

### Notice to Interested Persons

Written notice will be provided to an independent representative of each Plan that elected to sell the Securities to BNY Mellon. The notice shall contain a copy of the proposed exemption as published in the **Federal Register** and an explanation of the rights of interested parties to comment regarding the proposed exemption. Such notice will be provided by first class mail within 15 days of the issuance of the proposed exemption. Any written comments must be received by the Department from interested persons within 45 days of the publication of this proposed exemption in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz of the Department, telephone (202) 693-8546. (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 of the Act and/or the Code, including any prohibited transaction 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional 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

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 30th day of April, 2009.

**Ivan Strasfeld,**

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

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### **Prohibited Transaction Exemptions and Grant of Individual Exemptions involving: 2009-13, The Bank of New York Mellon Corporation (the Applicant); and 2009-14, UBS AG (UBS), and Its Affiliates UBS Financial Services Inc. (UBS Financial), and UBS Financial Services Inc. of Puerto Rico (PR Financial) (Collectively, the Applicants)**

**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, D.C. 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.

### Exemption

#### *Section I—Transactions*

The restrictions of section 406 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 (F) of the Code, shall not apply, effective December 24, 2008, to the purchase of certain securities (the Securities), as defined below in Section III(h), by an asset management affiliate of The Bank of New York Mellon Corporation (BNYMC), as “affiliate” is defined below in Section III(c), from any person other than such asset management affiliate of BNYMC or any affiliate thereof, during the existence of an underwriting or selling syndicate with respect to such Securities, where a broker-dealer affiliated with BNYMC (the Affiliated Broker-Dealer), as defined below in Section III(b), is a manager or member of such syndicate (an “affiliated underwriter transaction” (AUT<sup>1</sup>)) and/or where an Affiliated Trustee, as defined below in Section III(m), serves as trustee of a trust that issued the Securities (whether or not debt securities) or serves as indenture trustee of Securities that are debt Securities (an “affiliated trustee transaction” (ATT<sup>2</sup>))

<sup>1</sup> For purposes of this proposed exemption, an In-House Plan may engage in AUTs only through investment in a Pooled Fund.

<sup>2</sup> For purposes of this proposed exemption, an In-House Plan may engage in ATTs only through investment in a Pooled Fund.

and the asset management affiliate of BNYMC, as a fiduciary, purchases such Securities:

(a) On behalf of an employee benefit plan or employee benefit plans (Client Plan(s)), as defined below in Section III(e); or

(b) On behalf of Client Plans, and/or In-House Plans, as defined below in Section III(l), which are invested in a pooled fund or in pooled funds (Pooled Fund(s)), as defined below in Section III(f).

#### Section II—Conditions

This exemption is conditioned upon adherence to the material facts and representations described in the Notice of Proposed Exemption published in the **Federal Register** on December 24, 2008 at 73 FR 79174, and also upon the satisfaction of the following conditions:

(a)(1) The Securities to be purchased are either—

(i) Part of an issue registered under the Securities Act of 1933 (the 1933 Act) (15 U.S.C. 77a et seq.) or, if the Securities to be purchased are part of an issue that is exempt from such registration requirement, such Securities:

(A) Are issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States,

(B) Are issued by a bank,

(C) Are exempt from such registration requirement pursuant to a federal statute other than the 1933 Act, or

(D) Are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such Securities and that has filed all reports required to be filed thereunder with the Securities and Exchange Commission (SEC) during the preceding twelve (12) months; or

(ii) Part of an issue that is an Eligible Rule 144A Offering, as defined in SEC Rule 10f-3(17 CFR 270.10f-3(a)(4)). Where the Eligible Rule 144A Offering of the Securities is of equity securities, the offering syndicate shall obtain a legal opinion regarding the adequacy of the disclosure in the offering memorandum;

(2) The Securities to be purchased are purchased prior to the end of the first day on which any sales are made, pursuant to that offering, at a price that

is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities, except that—

(i) If such Securities are offered for subscription upon exercise of rights, they may be purchased on or before the fourth day preceding the day on which the rights offering terminates; or

(ii) If such Securities are debt securities, they may be purchased at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities and may be purchased on a day subsequent to the end of the first day on which any sales are made, pursuant to that offering, provided that the interest rates, as of the date of such purchase, on comparable debt securities offered to the public subsequent to the end of the first day on which any sales are made and prior to the purchase date are less than the interest rate of the debt Securities being purchased; and

(3) The Securities to be purchased are offered pursuant to an underwriting or selling agreement under which the members of the syndicate are committed to purchase all of the Securities being offered, except if—

(i) Such Securities are purchased by others pursuant to a rights offering; or

(ii) Such Securities are offered pursuant to an over-allotment option.

(b) The issuer of the Securities to be purchased pursuant to this exemption must have been in continuous operation for not less than three years, including the operation of any predecessors, unless the Securities to be purchased—

(1) Are non-convertible debt securities rated in one of the four highest rating categories by Standard & Poor's Rating Services, Moody's Investors Service, Inc., FitchRatings, Inc., Dominion Bond Rating Service Limited, Dominion Bond Rating Service, Inc., or any successors thereto (collectively, the Rating Organizations), provided that none of the Rating Organizations rates such securities in a category lower than the fourth highest rating category; or

(2) Are debt securities issued or fully guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States; or

(3) Are debt securities which are fully guaranteed by a person (the Guarantor) that has been in continuous operation for not less than three years, including the operation of any predecessors, provided that such Guarantor has issued other securities registered under the 1933 Act; or if such Guarantor has

issued other securities which are exempt from such registration requirement, such Guarantor has been in continuous operation for not less than three years, including the operation of any predecessors, and such Guarantor is:

(i) A bank; or

(ii) An issuer of securities which are exempt from such registration requirement, pursuant to a Federal statute other than the 1933 Act; or

(iii) An issuer of securities that are the subject of a distribution and are of a class which is required to be registered under Section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such securities and that has filed all reports required to be filed thereunder with the SEC during the preceding twelve (12) months.

(c) The aggregate amount of Securities of an issue purchased, pursuant to this exemption, by the asset management affiliate of BNYMC with: (i) The assets of all Client Plans; (ii) The assets, calculated on a pro-rata basis, of all Client Plans and In-House Plans investing in Pooled Funds managed by the asset management affiliate of BNYMC; and (iii) The assets of plans to which the asset management affiliate of BNYMC renders investment advice within the meaning of 29 CFR 2510.3-21(c) does not exceed:

(1) Ten percent (10%) of the total amount of the Securities being offered in an issue, if such Securities are equity securities;

(2) Thirty-five percent (35%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in one of the four highest rating categories by at least one of the Rating Organizations, provided that none of the Rating Organizations rates such Securities in a category lower than the fourth highest rating category; or

(3) Twenty-five percent (25%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in the fifth or sixth highest rating categories by at least one of the Rating Organizations, provided that none of the Rating Organizations rates such Securities in a category lower than the sixth highest rating category; and

(4) The assets of any single Client Plan (and the assets of any Client Plans and any In-House Plans investing in Pooled Funds) may not be used to purchase any debt securities being

offered, if such securities are rated lower than the sixth highest rating category by any of the Rating Organizations;

(5) Notwithstanding the percentage of Securities of an issue permitted to be acquired, as set forth in Section II(c)(1), (2), and (3) above of this exemption, the amount of Securities in any issue (whether equity or debt securities) purchased, pursuant to this exemption, by the asset management affiliate of BNYMC on behalf of any single Client Plan, either individually or through investment, calculated on a pro-rata basis, in a Pooled Fund may not exceed three percent (3%) of the total amount of such Securities being offered in such issue; and

(6) If purchased in an Eligible Rule 144A Offering, the total amount of the Securities being offered for purposes of determining the percentages, described above in Section II(c)(1)–(3) and (5), is the total of:

(i) The principal amount of the offering of such class of Securities sold by underwriters or members of the selling syndicate to “qualified institutional buyers” (QIBs), as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)); plus

(ii) The principal amount of the offering of such class of Securities in any concurrent public offering.

(d) The aggregate amount to be paid by any single Client Plan in purchasing any Securities which are the subject of this exemption, including any amounts paid by any Client Plan or In-House Plan in purchasing such Securities through a Pooled Fund, calculated on a pro-rata basis, does not exceed three percent (3%) of the fair market value of the net assets of such Client Plan or In-House Plan, as of the last day of the most recent fiscal quarter of such Client Plan or In-House Plan prior to such transaction.

(e) The covered transactions are not part of an agreement, arrangement, or understanding designed to benefit the asset management affiliate of BNYMC or an affiliate.

(f) If the transaction is an AUT, the Affiliated Broker-Dealer does not receive, either directly, indirectly, or through designation, any selling concession, or other compensation or consideration that is based upon the amount of Securities purchased by any single Client Plan, or that is based upon the amount of Securities purchased by Client Plans or In-House Plans through Pooled Funds, pursuant to this exemption. In this regard, the Affiliated Broker-Dealer may not receive, either directly or indirectly, any compensation or consideration that is attributable to

the fixed designations generated by purchases of the Securities by the asset management affiliate of BNYMC on behalf of any single Client Plan or any Client Plan or In-House Plan in Pooled Funds.

(g) If the transaction is an AUT,

(1) The amount the Affiliated Broker-Dealer receives in management, underwriting, or other compensation or consideration is not increased through an agreement, arrangement, or understanding for the purpose of compensating the Affiliated Broker-Dealer for foregoing any selling concessions for those Securities sold pursuant to this exemption. Except as described above, nothing in this Section II(g)(1) shall be construed as precluding the Affiliated Broker-Dealer from receiving management fees for serving as manager of the underwriting or selling syndicate, underwriting fees for assuming the responsibilities of an underwriter in the underwriting or selling syndicate, or other compensation or consideration that is not based upon the amount of Securities purchased by the asset management affiliate of BNYMC on behalf of any single Client Plan, or on behalf of any Client Plan or In-House Plan participating in Pooled Funds, pursuant to this exemption; and

(2) The Affiliated Broker-Dealer shall provide, on a quarterly basis, to the asset management affiliate of BNYMC a written certification, signed and dated by an officer of the Affiliated Broker-Dealer, stating that the amount that the Affiliated Broker-Dealer received in compensation or consideration during the past quarter, in connection with any offerings covered by this exemption, was not adjusted in a manner inconsistent with Section II(e), (f), or (g) of this exemption.

(h) The covered transactions are performed under a written authorization executed in advance by an independent fiduciary of each single Client Plan (the Independent Fiduciary), as defined below in Section III(g).

(i) Prior to the execution by an Independent Fiduciary of a single Client Plan of the written authorization described above in Section II(h), the following information and materials (which may be provided electronically) must be provided by the asset management affiliate of BNYMC to such Independent Fiduciary:

(1) A copy of the Notice of Proposed Exemption (the Notice) and a copy of the final exemption (the Grant) as published in the **Federal Register**, provided that the Notice and the Grant are provided simultaneously; and

(2) Any other reasonably available information regarding the covered

transactions that such Independent Fiduciary requests the asset management affiliate of BNYMC to provide.

(j) Subsequent to the initial authorization by an Independent Fiduciary of a single Client Plan permitting the asset management affiliate of BNYMC to engage in the covered transactions on behalf of such single Client Plan, the asset management affiliate of BNYMC will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary requests the asset management affiliate of BNYMC to provide.

(k)(1) In the case of an existing employee benefit plan investor (or existing In-House Plan investor, as the case may be) in a Pooled Fund, such Pooled Fund may not engage in any covered transactions pursuant to this exemption, unless the asset management affiliate of BNYMC provides the written information, as described below and within the time period described below in this Section II(k)(2), to the Independent Fiduciary of each such plan participating in such Pooled Fund (and to the fiduciary of each such In-House Plan participating in such Pooled Fund).

(2) The following information and materials (which may be provided electronically) shall be provided by the asset management affiliate of BNYMC not less than 45 days prior to such asset management affiliate of BNYMC engaging in the covered transactions on behalf of a Pooled Fund, pursuant to this exemption, and provided further that the information described below in this section II(k)(2)(i) and (ii) is supplied simultaneously:

(i) A notice of the intent of such Pooled Fund to purchase Securities pursuant to this exemption, a copy of the Notice, and a copy of the Grant, as published in the **Federal Register**;

(ii) Any other reasonably available information regarding the covered transaction that the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund requests the asset management affiliate of BNYMC to provide; and

(iii) A termination form expressly providing an election for the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund to terminate such plan's (or In-House Plan's) investment in such Pooled Fund without penalty to such plan (or In-House Plan). Such form shall include

instructions specifying how to use the form. Specifically, the instructions must explain that such plan (or such In-House Plan) has an opportunity to withdraw its assets from a Pooled Fund for a period of no more than 30 days after such plan's (or such In-House Plan's) receipt of the initial notice of intent, described above in Section II(k)(2)(i), and that the failure of the Independent Fiduciary of such plan (or fiduciary of such In-House Plan) to return the termination form to the asset management affiliate of BNYMC in the case of a plan (or In-House Plan) participating in a Pooled Fund by the specified date shall be considered as an approval by such plan (or such In-House Plan) of its participation in the covered transactions as an investor in such Pooled Fund.

Further, the instructions will identify BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer and/or Affiliated Trustee and will provide the address of the asset management affiliate of BNYMC. The instructions will state that the exemption will not be available, unless the fiduciary of each plan participating in the covered transactions as an investor in a Pooled Fund is, in fact, independent of BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer, and the Affiliated Trustee. The instructions will also state that the fiduciary of each such plan must advise the asset management affiliate of BNYMC, in writing, if it is not an "Independent Fiduciary," as that term is defined below in Section III(g) of this exemption.

For purposes of this Section II(k)(1) and (2), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this exemption for each plan be independent of the asset management affiliate of BNYMC shall not apply in the case of an In-House Plan.

(3) Notwithstanding the requirement described in Section II(h), the written authorization requirement for an existing single Client Plan shall be satisfied solely with respect to covered ATT transactions if the asset management affiliate provides to the Independent Fiduciary of such existing single Client Plan the written information and materials described below in Section II(k)(4), and the Independent Fiduciary does not return the termination form required to be provided by Section II(k)(4)(iii) within the time period specified therein.

(4) The following information and materials (which may be provided electronically) shall be provided by the

asset management affiliate of BNYMC not less than 45 days prior to such asset management affiliate of BNYMC engaging in the covered ATT transactions on behalf of such existing single Client Plan pursuant to this proposed exemption:

(i) A notice of the intent of such asset management affiliate to purchase Securities pursuant to this exemption, a copy of the Notice, and a copy of the Grant, as published in the **Federal Register**;

(ii) Any other reasonably available information regarding the covered ATT transactions that the Independent Fiduciary of such existing single Client Plan requests the asset management affiliate of BNYMC to provide; and

(iii) A termination form expressly providing an election for the Independent Fiduciary of an existing single Client Plan to deny the asset management affiliate of BNYMC from engaging in covered ATT transactions on behalf of such Client Plan. Such form shall include instructions specifying how to use the form. Specifically, the instructions must explain that the existing single Client Plan has an opportunity to deny the asset management affiliate of BNYMC from engaging in covered ATT transactions of behalf of such Client Plan for a period of no more than 30 days after such Client Plan's receipt of the initial notice of intent, described above in Section II(k)(4)(i), and that the failure of the Independent Fiduciary of such existing single Client Plan to return the form to the asset management affiliate of BNYMC by the specified date shall be considered an approval by such Client Plan of its participation in the covered ATT transactions.

Further, the instructions will identify BNYMC, the asset management affiliate of BNYMC, and the Affiliated Trustee and will provide the address of the asset management affiliate of BNYMC. The instructions will state that the exemption will not be available, unless the Independent Fiduciary of such existing single Client Plan is, in fact, independent of BNYMC, the asset management affiliate of BNYMC, and the Affiliated Trustee. The instructions will also state that the fiduciary of each such existing single Client Plan must advise the asset management affiliate of BNYMC, in writing, if it is not an "Independent Fiduciary," as that term is defined, below, in Section III(g).

(l)(1) In the case of each plan (and in the case of each In-House Plan) whose assets are proposed to be invested in a Pooled Fund after such Pooled Fund has satisfied the conditions set forth in this exemption to engage in the covered

transactions, the investment by such plan (or by such In-House Plan) in the Pooled Fund is subject to the prior written authorization of an Independent Fiduciary representing such plan (or the prior written authorization by the fiduciary of such In-House Plan, as the case may be), following the receipt by such Independent Fiduciary of such plan (or by the fiduciary of such In-House Plan, as the case may be) of the written information described above in Section II(k)(2)(i) and (ii).

(2) For purposes of this Section II(l), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this exemption for each plan proposing to invest in a Pooled Fund be independent of BNYMC and its affiliates shall not apply in the case of an In-House Plan.

(m) Subsequent to the initial authorization by an Independent Fiduciary of a plan (or by a fiduciary of an In-House Plan) to invest in a Pooled Fund that engages in the covered transactions, the asset management affiliate of BNYMC will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary of such plan (or the fiduciary of such In-House Plan, as the case may be) requests the asset management affiliate of BNYMC to provide.

(n) At least once every three months, and not later than 45 days following the period to which such information relates, the asset management affiliate of BNYMC shall furnish:

(1) In the case of each single Client Plan that engages in the covered transactions, the information described below in this Section II(n)(3)–(7), to the Independent Fiduciary of each such single Client Plan;

(2) In the case of each Pooled Fund in which a Client Plan (or in which an In-House Plan) invests, the information described below in this Section II(n)(3)–(6) and (8), to the Independent Fiduciary of each such Client Plan (and to the fiduciary of each such In-House Plan) invested in such Pooled Fund;

(3) A quarterly report (the Quarterly Report) (which may be provided electronically) which discloses all the Securities purchased pursuant to the exemption during the period to which such report relates on behalf of the Client Plan, In-House Plan or Pooled Fund to which such report relates, and which discloses the terms of each of the transactions described in such report, including:

(i) The type of Securities (including the rating of any Securities which are debt securities) involved in each transaction;

(ii) The price at which the Securities were purchased in each transaction;

(iii) The first day on which any sale was made during the offering of the Securities;

(iv) The size of the issue of the Securities involved in each transaction, so that the Independent Fiduciary may verify compliance with section II(c);

(v) The number of Securities purchased by the asset management affiliate of BNYMC for the Client Plan, In-House Plan or Pooled Fund to which the transaction relates;

(vi) The identity of the underwriter from whom the Securities were purchased for each transaction;

(vii) In the case of an AUT, the underwriting spread in each transaction (*i.e.*, the difference between the price at which the underwriter purchases the Securities from the issuer and the price at which the Securities are sold to the public);

(viii) In the case of an ATT, the basis upon which the Affiliated Trustee is compensated in each transaction;

(ix) The price at which any of the Securities purchased during the period to which such report relates were sold; and

(x) The market value at the end of the period to which such report relates of the Securities purchased during such period and not sold;

(4) The Quarterly Report contains:

(i) In the case of AUTs, a representation that the asset management affiliate of BNYMC has received a written certification signed by an officer of the Affiliated Broker-Dealer, as described above in Section II(g)(2), affirming that, as to each AUT covered by this exemption during the past quarter, the Affiliated Broker-Dealer acted in compliance with Section II(e), (f) and (g) of this exemption;

(ii) In the case of ATTs, a representation by the asset management affiliate of BNYMC affirming that, as to each ATT, the transaction was not part of an agreement, arrangement of understanding designed to benefit the Affiliated Trustee; and

(iii) A statement that copies of such certifications will be provided upon request;

(5) A disclosure in the Quarterly Report that states that any other reasonably available information regarding a covered transaction that an Independent Fiduciary (or fiduciary of an In-House Plan) requests will be provided, including but not limited to:

(i) The date on which the Securities were purchased on behalf of the Client Plan (or the In-House Plan) to which the disclosure relates (including Securities purchased by the Pooled Funds in which such Client Plan (or such In-House Plan) invests);

(ii) The percentage of the offering purchased on behalf of all Client Plans (and the pro-rata percentage purchased on behalf of Client Plans and In-House Plans investing in Pooled Funds); and

(iii) The identity of all members of the underwriting syndicate;

(6) The Quarterly Report discloses any instance during the past quarter where the asset management affiliate of BNYMC was precluded for any period of time from selling Securities purchased under this exemption in that quarter because of its status as an affiliate of an Affiliated Broker-Dealer or an Affiliated Trustee and the reason for this restriction;

(7) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each single Client Plan that engages in the covered transactions, that the authorization to engage in such covered transactions may be terminated, without penalty to such single Client Plan, within five (5) days after the date that the Independent Fiduciary of such single Client Plan informs the person identified in such notification that the authorization to engage in the covered transactions is terminated; and

(8) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each Client Plan (and to the fiduciary of each In-House Plan) that engages in the covered transactions through a Pooled Fund, that the investment in such Pooled Fund may be terminated without penalty to such Client Plan (or such In-House Plan), within such time as may be necessary to effect the withdrawal in an orderly manner that is equitable to all withdrawing plans and to the non-withdrawing plans, after the date that the Independent Fiduciary of such Client Plan (or the fiduciary of such In-House Plan, as the case may be) informs the person identified in such notification that the investment in such Pooled Fund is terminated.

(o) For purposes of engaging in covered transactions, each Client Plan (and each In-House Plan) shall have total net assets with a value of at least \$50 million (the \$50 Million Net Asset Requirement). For purposes of engaging in covered transactions involving an Eligible Rule 144A Offering,<sup>3</sup> each

Client Plan (and each In-House Plan) shall have total net assets of at least \$100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be) (the \$100 Million Net Asset Requirement).

For purposes of a Pooled Fund engaging in covered transactions, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets with a value of at least \$50 million. Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets with a value of at least \$50 million, the \$50 Million Net Asset Requirement will be met if fifty percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which has total net assets with a value of at least \$50 million.

For purposes of a Pooled Fund engaging in covered transactions involving an Eligible Rule 144A Offering, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets of at least \$100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be). Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets of at least \$100 million in securities of issuers that are not affiliated with such Client Plan (or In-House Plan, as the case may be), the \$100 Million Net Asset Requirement will be met if fifty percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which have total net assets of at least \$100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be), and the Pooled Fund itself qualifies as a QIB, as determined pursuant to SEC Rule 144A (17 CFR 230.144A(a)(F)).

For purposes of the net asset requirements described above in this

means an offering of securities that meets the following conditions:

(i) The securities are offered or sold in transactions exempt from registration under section 4(2) of the Securities Act of 1933 [15 U.S.C. 77d(d)], rule 144A thereunder [Sec. 230.144A of this chapter], or rules 501–508 thereunder [Sec. 230.501–230–508 of this chapter];

(ii) The securities are sold to persons that the seller and any person acting on behalf of the seller reasonably believe to include qualified institutional buyers, as defined in Sec. 230.144A(a)(1) of this chapter; and

(iii) The seller and any person acting on behalf of the seller reasonably believe that the securities are eligible for resale to other qualified institutional buyers pursuant to Sec. 230.144A of this chapter.

<sup>3</sup> SEC Rule 10f-3(a)(4), 17 CFR 270.10f-3(a)(4), states that the term “Eligible Rule 144A Offering”

Section II(o), where a group of Client Plans is maintained by a single employer or controlled group of employers, as defined in section 407(d)(7) of the Act, the \$50 Million Net Asset Requirement (or in the case of and Eligible Rule 144A Offering, the \$100 Million Net Asset Requirement) may be met by aggregating the assets of such Client Plans, if the assets of such Client Plans are pooled for investment purposes in a single master trust.

(p) The asset management affiliate of BNYMC is a “qualified professional asset manager” (QPAM), as that term is defined under Part V(a) of PTE 84–14, as amended from time to time, or any successor exemption thereto. In addition to satisfying the requirements for a QPAM under Section V(a) of PTE 84–14, the asset management affiliate of BNYMC also must have total client assets under its management and control in excess of \$5 billion, as of the last day of its most recent fiscal year and shareholders’ or partners’ equity in excess of \$1 million.

(q) No more than twenty percent (20%) of the assets of a Pooled Fund at the time of a covered transaction are comprised of assets of In-House Plans for which BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer, the Affiliated Trustee or an affiliate exercises investment discretion.

(r) The asset management affiliate of BNYMC, the Affiliated Broker-Dealer, and the Affiliated Trustee, 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(s), 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 BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer or the Affiliated Trustee, 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(s); and

(2) A separate prohibited transaction shall not be considered to have occurred if, due to circumstances beyond the control of the asset management affiliate of BNYMC, the Affiliated Broker-Dealer, or the Affiliated Trustee, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(s)(1) Except as provided below in Section II(s)(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(r) 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(s)(1)(ii)–(iv) shall be authorized to examine trade secrets of the asset management affiliate of BNYMC, the Affiliated Broker-Dealer, or the Affiliated Trustee, or commercial or financial information which is privileged or confidential; and

(3) Should the asset management affiliate of BNYMC, the Affiliated Broker-Dealer, or the Affiliated Trustee refuse to disclose information on the basis that such information is exempt from disclosure, pursuant to Section II(s)(2) above, the asset management affiliate of BNYMC 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.

(t) An indenture trustee whose affiliate has, within the prior 12 months, underwritten any Securities for an obligor of the indenture Securities must resign as indenture trustee if a default occurs upon the indenture Securities within a reasonable amount of time of such default.

### Section III—Definitions

(a) The term, “the Applicant,” means BNYMC and its current and future affiliates.

(b) The term, “Affiliated Broker-Dealer,” means any broker-dealer affiliate, as “affiliate” is defined below in Section III(c), of the Applicant, as “Applicant” is defined above in Section III(a), that meets the requirements of this exemption. Such Affiliated Broker-Dealer may participate in an

underwriting or selling syndicate as a manager or member. The term, “manager,” means any member of an underwriting or selling syndicate who, either alone or together with other members of the syndicate, is authorized to act on behalf of the members of the syndicate in connection with the sale and distribution of the Securities, as defined below in Section III(h), being offered or who receives compensation from the members of the syndicate for its services as a manager of the syndicate.

(c) The term “affiliate” of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such person;

(2) Any officer, director, partner, employee, or relative, as defined in section 3(15) of the Act, of such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

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

(e) The term, “Client Plan(s),” means an employee benefit plan(s) that is subject to the Act and/or the Code, and for which plan(s) an asset management affiliate of BNYMC exercises discretionary authority or discretionary control respecting management or disposition of some or all of the assets of such plan(s), but excludes In-House Plans, as defined below in Section III(l).

(f) The term, “Pooled Fund(s),” means a common or collective trust fund(s) or a pooled investment fund(s): (i) In which employee benefit plan(s) subject to the Act and/or Code invest; (ii) Which is maintained by an asset management affiliate of BNYMC, (as the term, “affiliate” is defined above in Section III(c)); and (iii) For which such asset management affiliate of BNYMC exercises discretionary authority or discretionary control respecting the management or disposition of the assets of such fund(s).

(g)(1) The term, “Independent Fiduciary,” means a fiduciary of a plan who is unrelated to, and independent of, BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer and the Affiliated Trustee. For purposes of this exemption, a fiduciary of a plan will be deemed to be unrelated to, and independent of, BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer and the Affiliated Trustee, if such fiduciary represents in writing that

neither such fiduciary, nor any individual responsible for the decision to authorize or terminate authorization for the transactions described above in Section I of this exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer or the Affiliated Trustee and represents that such fiduciary shall advise the asset management affiliate of BNYMC within a reasonable period of time after any change in such facts occur.

(2) Notwithstanding anything to the contrary in this Section III(g), a fiduciary of a plan is not independent:

(i) If such fiduciary directly or indirectly controls, is controlled by, or is under common control with BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer or the Affiliated Trustee;

(ii) If such fiduciary directly or indirectly receives any compensation or other consideration from BNYMC, the asset management affiliate of BNYMC, the Affiliated Broker-Dealer or the Affiliated Trustee for his or her own personal account in connection with any transaction described in this exemption;

(iii) If any officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the asset management affiliate of BNYMC responsible for the transactions described above in Section I of this exemption, is an officer, director or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the sponsor of the plan or of the fiduciary responsible for the decision to authorize or terminate authorization for the transactions described in Section I. However, if such individual is a director of the sponsor of the plan or of the responsible fiduciary, and if he or she abstains from participation in: (A) The choice of the plan's investment manager/adviser; and (B) The decision to authorize or terminate authorization for transactions described above in Section I, then Section III(g)(2)(iii) shall not apply.

(3) The term, "officer" means a president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), or any other officer who performs a policy-making function for BNYMC or any affiliate thereof.

(h) The term, "Securities," shall have the same meaning as defined in section 2(36) of the Investment Company Act of 1940 (the 1940 Act), as amended (15 U.S.C. 80a-2(36)). For purposes of this

exemption, mortgage-backed or other asset-backed securities rated by one of the Rating Organizations, as defined, below, in Section III(k), will be treated as debt securities.

(i) The term, "Eligible Rule 144A Offering," shall have the same meaning as defined in SEC Rule 10f-3(a)(4) (17 CFR 270.10f-3(a)(4)) under the 1940 Act.

(j) The term, "qualified institutional buyer," or the term, "QIB," shall have the same meaning as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)) under the 1933 Act.

(k) The term, "Rating Organizations," means Standard & Poor's Rating Services, Moody's Investors Service, Inc., Fitch Ratings, Inc., Dominion Bond Rating Service Limited, and Dominion Bond Rating Service, Inc.; or any successors thereto.

(l) The term, "In-House Plan(s)," means an employee benefit plan(s) that is subject to the Act and/or the Code, and that is, respectively, sponsored by the Applicant as defined above in Section III(a) or by any affiliate, as defined above in Section III(b), of the Applicant, for its own employees.

(m) The term, "Affiliated Trustee," means the Applicant and any bank or trust company affiliate of the Applicant (as "affiliate" is defined above in Section III(c)(1)), that serves as trustee of a trust that issues Securities which are asset-backed securities or as indenture trustee of Securities which are either asset-backed securities or other debt securities that meet the requirements of this exemption. For purposes of this exemption, other than Section II(t), performing services as custodian, paying agent, registrar or in similar ministerial capacities is, in each case, also considered serving as trustee or indenture trustee.

Effective December 24, 2008, this exemption is available to BNYMC and its affiliates for as long as the terms and conditions of the exemption are satisfied with respect to each Client Plan.

#### Written Comments

1. The Notice of Proposed Exemption (the Notice), published in the **Federal Register** on December 24, 2008, stated that the Applicant would distribute the Notice to interested persons within fifteen (15) days of its publication in the **Federal Register**; the Notice also invited all interested persons to submit written comments and requests for a hearing to the Department concerning the proposed exemption within forty-five (45) days of the date of its publication.

On December 31, 2008, the Applicant requested that the Department extend

the foregoing deadlines for notification to interested persons. The Department agreed to this request, and instructed the Applicant that notification of interested persons be provided no later than January 18, 2009. In addition, the Department directed the Applicant to advise such interested persons that the deadline for receipt of written comments and requests for a hearing had been adjusted to February 17, 2009. The Department received a written certification from the Applicant dated January 19, 2009 confirming that the Notice and the accompanying supplemental statement had been distributed to interested persons on or before January 18, 2009 via first-class mail or electronically (with verification of receipt).

2. At the conclusion of the adjusted comment period on February 17, 2009, the Department received a written comment from the Applicant regarding the content of the Notice. In its comment, the Applicant expressed the opinion that the references to "Affiliated Broker-Dealer" in the second paragraph of Section II(k)(4)(iii) of the Notice were inappropriate insofar as this subsection only relates to the notice requirements of asset management affiliates of BNYMC engaging solely in covered ATT transactions on behalf of existing single Client Plans. Because the Department concurs with the Applicant's comment, the references to "Affiliated Broker-Dealer" contained in the second paragraph of Section II(k)(4)(iii) have been deleted.

In addition, the Applicant's comment to the Department proposed a number of minor editorial adjustments to Sections II and III of the Notice, none of which related to the substance of the exemption. After reviewing these suggestions, the Department incorporated the requested changes. Further, the Department did not receive a request for a hearing.

During the comment period, the Department also received two e-mails from recipients of the notice to interested persons who inquired generally about its significance, but contained no comments regarding the Notice. The Department determined that no additional revisions to the Notice were necessary after reviewing the content of these communications.

3. The Department has determined, on its own motion, to amend the content of Section II(g)(2) as it appears in the Notice by requiring that the quarterly written certification concerning compensation that is provided by the Affiliated Broker-Dealer to the asset management affiliate of BNYMC must

not only be signed but also dated by an officer of the Affiliated Broker-Dealer.

The Department has also determined, on its own motion, to amend the content of Section II(k)(3) as it appears in the Notice. Section II(k)(3) of the Notice states that, “[N]otwithstanding the requirement described in Section II(h), the written authorization requirement for an existing single Client Plan shall be satisfied solely with respect to covered ATT transactions (where the asset management affiliate of BNYMC or any affiliate thereof is not a manager or member of an underwriting or selling syndicate) if the asset management affiliate provides to the Independent Fiduciary of such existing single Client Plan the written information and materials described below in Section II(k)(4), and the Independent Fiduciary does not return the termination form required to be provided by Section II(k)(4)(iii) within the time frame specified therein.”

Specifically, the Department notes that the inclusion of the parenthetical clause in the preceding sentence may create confusion, insofar as the “solely” covered ATT transactions referenced in the preceding paragraph do not involve selling syndicates or underwriters. Accordingly, the Department has determined to delete the forgoing parenthetical clause from Section II(k)(3).

For a more complete statement of the facts and representations supporting the Department’s decision to grant this exemption, refer to the text of the Notice at 73 FR 79174.

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

#### Exemption

The restrictions of sections 406(a), 406(b)(1), 406(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 to: (1) The acquisition by the UBS Savings and Investment Plan, the UBS Financial Services Inc. 401(k) Plus Plan, and the UBS Financial Services Inc. of Puerto Rico Savings Plus Plan (collectively, the Plans) of certain entitlements (each, an Entitlement) and certain subscription rights (each, a Right) issued by UBS, a party in interest with respect to the Plans; (2) the holding of the Entitlements by the Plans between April 28, 2008 and May 9, 2008, inclusive, pending the automatic conversion of the Entitlements into shares of UBS common stock; and (3) the holding of the Rights by the Plans

between May 27, 2008 and June 9, 2008, inclusive, provided that the following conditions were satisfied:

(a) All decisions regarding the acquisition and holding of the Rights and Entitlements by the Plans were made by U.S. Trust, Bank of America Private Wealth Management (U.S. Trust), a qualified, independent fiduciary;

(b) The Plans’ acquisition of the Rights and Entitlements resulted from an independent act of UBS as a corporate entity, and without any participation on the part of the Plans;

(c) The acquisition and holding of the Rights and Entitlements by the Plans occurred in connection with a capital improvement plan approved by the board of directors of UBS, in which all holders of UBS common stock, including the Plans, were treated exactly the same;

(d) All holders of UBS common stock, including the Plans, were issued the same proportionate number of Rights based on the number of shares of UBS common stock held by such Plans;

(e) All holders of UBS common stock, including the Plans, were issued the same proportionate number of Entitlements based on the number of shares of UBS common stock held by such Plans;

(f) The acquisition of the Rights and Entitlements by the Plans occurred on the same terms made available to other holders of UBS common stock;

(g) The acquisition of the Rights and Entitlements by the Plans was made pursuant to provisions of each such Plan for the individually-directed investment of participant accounts; and

(h) The Plans did not pay any fees or commissions in connection with the acquisition or holding of the Rights or Entitlements.

The Notice of Proposed Exemption (the Notice), published in the **Federal Register** on January 21, 2009, stated that the Applicants would distribute the Notice to interested persons within fifteen (15) days of its publication in the **Federal Register**; the Notice also invited all interested persons to submit written comments and requests for a hearing to the Department concerning the proposed exemption within forty-five (45) days of the date of its publication.

On January 27, 2009, the Applicants requested in writing that the Department permit a 10 day extension of the foregoing deadlines for the provision of the Notice to interested persons. The Department agreed to this request, and instructed the Applicants that notification of interested persons be provided no later than February 15, 2009. In this connection, the

Department received a written certification from a corporate officer of UBS AG (the sponsor of the UBS Savings and Investment Plan) dated February 11, 2009, as well as written certifications from a corporate officer of both UBS Financial Services Inc. (the sponsor of the UBS Financial Services Inc. 401(k) Plus Plan) and of UBS Financial Services Inc. of Puerto Rico (the sponsor of the UBS Financial Services Inc. of Puerto Rico Savings Plus Plan) dated February 9, 2009; each of these certifications confirmed that the Notice and the accompanying supplemental statement had been distributed to interested persons on or before February 15, 2009 via first class mail. At the conclusion of the comment period, the Department had not received any written comments or requests for a hearing from interested persons with respect to the Notice. Accordingly, the Department has determined to grant the exemption as proposed.

For a complete statement of the facts and representations, refer to the Notice published on January 21, 2009 at 74 FR 3647.

**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 describe all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 30th day of April 2009.

**Ivan Strasfeld,**

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

[FR Doc. E9-10360 Filed 4-30-09; 8:45 am]

BILLING CODE 4510-29-P

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-65,660]

#### Muth Mirror Systems; Sheboygan, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 24, 2009, in response to a petition filed on behalf of workers of Muth Mirror Systems, Sheboygan, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 2nd day of April, 2009.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-10391 Filed 5-5-09; 8:45 am]

BILLING CODE 4510-FN-P

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-65,167]

#### Anderson Global Muskegon Heights, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 9, 2009 in response to a petition filed by the International Association of Machinists and Aerospace Workers, Local PM2848 on behalf of workers of Anderson Global, Muskegon Heights, Michigan.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 2nd day of April, 2009.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-10373 Filed 5-5-09; 8:45 am]

BILLING CODE 4510-FN-P

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-65,358]

#### Dauphin Precision Tool; Millersburg, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 24, 2009 in response to a petition filed by United Steelworkers of America, Subdistrict Office 10, on behalf of workers of Dauphin Precision Tool, Millersburg, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 2nd day of April 2009.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-10378 Filed 5-5-09; 8:45 am]

BILLING CODE 4510-FN-P

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-65,405]

#### Biofit Engineered Products, Bowling Green, OH; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 26, 2009 in response to a petition filed by UNITE HERE, Local 1758 on behalf of workers of Biofit Engineered Products, Bowling Green, Ohio.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 1st day of April, 2009.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-10380 Filed 5-5-09; 8:45 am]

BILLING CODE 4510-FN-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-65,452]

#### Newport Precision, Inc., Newport, TN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 3, 2009 in response to a worker petition filed on behalf of workers of Newport Precision, Inc., Newport, Tennessee.

The petitioners have requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 1st day of April, 2009.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-10382 Filed 5-5-09; 8:45 am]

BILLING CODE 4510-FN-P

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-65,118]

#### Vanity Fair Brands, LP; Jackson Knitting Facility, a Wholly Owned Subsidiary of Fruit of the Loom, Jackson, AL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 4, 2009 in response to a petition filed by a company official on behalf of workers of Vanity Fair Brands, LP, Jackson Knitting Facility, a wholly owned subsidiary of Fruit of the Loom, Jackson, Alabama.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 1st day of April, 2009.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-10369 Filed 5-5-09; 8:45 am]

BILLING CODE 4510-FN-P