

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

[TA-W-72,575]

**Dell Products LP, Winston-Salem (WS-1) Division Including On-Site Leased Workers From Adecco, Spherion, Patriot Staffing, Manpower, Teksystems, APN, Iconma, Staffing Solutions, South East and Omni Resources and Recovery; Winston-Salem, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 1, 2010, applicable to workers of Dell Products LP, Winston-Salem (WS-1) Division, including on-site leased workers from Adecco, Spherion, Patriot Staffing, Manpower, TEKsystems, APN and ICONMA, Winston-Salem, North Carolina. The notice was published in the **Federal Register** on April 23, 2010 (75 FR 21361). The notice was amended on March 30, 2010 to include on-site leased workers from Staffing Solutions, South East. The notice was published in the **Federal Register** on April 19, 2010 (75 FR 20385).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of desktop computers.

New information shows that workers leased from Omni Resources and Recovery were employed on-site at the Winston-Salem, North Carolina location of Dell Products LP, Winston-Salem (WS-1) Division. The Department has determined that on-site workers from Omni Resources and Recovery were sufficiently under the control of the subject firm to be covered by this certification.

Based on these findings, the Department is amending this certification to include workers leased from Omni Resources and Recovery working on-site at the Winston-Salem, North Carolina location of Dell Products LP, Winston-Salem (WS-1) Division.

The amended notice applicable to TA-W-72,575 is hereby issued as follows:

All workers of Dell Products LP, Winston-Salem (WS-1) Division, including on-site leased workers of Adecco, Spherion, Patriot Staffing, Manpower, TEKsystems, APN, ICONMA, and Staffing Solutions, South East,

and Omni Resources and Recovery, Winston-Salem, North Carolina, who became totally or partially separated from employment on or after October 13, 2008 through March 1, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 31st day of August, 2010.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2010-23065 Filed 9-15-10; 8:45 am]

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**DEPARTMENT OF LABOR****Employee Benefits Security Administration****Prohibited Transaction Exemptions and Grant of Individual Exemptions Involving: 2010-26, PNC Financial Services Group, Inc. (PNC or the Applicant), D-11456; and 2010-27, The Finishing Trades Institute of the Mid-Atlantic Region (the Plan), L-11609**

**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.

PNC Financial Services Group, Inc. (PNC or the Applicant)

Located in Pittsburgh, Pennsylvania  
[Prohibited Transaction Exemption 2010-26;  
Application No. D-11456]

**Exemption***Section I—Exemption for Receipt of Fees*

In connection with the investment in an open-end investment company (a Fund(s)), as defined, below, in Section III, by certain employee benefit plans (Client Plan(s)) for which PNC (PNC or the Applicant), as defined below, serves as a fiduciary and is a party in interest with respect to such Client Plan, the restrictions of sections 406(a)(1)(D) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) through (F)<sup>1</sup> of the Code, shall not apply, effective February 1, 2008 to:

“(a) the receipt of fees by PNC and its affiliate PNC Capital Advisors, Inc. (PCA) from the Funds in connection with the investment by the Client Plans in shares of the Funds where PNC or its affiliate PCA acts as an investment advisor for such Funds; and

“(b) the receipt of fees by PNC or its affiliates from the Funds in connection with providing certain secondary services, as defined below, (Secondary Services) to such Funds in which a Client Plan invests;

<sup>1</sup> For purposes of this exemption reference to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

provided that the conditions of Section II are met.”

### Section II—General Conditions

(a) PNC, which serves as a fiduciary for a Client Plan, satisfies any one (but not all) of the following:

(1) A Client Plan invested in a Fund does not pay any plan-level investment management fee, investment advisory fee, or similar fee (Plan-Level Fee(s)) to PNC or its affiliates with respect to any of the assets of such Client Plan which are invested in shares of such Fund for the entire period of such investment (the Offset Fee Method). This condition does not preclude the payment of investment advisory fees by the Funds to PNC under the terms of an investment management agreement adopted in accordance with section 15 of the Investment Company Act of 1940 (the “1940 Act”);

(2) A Client Plan invested in the Funds pays an investment management fee or similar fee based on total Client Plan assets from which a credit has been subtracted representing such Client Plan’s pro rata share of investment advisory fees paid by the Funds to PNC (the Subtraction Fee Method). If, during any fee period for which a Client Plan has prepaid its investment management or similar fee, the Client Plan purchases shares of such Fund, the requirement of this Section II(a)(2) shall be deemed to have been met with respect to such prepaid fee if, by a method reasonably designed to accomplish the same, the amount of the prepaid fee that constitutes the fee with respect to plan assets invested in shares of such Fund (i) is anticipated and subtracted from the prepaid fee at the time of payment of such fee, (ii) is returned to the Client Plan no later than during the immediately following fee period, or (iii) is offset against the prepaid fee for the immediately following fee period or for the fee period immediately following thereafter. For purposes of this Section II(a)(2), a fee shall be deemed to have been 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) A Client Plan invested in a Fund receives a “credit”<sup>2</sup> (the Credit Fee Method) of such Plan’s proportionate share of all fees charged to the Funds by PNC for investment advisory or similar

services, on a date which is no later than one business day after receipt of such fees by PNC from the Fund. The crediting of all such fees to such Client Plan by PNC is audited by an independent accountant firm (the Auditor) on at least an annual basis to verify the proper crediting of such fees to such Client Plan.

(a) The price paid or received by a Client Plan for shares in a Fund is the net asset value per share at the time of the transaction, as defined, below in Section III, and is the same price which would have been paid or received for such shares by any other investor in such Fund at that time;

(b) PNC, including any officer or director of PNC, does not purchase or sell shares of the Funds from or to any Client Plan;

(c) A Client Plan does not pay sales commissions in connection with any purchase or sale of shares of a Fund, and a Client Plan does not pay redemption fees in connection with any sale of shares to a Fund, unless

(1) such redemption fee is paid only to a Fund, and

(2) The existence of such redemption fee is disclosed in the prospectus for such Fund in effect both at the time of the purchase of such shares and at the time of such sale;

(d) The combined total of all fees received by PNC for the provision of services by PNC to Client Plans and to Funds in which a Client Plan invests, is not in excess of “reasonable compensation” within the meaning of section 408(b)(2) of the Act;

(e) PNC does not receive any fees payable pursuant to Rule 12b-1 under the 1940 Act in connection with the transactions;

(f) No Client Plan is an employee benefit plan sponsored or maintained by PNC;

(g) A second fiduciary (Second Fiduciary), as defined below in Section III, who is acting on behalf of a Client Plan receives, in advance of any initial investment by a Plan Client in a Fund, full and detailed written disclosure of information concerning such Fund including but not limited to:

(1) A current prospectus for each Fund in which a Client Plan is considering investing;

(2) A statement describing the fees, including the nature and extent of any differential between the rates of such fees for:

(i) Any investment advisory or similar services to be paid by such Fund,

(ii) any Secondary Services to be paid by such Fund to PNC, and

(iii) all other fees to be charged to or paid by the Client Plan and by such Fund;

(3) The reason why PNC, acting as a fiduciary for such Client Plan, considers investment in such Fund to be appropriate for such Client Plan;

(4) A statement describing whether there are any limitations applicable to PNC with respect to which assets of a Client Plan may be invested in such Fund, and if so, the nature of such limitations; and

(5) Upon the request of the Second Fiduciary, acting on behalf of a Client Plan, a copy of the proposed exemption and/or copy of the final exemption, if granted, once such documents are published in the **Federal Register**.

(h) On the basis of the information described, above, in Section II(h), a Second Fiduciary, acting on behalf of a Client Plan, authorizes in writing: (1) The investment of the assets of such Client Plan in shares of each particular Fund; and (2) the fees received by PNC in connection with services provided by PNC to such Fund. Such authorization by a Second Fiduciary must be consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(i)(1) All authorizations described above, in Section II(i), made by a Second Fiduciary, regarding:

(i) Investments by a Client Plan in a Fund;

(ii) fees paid to PNC for investment management advisory services or similar services; and

(iii) fees paid for Secondary Services shall be terminable at will by the Second Fiduciary, acting on behalf of such Client Plan, without penalty to such Client Plan, upon receipt by PNC, acting as fiduciary on behalf of such Client Plan, of a written notice of termination. A form (the Termination Form), as defined, below, in Section III(j), expressly providing an election to terminate the authorizations, described, above, in Section II(i), with instructions on the use of such Termination Form must be provided to such Second Fiduciary at least annually. However, if a Termination Form has been provided to such Second Fiduciary, pursuant to Section II(k) and (l), below, then a Termination Form need not be provided again, pursuant to this Section II(j), unless at least six (6) months but no more than twelve (12) months have elapsed, since a Termination Form was provided, pursuant to Section II(k) and (l), below.

With respect to j(1)(i), (ii), (iii) above, all such investments and fees shall be terminable at will by the Second

<sup>2</sup>PNC represents that it would be accurate to describe “the credit” as a “credited dollar amount” to cover situations in which the credited amount” is used to acquire additional shares of a Fund, rather than being held by a Client Plan in the form of cash. It is represented that the standard practice is to reinvest the “credited dollar amount” in additional shares of the same Fund with respect to which the fees were credited.

Fiduciary acting on behalf of such Client Plan.

(2) The instructions for the Termination Form must include the following information:

(i) The authorization, described above in Section II(i), is terminable at will by the Second Fiduciary acting on behalf of a Client Plan, without penalty to the Client Plan, upon receipt by PNC of written notice from such Second Fiduciary; and

(ii) Failure by such Second Fiduciary to return the Termination Form will be deemed to be an approval by the Second Fiduciary and will result in the continued authorization, as described above, in Section II(i) of PNC to engage in the transactions described in this proposed exemption;

(j) For a Client Plan invested in a Fund which uses one of the fee methods described, above, in Section II(a)(1), (a)(2), or (a)(3) in the event of a proposed change from one of the fee methods to another or in the event of a proposed increase in the rate of any fee paid by such Fund to PNC for any investment advisory service or similar service that PNC provides to a Fund over an existing rate for such service or method of determining the fee for such service, which had been authorized by the Second Fiduciary for such Client Plan, in accordance with Section II(i), above, PNC, at least thirty (30) days in advance of the implementation of such change and/or such increase, provides a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of such Fund and which explains the nature and amount of such change from one of the fee methods to another or increase in fee) to the Second Fiduciary of each Client Plan affected by such change from one fee method to another fee method or increase in fee. Such notice shall be accompanied by a Termination Form, with instructions on the use of such Termination Form, as described, above, in Section II(j).

(k) In the event of:

(i) A proposed addition of a Secondary Service for which an additional fee is charged; or

(ii) A proposed increase in the rate of any fee paid by a Fund to PNC for any Secondary Service, or

(iii) A proposed increase in the rate of any fee paid for Secondary Services that results from the decrease in the number or kind of services performed by PNC for such fee over an existing rate for services which had been authorized, in accordance with Section II(i), by the Second Fiduciary for a Client Plan invested in such Fund, PNC will at least thirty (30) days in advance of the

implementation of such fee increase or additional service for which an additional fee is charged or a decrease in the number or kind of services being performed, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of such Fund and which explains the nature and amount of the additional service for which an additional fee is charged or the nature and amount of the increase in fees or the decrease in the number or kind of services) to the Second Fiduciary of each Client Plan invested in such Fund which is proposing to increase fees or add services for which an additional fee is charged or decreasing the number or kind of services being performed. Such notice shall be accompanied by a Termination Form, with instructions on the use of such Termination Form, as described, above in Section II(j);

(l) On an annual basis, PNC provides the Second Fiduciary of such Client Plan invested in a Fund with:

(1) A copy of the current prospectus for such Fund in which such Client Plan invests,

(2) Upon the request of such Second Fiduciary, a copy of the Statement of Additional Information for such Fund which contains a description of all fees paid by such Fund to PNC;

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

(4) Oral or written responses to inquiries of the Second Fiduciary of such Client Plan, as such inquiries arise.

(m) All dealings between a Client Plan and a Fund are on a basis no less favorable to such Client Plan than dealings between such Fund and other shareholders invested in such Fund.

(n) PNC maintains for a period of six (6) years the records necessary to enable the persons described, below, in Section II(p) to determine whether the conditions of this exemption have been met, except that:

(1) A prohibited transaction will not be considered to have occurred, if solely because of circumstances beyond the control of PNC, the records are lost or destroyed prior to the end of the six-year period, and

(2) No party in interest other than PNC shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are

not available for examination as required by Section II(p), below.

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

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

(ii) Any fiduciary of a Client Plan who has authority to acquire or dispose of shares of a Fund owned by such Client Plan, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of a Client Plan or duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in Section II(p)(1)(ii) and (iii) shall be authorized to examine trade secrets of PNC, or commercial or financial information which is privileged or confidential.

### Section III—Definitions

For purposes of this exemption:

(a) The term “PNC” means The PNC Financial Services Group, Inc., and any affiliate thereof as defined below in paragraph (b) of this section.

(b) An “affiliate” of a person includes:

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

(2) Any officer, director, employee, relative, or partner in any such person; and

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

(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 “Client Plan” means any employee benefit plan as defined in section 3(3) of the Act; as well as Keogh plans and individual retirement accounts, for which PNC is a fiduciary as defined in section 3(21) of the Act (excluding any employee benefit plans sponsored by PNC or its affiliates).

(e) The term “Fund” or “Funds” shall mean the PNC Funds, Inc. or any other diversified open-end investment company or companies registered under the 1940 Act for which PNC serves as an investment advisor, but not sub-advisor, and for which PNC may serve as a custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, fund accountant, or

provide some other "Secondary Service," as defined below in Section III which has been approved by such Funds.

(f) The term "net asset value" means the amount for purposes of pricing all purchases and sales of shares of a Fund calculated by dividing the value of all securities, determined by a method as set forth in the Fund's prospectus and statement of additional information, and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(g) The term "relative," means a relative as that term is defined in section 3(15) of the Act (or a member of the family as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term, "Second Fiduciary(ies)," means a fiduciary of a Client Plan who is independent of and unrelated to PNC. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to PNC if:

(1) Such fiduciary, directly or indirectly controls, through one or more intermediaries, is controlled by, or is under common control with PNC;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary, is an officer, director, partner, or employee of PNC (or is a relative of such persons); or

(3) Such fiduciary, directly or indirectly, receives any compensation or other consideration for his or her personal account in connection with any transaction described in this exemption.

If an officer, director, partner, or employee of PNC (or relative of such persons) is a director of such Second Fiduciary, and if he or she abstains from participation in (i) the choice of such Client Plan's investment advisor, (ii) the approval of any such purchase or sale between such Client Plan and a Fund, and (iii) the approval of any change in fees charged to or paid by such Client Plan in connection with any of the transactions described in Section I above, then Section III(h)(2), above, shall not apply.

(i) The term, "Secondary Service(s)," means a service which is provided by PNC to a Fund, including custodial, accounting, and/or administrative services. The fees for providing Secondary Services to a Fund are paid to PNC by such Fund.

(j) The term, "Termination Form," means the form supplied to a Second Fiduciary which expressly provides an election to such Second Fiduciary to

terminate on behalf of a Client Plan the authorization described, above, in Section II(i).

(k) The term, "business day," means any day that

(1) PNC is open for conducting all or substantially or substantially all of its banking functions, and

(2) The New York Stock Exchange (or any successor exchange) is open for trading.

*Effective Dates:* This exemption is effective as of February 1, 2008.

#### Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within forty-five (45) days of the date of the publication of the Notice in the **Federal Register** on April 30, 2010. All comments and requests for a hearing from interested persons were due by June 14, 2010; however, because the Applicant required additional time to mail the Notice to all interested parties, the Department extended the due date to June 17, 2010 which was reflected in the Notice. The Department received no requests for a hearing. The Department received one written comment from the Applicant on June 15, 2010. The Applicant later clarified its written comments in a letter dated July 6, 2010.

#### 1. Scope of Relief

The Applicant requested that the scope of relief provided in the Notice be expanded to include all of section 406(a) of the Act instead of only section 406(a)(1)(D) of the Act. The Applicant represents that the Department has provided relief from section 406(a) in similar prior exemptions. In response, it is the Department's view that the PNC Funds are not parties in interest under section 3(14) of the Act with respect to the Plan. Accordingly, the Department has determined not to provide the requested relief under section 406(a)(1)(A) of the Act. A similar analysis would apply to sections 406(a)(1)(B) and (C) of the Act. Therefore, the Department has decided to limit relief to sections 406(a)(1)(D) and 406(b) of the Act.

#### 2. Credit Fee Method Implementation

The Applicant also requested that the Department clarify the timing as to when the Applicant implemented the Credit Fee Method. The Applicant represents that although the Applicant had systems in place to implement the Credit Fee Method, it implemented the Credit Fee Method for investments in

the PNC Funds in June 2010. The Department, in order to clarify this issue, has added the following sentence to the end of Representation 11 as follows:

"PNC represents that it had systems in place as of February 8, 2008 to implement the Credit Fee Method; however, at that time PNC did not use the Credit Fee Method for Client Plan investments in the Funds."

In addition, due to a publication error, part of the first sentence of Footnote 3 in Representation 11 was missing. The first sentence of Footnote 3 in Representation 11 should have read:

"It is the view of PNC that the Credit Fee Method is covered by PTE 77-4."

#### 3. Summary Prospectus

The Applicant also requested the Department's views on whether, for purposes of the exemptive relief requested, PNC may use a current "summary prospectus" to satisfy the conditions contained in section II(h)(1) and II(m)(1) of the Notice. The condition in section II(h)(1) of this grant requires that the Second Fiduciary, who is acting on behalf of a Client Plan, receives in advance of any initial investment in a Fund, among other things, a current "prospectus." The condition in section II(m)(1) of this grant also requires that, on an annual basis, PNC provides the Second Fiduciary of each Client Plan invested in a Fund with such Fund's current "prospectus." The Applicant also requested the Department's views on whether, for purposes of the individual exemptive relief granted to PNC in Prohibited Transaction Exemption 2009-22 (PTE 2009-22), it may use a current "summary prospectus" to satisfy the conditions contained in section II(h)(1) and II(m)(1) of PTE 2009-22. The Department notes that: (1) Neither exemption defines the term "prospectus;" (2) the "summary prospectus" includes, among other things, fee and expense information and a legend containing an internet address and telephone number for obtaining a "prospectus" for the relevant Fund and other information free of charge; and (3) the exemptive relief is conditioned upon the affected plans receiving a separate fee disclosure, in advance of any initial investment and upon the occurrence of certain specified events, which fee disclosure contains more detailed information than the general fee information required to be included in a "prospectus" or "summary prospectus." Accordingly, the Department wishes to clarify solely for purposes of section II(h)(1) and section II(m)(1) of this grant and section II(h)(1)

and section II(m)(1) of PTE 2009–22 that wherever a “prospectus” is required to be provided by those sections, such requirement can also be satisfied by the provision of a “summary prospectus.”<sup>3</sup>

For a more complete statement of the facts and representations supporting the Department’s decision to grant this exemption, refer to the notice of proposed exemption published on April 30, 2010 at 75 FR 22853.

*For Further Information Contact:* Mr. Anh-Viet Ly of the Department at (202) 693–8648. (This is not a toll-free number.)

The Finishing Trades Institute of the Mid-Atlantic Region (the Plan)  
Located in Philadelphia, Pennsylvania  
[Prohibited Transaction Exemption 2010– ;  
Exemption Application No. L–11609].

#### Exemption

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act shall not apply to the proposed loan of approximately \$1,081,416 (the Loan) to the Plan by the International Union of Painters and Allied Trades, District Council 21 (the Union), a party in interest with respect to the Plan, for (1) the repayment of an outstanding loan (the Original Loan) made to the Plan by Commerce Bank and currently held by TD Bank, both of which are unrelated parties; and (2) to facilitate the expansion of a training facility (the Facility) that is situated on certain real property (the Land)<sup>4</sup> owned by the Plan, provided that the following conditions are met:

(a) The terms and conditions of the Loan are at least as favorable to the Plan as those which the Plan could have obtained in an arm’s length transaction with an unrelated party;

(b) The Plan’s trustees determine in writing that the Loan is appropriate for the Plan and in the best interests of the Plan’s participants and beneficiaries;

(c) A qualified, independent fiduciary that is acting on behalf of the Plan (the Qualified Independent Fiduciary) reviews the terms of the Loan and determines that the Loan is an appropriate investment for the Plan and protective of and in the best interests of the Plan and its participants and beneficiaries;

(d) In determining the fair market value of the Property that serves as collateral for the Loan, the Qualified Independent Fiduciary (1) obtains an appraisal of the Property from a qualified, independent appraiser (the Qualified Independent Appraiser); and (2) ensures that the appraisal prepared by the Qualified Independent Appraiser is consistent with sound principles of valuation;

(e) The Qualified Independent Fiduciary monitors the Loan, as well as the terms and

conditions of the exemption, and takes whatever actions are necessary and appropriate to safeguard the interests of the Plan and its participants and beneficiaries under the Loan;

(f) The Loan is repaid by the Plan solely with the funds the Plan retains after paying all of its operational expenses; and

(g) The Plan does not pay any fees or other expenses in connection with the servicing or administration of the Loan.

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 July 2, 2010 at 75 FR 38561.

*For Further Information Contact:* Brian Shiker of the Department, telephone (202) 693–8552. (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 10th day of September, 2010.

**Ivan Strasfeld,**

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

[FR Doc. 2010–23058 Filed 9–15–10; 8:45 am]

**BILLING CODE 4510–29–P**

#### DEPARTMENT OF LABOR

#### Employee Benefits Security Administration

[D–11400; D–11585; D–11603–07]

**Application Nos. and Proposed Exemptions; D–11400, Wasatch Advisors, Inc.; D–11585, Retirement Plan for Employees of the Rehabilitation Institute of Chicago (the Plan); D–11603–07, Chrysler Group LLC and Daimler AG; et al.**

**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

<sup>3</sup> The Department notes that consistent with the prudence requirements of section 404, a fiduciary has a duty to consider all available relevant information regardless whether the information is actually provided to the fiduciary.

<sup>4</sup> Unless otherwise stated herein, the Facility and the Land are together referred to as the “Property.”