transfer'' instructions or similar contractual restrictions on transfer.

(q) Subject to the exceptions described in section (p) above, in the case of an in-kind exchange of assets [in-kind redemptions and in-kind transfers of Plan assets] between an Account and a Fund (other than an ETF), the Account will receive its pro rata portion of the securities of the Fund equal in value to that of the number of shares redeemed, or the Fund shares having a total net asset value (NAV) equal to the value of the assets transferred on the date of the transfer, as determined in a single valuation, using sources independent of the Investment Adviser, performed in the same manner as it would for any other person or entity at the close of the same business day in accordance with the procedures established by the Fund pursuant to Rule 2a–4 under the 1940 Act, and the then-existing valuation procedures established by its Board of Directors or Trustees, as applicable for the valuation of such assets, that are in compliance with the rules administered by the Securities and Exchange Commission (the SEC). In the case of a redemption, the value of the securities and any cash received by the Account for each redeemed Fund share equals the NAV of such share at the time of the transaction. In the case of any other in-kind exchange, the value of the Fund shares received by the Account equals the NAV of the transferred securities and any cash on the date of the transfer.

(r) The Investment Adviser shall provide the Second Fiduciary with a written confirmation containing information necessary to perform a post-transaction review of any in-kind transaction so that the material aspects of such transaction, including pricing, can be reviewed. Such information must be furnished no later than thirty (30) business days after the completion of the in-kind transaction. In the case of a Pooled Fund, the Investment Adviser can satisfy the requirement with a single aggregate report furnished to the Second Fiduciary containing the required information for each in-kind transaction taking place during a month. This aggregate report must be furnished to the Second Fiduciary no later than thirty (30) business days after the end of that month. The information to be provided pursuant to this Section II(r) shall include:

(1) With respect to securities either transferred by, or received, by an Account in-kind in exchange for Fund shares,

(i) the identity of each security either received by the Account pursuant to the redemption, or transferred to the Fund by the Account, (and the related aggregate dollar value of all securities) determined in accordance with Rule 2a–4 under the 1940 Act and the then-existing procedures established by the Board of Trustees of the Fund (using sources independent of the Investment Adviser); and

(ii) the current market price of each security transferred or received in-kind by the Account as of the date of the in-kind transfer.

(2) With respect to Fund shares either transferred by, or received by, an Account in-kind in exchange for securities,

(i) the number of Fund shares held by the Account immediately before the redemption (and the related per share net asset value and the total dollar value of Fund shares, determined in accordance with Rule 2a–4 under the 1940 Act, using sources independent of the Investment Adviser); or

(ii) the number of Fund shares held by the Account immediately after the in-kind transfer (and the related per share net asset value of the Fund shares received and the total dollar value of Fund shares, determined in accordance with Rule 2a–4 under the 1940 Act using sources independent of the Investment Adviser).

(3) The identity of each pricing service or market-maker consulted in determining the value of the securities.

(s) Prior to the consummation of an in-kind transaction, the Investment Adviser must document in writing and determine that such transaction is fair to the Account and comparable to, and no less favorable than, terms obtainable at arm's-length between unaffiliated parties, and that the in-kind transaction is in the best interests of the Account and the participants and beneficiaries of the participating Plans.

(t) All of the Accounts' other dealings with the Funds, the Investment Adviser, or any affiliated person thereof, are on terms that are no less favorable to the Account than such dealings are with other shareholders of the Funds.

(u) BGI and its affiliates, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the persons, described, below, in Section II(v), to determine whether the conditions of this exemption have been met, except that—

(1) No party in interest with respect to a Plan which engages in the covered transactions, other than BGI, and its affiliates, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by Section II(v); and

(2) A separate prohibited transaction shall not be considered to have occurred solely because due to circumstances beyond the control of BGI or its affiliate, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(v)(1) Except as provided, below, in Section II(v)(2), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in Section II(t) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the SEC; or

(ii) Any fiduciary of any Plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by a Plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(iv) Any participant or beneficiary of a Plan that engages in the covered transactions, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in Section II(v)(1)(ii)—(iv) shall be authorized to examine trade secrets of the Investment Adviser, or commercial or financial information which is privileged or confidential; and

(3) Should the Investment Adviser refuse to disclose information on the basis that such information is exempt from disclosure, the Investment Adviser

shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section III. Transactions Involving Exchange-Traded Funds

Effective as of September 10, 2007, the restrictions of sections 406(a) and (b) of the Act, section 8477(c)(1) and (c)(2) of FERSA, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the following transactions involving an Account and an ETF, the Investment Adviser for which is also a fiduciary with respect to the Account (or an affiliate of such fiduciary) (i.e., ''Investment Adviser''), and the receipt of fees for acting as an investment adviser for such ETF, as well as fees for providing other services to the ETF which are ''Secondary Services,'' as defined herein, in connection with the investment by the Account in shares of the ETF, provided that the conditions set forth in Section IV are met:

(a) The acquisition, sale or exchange by an Account of ETF shares, including through in-kind exchanges, in a principal transaction with a broker-dealer not an affiliate of the Investment Adviser, registered under the Securities Exchange Act of 1934, including an Authorized Participant.

(b) The acquisition or sale by an Account of ETF shares on a national securities exchange when a broker-dealer not an affiliate of the Investment Adviser, registered under the Securities Exchange Act of 1934, including an Authorized Participant, acts as agent for the Account.

(c) The acquisition, sale or exchange by an Account of ETF shares, including through in-kind exchanges, through an Authorized Participant, acting as an agent dealing directly with the ETF, and the Account is exchanging securities and/or cash for the ETF shares during a Creation process, or exchanging ETF shares for securities and/or cash during a Redemption process.

Section IV. Conditions

(a)(1) In the case of a principal transaction described in Section III(a), the specific terms of the transaction are fixed at the time the Account agrees to exchange the in-kind assets with the broker-dealer.

(2) In the case of a transaction described in Section III(c), the value of the securities transferred to the ETF, in exchange for ETF shares issued at the closing ETF NAV at the end of the business day, and the value of the securities received from the ETF, in exchange for ETF shares redeemed at the closing ETF NAV at the end of the business day is: (A) Determined pursuant to a single valuation using sources independent of the Investment Adviser; and (B) Performed in the same manner as it would for any other person or entity at the end of the same business day. Such valuation is made in accordance with procedures established by the ETF pursuant to Rule 2a–4 under the 1940 Act, and the then existing valuation procedures established by its Board of Directors or Trustees, as applicable, that are in compliance with the rules administered by the SEC.

In the case of a redemption, the value of the securities and any cash received by the Account for each redeemed ETF share equals the NAV of such share at the time of the transaction. In the case of any other in-kind exchange, the value of the ETF shares received by the Account equals the NAV of the transferred securities and any cash on the date of the transfer.

(b) All ETFs are either Index Funds or Model-Driven Funds.

(c) The Authorized Participant is not an affiliate of the Investment Adviser.

(d) Conditions (a) through (p), and (r) through (v) of Section II have been met. For purposes of this Section IV(d), the term ''Fund'' in Section II includes an ETF.

Section V. Definitions

(a) The term ''Account'' means either a Separately Managed Account or a Pooled Fund in which investments are made by plans described in section 3(3) of the Act and/or section 4975(e)(1) of the Code and a plan covered by The Federal Employees' Retirement System Act of 1986 (FERSA).

(b) An ''affiliate'' of a person includes any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person; any officer of, director of, highly compensated employee (within the meaning of Code section 4975(e)(2)(H)) of, or partner in any such person; and any corporation or partnership of which such person is an officer, director, partner or owner, or highly compensated employee (within the meaning of Code section 4975(e)(2)(H)).

(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 ''Authorized Participant'' means a broker-dealer registered under the Securities Exchange Act of 1934 which may acquire or redeem ETF Shares directly from ETFs. Such Authorized Participant is not an affiliate of the Investment Adviser.

(e) The term ''Fund'' means any open end investment company registered under the Investment Company Act of 1940, including exchange-traded funds.

(f) The term ''Index'' means a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States and/or foreign countries, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients;

(B) A publisher of financial news or information;

(C) A public securities exchange or association of securities dealers; and,

(2) The index is created and maintained by an organization independent of the Applicants and their affiliates; and,

(3) The index is a generally accepted standardized index of securities which is not specifically tailored for the use of the Applicants.

(g) The term ''Index Fund'' means any investment fund, sponsored, maintained, trusteed or managed by the Applicants, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile, and other characteristics of an independently maintained securities index by either (i) replicating the same combination of securities that compose such index, or (ii) sampling the securities that compose such index based on objective criteria and data;

(2) For which the Applicants do not use their discretion, or data within their control, to affect the identity or amount of securities to be purchased or sold; and

(3) That involves no agreement, arrangement or understanding regarding the design or operation of the Fund which is intended to benefit the Applicants, their affiliates, or any party in which the Applicants or their affiliates have an interest.

(h) The term ''Investment Adviser'' means Barclays Global Investors, N.A. or any of its current or future affiliates.

(i) The term ''Model-Driven Fund'' means any investment fund, sponsored, maintained, trusteed or managed by the Applicants, in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of

which are selected by a computer model that is based on prescribed objective criteria using independent third party data not within the control of the Applicants, to transform an index (as defined in (f), above); and

(2) That involves no agreement, arrangement or understanding regarding the design or operation of the fund or the utilization of any specific objective criteria which is intended to benefit the Applicants, their affiliates, or any party in which the Applicants or their affiliates may have an interest.

(j) The term ''Plan'' means a plan described in section 3(3) of the Act, a plan described in section 4975(e)(1) of the Code, and a plan covered by FERSA.

(k) The term ''Pooled Fund'' means any commingled fund sponsored, maintained, advised or trusteed by the Investment Adviser, which fund holds Plan assets.

(l) The term ''Second Fiduciary'' means a fiduciary of a Plan who is independent of and unrelated to the Investment Adviser. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to the Investment Adviser if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Investment Adviser;

(2) Such fiduciary, or any officer, director, partner, or employee of the fiduciary is an officer, director, partner, employee or affiliate of the Investment Adviser; or

(3) Such fiduciary directly or indirect receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption. If an officer, director, partner, affiliate or employee of the Investment Adviser is a director of such Second Fiduciary, and if he or she abstains from participation in (A) the choice of the Plan's investment adviser, (B) the approval for the acquisition, sale, holding, and/or exchange of Fund shares by such Plan, and (C) the approval of any change in fees charged to or paid by the Plan in connection with any of the transactions described herein, then subparagraph (2) above shall not apply.

(m) The term ''Secondary Service'' means a service other than an investment management, investment advisory or similar service which is provided by the Investment Adviser to the Funds, including but not limited to custodial, accounting, brokerage, administrative or any other similar service.

(n) The term ''Separately Managed Account'' means any Account other than a Pooled Fund, and includes single-employer Plans.

(o) The term ''Creation'' or ''Redemption'' refers to a transaction where the ETF is the buyer or seller of large-blocks of ETF shares.

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 10, 2007 at 72 FR 51668.

Effective Date: This exemption is effective as of September 10, 2007.

Written Comments: The Department received one comment with respect to the Notice, which was filed by the Applicants. The Applicants addressed three points in the Notice in their comment letter. The Applicants' commentary, a discussion of the Department's views in response thereto and the modifications to the proposed exemption are discussed below.

The Applicants noted that Section II(r) of the Notice requires the delivery of certain information to all investors in a Pooled Fund. The provision is also required for transactions described in Section III of the Notice relating to ETF shares. Section II(r) of the Notice requires that such information be furnished to the Second Fiduciary no later than thirty (30) business days after the completion of the in-kind transaction. While the Applicants do not object to the requirement for Separately Managed Accounts, they stated in their comment letter that they considered the requirement to be unduly burdensome for investors in Pooled Funds.

The Department has considered this comment and has amended Section II(r) to clarify that the Applicants, with respect to Pooled Funds, can satisfy the requirement with a single aggregate report furnished to the Second Fiduciary containing the required information for each in-kind transaction taking place during a month. This aggregate report must be furnished to the Second Fiduciary no later than thirty (30) business days after the end of that month.

The Applicants also noted that several conditions of the Notice, including Sections II(g), II(i), II(j), II(l), II(m) and II(n) provide for written or electronic disclosure. The Applicants sought clarification from the Department that the electronic disclosure may encompass a combination of written or e-mail communication coupled with Web site links, with paper copies to be supplied upon request. The Applicants stated that the required communications would consist of large documents, and that e-mails with large attachments are often stopped at firewalls and cannot be readily accessed in a cost efficient manner. In addition, the Applicants stated that paper copies of all these reports are expensive, cumbersome and unwelcome from a client's perspective because it is more difficult to share the information with others in the organization.

The Department understands the concerns about electronically transmitting a voluminous document as an attachment to an e-mail. Accordingly, in such circumstances, the electronic communication of the information required by the Notice may otherwise be provided by means of an e-mail with an embedded link to the required disclosure, provided: (1) The e-mail clearly describes both the information required to be disclosed and its significance; (2) The activation of the embedded link in the e-mail takes the reader directly to the relevant document that is stored on the applicable Web site without any further required action by the reader; and (3) The document remains on the Web site for a reasonable period of time after appropriate and necessary measures are taken to ensure the Second Fiduciary's actual receipt of the e-mail. It is the Department's view that no changes to the operative language of the Notice, with respect to this issue, are necessary in view of the guidance provided herein.

The Applicants' final comment with respect to the Notice related to Section II(o), which provided, in part, that if a Pooled Fund holds assets of a Plan or Plans sponsored by the Investment Adviser or an affiliate, the total assets of all such Plans shall not exceed 10% of the total assets of such Pooled Fund. The Applicants commented that they believed that this condition was unduly restrictive. The Department has considered the comment and determined that the appropriate limitation is 15% of the total assets of such Pooled Fund.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

Citigroup, Inc. (Citigroup)

Located in New York, New York

[Prohibited Transaction Exemption No. 2008–02; Exemption Application No. D–11417]

Exemption

Section I. Covered Transactions

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 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 Citigroup 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 paid, are taken into account for purposes of determining eligibility to receive services under the arrangement must be 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 arrangement must be of a type that a qualified affiliate could offer consistent with all applicable federal and state banking laws and all applicable federal and state laws regulating broker-dealers.

(c) The services offered under the arrangement must be provided by a qualified affiliate in the ordinary course of its business as a bank or a broker-dealer to customers who qualify for reduced or no cost services, but do not maintain IRAs or Keogh Plans with a qualified affiliate.

(d) For the purpose of determining eligibility to receive services, the arrangement satisfies:

(i) Eligibility requirements based on the account value of the IRA or Keogh Plan are as favorable as any such requirement based on the value of any other type of account which the qualified affiliate includes to determine eligibility; and/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 qualified affiliate 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 408(b)(2) of ERISA and section 4975(d)(2) of the Code.

(f) The investment performance of the investments made by the IRAs and/or Keogh Plans is no less favorable than the investment performance of identical investments that could have been made at the same time by a customer of Citigroup 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 of qualified affiliates 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 ''bank'' means a bank described in section 408(n) of the Code.

(b) The term ''broker-dealer'' means a broker-dealer registered under the Securities Exchange Act of 1934, as amended.

(c) 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 a Coverdell education savings 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.

(d) 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.

(e) 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 and constitute deposits as that term is defined in 29 CFR 2550.408b–4(c)(3). The term account value shall not include investments that are offered by Citigroup (or a qualified affiliate) exclusively to IRAs and Keogh Plans.

(f) The term ''qualified affiliate'' means any person directly or indirectly controlling, controlled by, or under common control with Citigroup Inc. that is a bank or broker-dealer.

(g) 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.

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

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

(j) The term ''Citigroup'' means Citigroup Inc. and any person directly or indirectly controlling, controlled by, or under common control with Citigroup Inc.

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

Effective Date: The exemption is effective as of March 1, 2007.

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 26, 2007, at 72 FR 60905.

FOR FURTHER INFORMATION CONTACT: Allison Padams-Lavigne, U.S. Department of Labor, telephone (202) 693–8564. (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 14th day of January, 2008.

Ivan Strasfeld,

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

[FR Doc. E8–800 Filed 1–16–08; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Application Nos. and Proposed Exemptions; D–11421, Toeruna Widge IRA (the IRA); and D–11434, Credit Suisse (CS) and Its Current and Future Affiliates (Collectively the Applicant)

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions 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).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: *moffitt.betty@dol.gov*, or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). 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 requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Toeruna Widge IRA (the IRA)

Located in Mertztown, Pennsylvania

[Application No. D–11421]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, 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 (the Sale) of approximately 59.99 acres of unimproved real property located at Fredericksville Road and Sweitzer Road, Rockland Township, Berks County, Pennsylvania (the Property) by the IRA to Dr. Toeruna Widge (the Applicant), a disqualified person with respect to the IRA,[1] provided that the following conditions are satisfied:

(A) All terms and conditions of the Sale are at least as favorable to the IRA as those which the IRA could obtain in an arm's-length transaction with an unrelated party;

(B) The Sales price will be the greater of $390,000 or the fair market value of the Property as of the date of the Sale;

(C) The fair market value of the Property has been determined by a qualified, independent appraiser;

(D) The Sale is a one-time transaction for cash; and

(E) The IRA will not pay any commissions, costs or other expenses in connection with the Sale.

Summary of Facts and Representations

1. The IRA is an individual retirement account established under section

[1] Pursuant to 29 CFR 2510.3–2(d), the IRA is not within the jurisdiction of Title I of the Employee Retirement Income Security Act of 1974 (the Act). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.