the Property; (d) the fair market value of the Property has been determined by a qualified, independent appraiser; and (e) Ms. Belt is the only Plan participant to be affected by the transaction, and she desires that the transaction be consummated.*

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 March 22, 1996 at 61 FR 11895.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (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 exemptions 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) These exemptions are 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 these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

* Since Ms. Belt is the sole owner of the Plan sponsor and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Signed at Washington, D.C., this 30th day of April, 1996.

Ivan Strasfeld,

Director of Exemption Determination, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 96–11118 Filed 5–3–96; 8:45 am]

BILLING CODE 4510–29–P

[Application No. D–10039, et al.

Proposed Exemptions; San Diego National Bank

AGENCY: Pension and Welfare Benefits 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 restriction of the Employee Retirement Income Security Act of 1974 (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 request 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 request 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. 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 request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

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

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

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

San Diego National Bank Deferred Savings Plan (the Plan)

Located in San Diego, California

[Application No. D–10039]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) The past acquisition by the Plan of certain stock rights (the Rights) pursuant to a stock rights offering (the Offering) by SDNB Financial Corp., a California corporation (the Parent), which wholly-owns and is the parent company of the San Diego National Bank (the Employer), the sponsor of the Plan and a party in interest with respect to the Plan; (2) the

past holding of the Rights during the subscription period of the Offering; and (3) the disposition or exercise of the Rights by the Plan; provided the following conditions are satisfied: (a) The acquisition and holding of the Rights by the Plan occurred in connection with the Offering made available to all shareholders of the common stock of the Parent; (b) all holders of the common stock of the Parent were treated in a like manner, with respect to the Offering, including the Plan; and (c) all decisions regarding the holding and disposition of the Rights by the Plan were made in accordance with Plan provisions for individually-directed investment of participant accounts by the individual participant whose account in the Plan received Rights in the Offering, and if no instructions were received the Rights were sold.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective as of May 30, 1995.

Summary of Facts and Representations

1. The Parent is a registered bank holding company, incorporated in the State of California in 1982, with its principal executive office located in San Diego, California. The principal subsidiary of the parent is the Employer, a national banking association located in San Diego, California and organized in 1981, with deposits that are insured up to the applicable limits by the Federal Deposit Insurance Corporation. Through the Employer the Parent provides general banking services. As of June 30, 1995, the Parent had consolidated assets of approximately $156 million, consolidated liabilities of approximately $145 million (which includes total deposits with the Employer of approximately $125 million), and shareholders equity of approximately $11 million.

As of May 30, 1995, the opening date of the Offering by the parent, there were issued and outstanding 2,048,485 shares of the common stock of the Parent (the Common Stock) held by approximately 800 shareholders, which included 61 participants of the Plan with account balances invested in the Common Stock.

The Common Stock is publicly traded on the National Association of Securities Dealers Automated Quotation National Market System (the NASDAQ). The Rights were also traded on the NASDAQ, with three New York City trading firms making a market in the Rights.

2. The Plan is a defined contribution plan that's intended to satisfy the requirements of sections 401(a) and 401(k) of the Code. The Plan had approximately 106 participants and beneficiaries and total assets of $1,291,916, as of December 31, 1994. Sixty-one of the participants had their individual account balances in the Plan invested in 83,485 shares of the Common Stock, valued at $231,331.79, as of December 31, 1994, and comprising approximately 18 percent of the total assets in the Plan.

The Plan permits participants to contribute up to 10 percent of their respective annual compensation to the Plan and the Employer may match on a discretionary basis any percentage of each contribution by a participant (the Matching Contribution). The last previous match made by the Employer was for the plan year ended December 31, 1990. Also, the employer may make annual-discretionary profit sharing contributions, which have been made in varying amounts for each Plan year through December 31, 1990.

The Plan provides that funding contributions received from Plan participants are immediately vested; and the Matching Contributions and profit sharing contributions from the Employer are vested according to a schedule based on length of service with the Employer by the respective participants. The proceeds received from the sale of the Rights or the Common Stock received from exercising the Rights vested according to the vesting schedule of the Plan.

In connection with the Offering, the Board of Directors of the Employer adopted a resolution on April 26, 1995, authorizing a one-time special match of contributions by the Employer for participants in the Plan who were in the employment of the Employer on April 30, 1995. The amount of the special match was equal to 50 percent of the amount of employee contributions made to the Plan for the period from January 1, 1995, through April 30, 1995. The special match contributed by the Employer totalled $20,657 and was paid in cash and made available for the exercise of the Rights; or, if not so used, the remaining cash was to be invested in the Common Stock.

The Plan permits its participants to direct the investments of their individual accounts among four investment funds (the Funds), which includes one fund primarily invested in shares of the Common Stock (the Parent Stock Fund), and three other funds holding various types of other assets. Also, the Plan allows the participants to elect to establish an individually earmarked account if the participant pays all the fees and other expenses necessary for the establishment and maintenance of such account.

As to investing funding contributions in the Plan, the participant may direct his individual account with respect to (a) the voluntary contributions made by the participant and (b) those voluntary, discretionary contributions made by the Employer from its annual profits. However, the participant may not direct the Matching Contributions of the Employer, other than the limited direction of the one-time special match of April 26, 1995, because the Matching Contributions of the Employer must be invested in the Common Stock.

Participants elect their investment options on written forms that are delivered to the Administrative Committee, which is created by the Board of Directors of the Employer to administer the Plan until successors are appointed. Four individuals from the officers and staff of the Employer currently make up the Administrative Committee. Among their duties is included the selecting of the trustee of the Plan and other professional and administrative aids.

The trustee of the Plan is the Union Bank (the Trustee), a California corporation, located in San Francisco, California, and which is a subsidiary of the Bank of Tokyo, a Japanese corporation.[1] The Trustee acts as custodian of Plan assets, holding legal title to the assets, and executing investment directions received from the Administrative Committee in accordance with the participant's written instructions. The Administrative Committee reviews the investment option forms executed by the participants for possible errors, such as the failure of the participant to sign or give clear instructions.

3. The applicant represents that the Offering was conceived because of an agreement entered into on January 31, 1995, by the Parent with two limited partnerships of which WHR Management Corp. is the general partner (collectively, WHR). The agreement provided that WHR was to purchase by March 28, 1995, 24.9 percent of the Parent's issued and outstanding Common Stock. The purchase was made as agreed with WHR obtaining a total of 510,121 shares of Common Stock for $4.34 per share or for a total sum of $2,213,925.

Since the purchase by WHR at less than the then current book value afforded WHR an opportunity to purchase stock at a price that was unavailable to the existing shareholders

[1] The Trustee is expected to merge in April 1996 with the Bank of California, N.A., located in San Francisco, California, and a subsidiary of Mitsubishi Bank, a Japanese corporation.

through the public market, the Parent decided to make the Offering to all the holders of the Common Stock, with the exception of WHR, at the same price of $4.34 per share that WHR had paid.

However, after the Offering was completed WHR, in order to maintain its parity of 24.9 percent ownership in the Parent, was given the opportunity to purchase from the Parent 255,193 shares of additional Common Stock at $4.34 per share for an aggregate purchase price of $1,107,538.

4. After filing a preliminary Registration Statement (S–3) on March 31, 1995, the Parent commenced on May 30, 1995, the Offering by issuing transferable subscription Rights to the holders of the Common Stock, as of the close of business on May 5, 1995, (the Record Date).[2] One Right was issued for each two shares of Common Stock held by the shareholders, and the number of Rights so distributed was rounded up to the nearest whole Right. Each Right conferred upon its holder an entitlement (the Basic Privilege) to purchase one share of the Common Stock (an Additional Share) at the exercise price of $4.34 per share. Each Right also conferred upon its holder (other than the Plan) a second privilege (the Oversubscription Privilege), allowing the Right holder, who had exercised in full the Basic Privilege, to subscribe for Additional Shares not previously subscribed for in the Basic Privilege. If there were an insufficient number of shares available to satisfy the demands of the Oversubscription Privilege, the available shares would be allocated on a pro rata basis among those requesting the Oversubscription Privilege.

When exercising the Oversubscription Privilege all funds submitted by the holder of the Rights were deposited in an interest bearing, escrow account with the Subscription Agent, the American Transfer & Trust Company. All the interest earned in the escrow account was paid to the Parent. Therefore, the Plan was excluded from participation in the Oversubscription Privilege in order to avoid the prohibited transactions under the Act arising from the payment to the Parent of the interest earned in the escrow account.

In anticipation of the Offering, the Board of Directors of the Employer amended the Plan on May 24, 1995, to permit each Plan participant who had a Plan account invested in the Parent Stock Fund on the Record Date to direct the Trustee to either exercise or sell all the Rights attributable to their involved individual account in the Plan.

Before the amendment of May 24, 1995, the participants of the Plan that were involved in the Offering had no power or authority under the Plan to select investments of the Matching Contributions of the Employer, because these contributions were required to be allocated to the purchase of the Common Stock. With the amendment the Employer acted to permit the involved participants to elect the disposition of all Rights allocated to their individual accounts in the Plan. This decision to provide pass-through elections to Plan participants was to place the involved participants of the Plan in a like position with other shareholders of the Parent who were receiving the Rights. If involved participants failed to make an election before the Election Close-Out Date, or filed an invalid election, they were deemed to have elected to sell their Rights and the Committee instructed the Trustee to sell those Rights in the open market.

The amendment to the Plan on May 24, 1995, also established a procedure for the participant to give instructions with respect to the Offering, and also provided for the one-time special match of contributions to the Plan by the Employer on behalf of participants employed by the Employer on April 30, 1995.

In the initial stages of the Offering which had an expiration date on July 21, 1995, a participant of the Plan could elect to exercise or sell a Right by instructing the Committee to instruct the Trustee at any time until July 12, 1995, (the Election Close-Out Date). The Election Close-Out Date was established to permit sufficient time for the Trustee to liquidate in an orderly manner the assets in the Funds so that the necessary cash would be available to exercise the Rights before the expiration date of July 21, 1995.

Each Plan participant involved in the Offering obtained his funds for the $4.34 exercise price needed to acquire the Common Stock from the following order of priority: (a) First from the one-time special match of the Employer which was based on salary deferrals from January 1, 1995, through April 30, 1995; (b) second from any salary deferrals to the Plan by Plan participants; and (c) third by redeeming investments in the Funds, other than from the Parent Stock Fund, as directed by the participant. Amounts that were redeemed or realized from the sale of assets in the Funds prior to the expiration of the Offering were invested by the Trustee in a short-term investment account, which retained its earnings, pending use for the payment of the exercise price for Additional Shares. Thus, Rights were exercisable by Plan participants only to the extent cash was available from their account balances in the Funds. If cash was not available from the account balances to pay the exercise price for Additional Shares, the Trustee was instructed to sell the Rights not exercised with the proceeds from such sales credited to the account balances of the respective involved participant.

6. All of the Rights were transferable, including those Rights issued in the Oversubscription Privilege; and, although the Offering did not guarantee that a market would develop or remain available during the Offering, the Rights as separate securities from the Common Stock, could be traded on the NASDAQ under their own symbol, SDNBR.

Meetings were held in April 1995 by the Employer to explain to the Plan participants the Offering and its ramifications. The applicant represents that questions from participants generally were concerned with the following: (a) Why the cash used to exercise the Rights was to come only from existing assets allocated to involved participants individual accounts in the Plan, (b) could the Rights held by participants' individual accounts be transferred outside of the Plan to the individual participant; and (c) general questions about contributions to the Plan.

There were 4 Post-Effective Amendments filed with the SEC before the final filing was made effective on September 8, 1995, extending the Offering to September 21, 1995. The second and third Post-Effective Amendments provided, *inter alia* for payment to registered, securities broker-dealers a commission of 5 percent of the aggregate subscription price of the Rights that were exercised through their facilities. Post-Effective Amendment number 4 provided, *inter alia,* for a best-efforts underwriting agreement between the Parent and Torrey Pines Securities, Inc., a California corporation (Torrey Pines). Torrey Pines agreed to act on its best-efforts to underwrite the Offering by soliciting the exercise of the Rights by 3rd parties, and by soliciting the sales of any unsubscribed shares of Common Stock involved in the Offering at a sales price of $4.34.

With the extension of the Offering to September 21, 1995, the involved participants were notified that they had a new Election Close-Out Date of September 19, 1995.

The applicant represents that at the beginning of the Offering the Plan held a total of 42,322 Rights of which 1,634

[2] The Department notes that the Rights do not constitute qualifying employer securities within the meaning of section 407(d)(5) of the Act.

were unallocated because some participants had terminated and were not fully vested in accordance with the vesting schedule set forth in the Plan.[3] This left 40,688 Rights allocated to the individual accounts of the involved participants in the Offering. Four of the involved participants were part of the management of the Employer and 57 were from non-management. The management participants were allocated 30,512 Rights of which they exercised 12,786 Rights at the exercise price of $4.34 for the total sum of $55,491.24. The non-management involved participants were allocated 10,176 Rights of which 26 exercised 3,975 Rights at the exercise price of $4.34 for the total sum of $17,251.50. All of the involved participants exercised the total of 16,761 Rights at the exercise price of $4.34 for a total sum of $72,742.74.

The 4 involved participants from management sold 17,726 Rights and 38 involved participants from non-management sold 6,201 Rights at an average of in excess of $0.01 and less than $0.02 per Right.

The Offering resulted in all the Rights being eventually exercised and the Parent receiving approximately $3,339,986, less underwriting discounts and commissions, for the 769,582 Rights issued in the Offering. In addition WHR purchased an additional 255,193 shares of common Stock for $1,107,538. Thus, the Parent received, from the Offering and the additional purchase by WHR, the total sum of approximately $4,447,524.

The Oversubscription Privilege was exercised for 2,531 shares by two shareholders who were unrelated to the Plan.

7. The applicant represents that the Offering and the resulting transactions were in the best interests of and beneficial to the Plan and its participants and beneficiaries. Also, the applicant represents that the rights of the participants and beneficiaries of the plan were protected in the Offering and subsequent transactions. The applicant demonstrates that all involved participants were adequately notified in advance of the Offering of the procedure for instructing the Trustee of the participant's desires for execution under the Offering, and all instructions given by the involved participants to the Trustee were properly executed. Accordingly, the applicant represents all actions by the Trustee with respect to the Offering were made pursuant to expressed instructions except when the involved participant failed to act or acted in violation of the published procedures and the Rights were sold on behalf of the involved participant. These instructions as to the disposition of the Rights upon the failure of the involved participant to act or to give valid instructions were fully disclosed in the procedural instructions given to the involved participants. The applicant further represents that such instructions were consistent with the nature of participant-directed investments under a Plan.

In addition, the applicant represents that there was no expense incurred by the Plan from the Offering, and there was full disclosure of the Offering in the public documents filed with the SEC.

8. In summary the applicants represent that the transactions satisfied the statutory criteria of section 408(a) of the Act for the following reasons: (a) The acquisition of the Rights by the Plan resulted from an independent act by the Parent as a corporate act and all holders of the Common Stock were treated in a like manner, including the Plan; (b) all decisions with respect to the Rights were controlled by involved participants accounts pursuant to Plan provisions for individually-directed investments of such accounts; (c) the Rights and the Common Stock were both traded on NASDAQ from which current price information was readily ascertainable as were the terms and conditions of the Offering from the public documents distributed to the holders of the Common Stock and filed with the SEC; and (d) there were no expenses incurred by the Plan or its participants and beneficiaries from the Offering and the resulting transactions; and (e) if no instructions were received, the Rights were sold.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Fieldcrest Cannon, Inc. Retirement Savings Plan for Salaried Employees, and Fieldcrest Cannon, Inc. Retirement Savings Plan for Hourly Employees (the Plans) Located in Eden, North Carolina

[Application Nos. D–10180 & D–10181]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 F.R. 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) 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 proposed guaranty (the Guaranty) by Fieldcrest Cannon, Inc. (the Employer), the sponsor of the Plans, of amounts due the Plans with respect to three guaranteed investment contracts (the GICs) issued by Confederation Life Insurance Company (Confederation); (2) the potential extensions of credit (the Advances) to the Plans by the Employer pursuant to the Guaranty; (3) the Plans' potential repayment of the Advances; and (4) the potential purchase of the GICs from the Plans by the Employer for cash; provided the following conditions are satisfied:

(A) All terms and conditions of such transactions are no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties;

(B) No interest and/or expenses are paid by the Plans in connection with the transactions;

(C) The proceeds of the Advances are used solely in lieu of payments due from Confederation with respect to the GICs;

(D) Repayment of the Advances will be restricted to the GIC Proceeds, defined as the cash proceeds obtained by the Plans from or on behalf of Confederation with respect to the GICs;

(E) Repayment of the Advances will be waived to the extent that the Advances exceed the GIC Proceeds; and

(F) In any sale of a GIC to the Employer, the Plans will receive a purchase price which is no less than the fair market value of the GIC as of the sale date, and no less than the GIC's ''Book Value'' as defined below, plus post-maturity interest, if applicable, at the FIF Rate as defined below, less any Advances made pursuant to this exemption and any GIC Proceeds received with respect to the GIC, as of the sale date.

Summary of Facts and Representations

Introduction: The Plans' assets currently include three guaranteed investment contracts (the GICs) issued by Confederation Life Insurance Company (Confederation). Confederation has been placed in receivership and, consequently, payments and withdrawals with respect to the GICs are prohibited. The Plans' sponsor, Fieldcrest Cannon, Inc. (the Employer), proposes to guarantee that in the eventual resolution of the receivership the Plans will recover fully its investments in the GICs, including interest guaranteed under the GICs through their maturity dates and interest

[3] These 1,634 unallocated Rights were then sold, and the proceeds from their sale will be allocated at the end of the Plan year as a forfeiture.

after the maturity dates at a rate described below. The exemption proposed herein would enable this guaranty under the terms and conditions described below.

1. The Plans are defined contribution plans, the assets of which are held in one master trust (the Trust), of which the trustee is Harris Trust and Savings Bank (the Trustee) located in Chicago, Illinois. Both Plans provide for individual participant accounts (the Accounts) and participant-directed investment of the Accounts. The Plans are sponsored by Fieldcrest Cannon, Inc. (the Employer), a Delaware public corporation engaged in the design, manufacture and marketing of a broad range of household textile products, with its principal executive offices in Eden, North Carolina. The Accounts are invested at the directions of individual Plan participants among various investment funds, one of which is the Fixed Income Fund (the FI Fund), which is invested primarily in guaranteed investment contracts issued by insurance companies.

2. Among the assets in the FI Fund are three guaranteed investment contracts (the GICs) issued by Confederation Life Insurance Company (Confederation), a Canadian corporation doing business in the United States through branches in Michigan and Georgia. The GICs are further identified as follows: (a) Contract No. 62388 was issued to the Plans by Confederation effective January 18, 1991, upon an initial principal deposit of $2 million, and it provides for simple annual interest at the rate of 8.74 percent, with a maturity date of January 17, 1996; (b) Contract No. 62499 was issued to the Plans by Confederation effective June 6, 1991, upon an initial principal deposit of $1 million and it provides for simple annual interest at the rate of 8.18 percent, with a maturity date of June 5, 1995; and (c) Contract No. 62710 was issued to the Plans by Confederation effective October 15, 1992, upon an initial principal deposit of $1 million and it provides for simple annual interest at the rate of 6.21 percent, with a maturity date of October 14, 1997. The GICs are single-deposit contracts which permit withdrawals (the Withdrawals) prior to maturity solely for purchasing annuities for retiring Plan participants whose Accounts are invested in the GICs. The terms of the GICs provide that interest at the rates guaranteed by each GIC (the Contract Rates) will be credited to the Plans daily, and will be paid annually (the Interest Payments) on the anniversary of a date specified by each GIC for such Interest Payments. Upon each GIC's maturity date, Confederation is obligated to make a final cash payment to the Plans (the Maturity Payment) in the amount of the GIC's principal plus interest at the Contract Rate, less previous Withdrawals (the Maturity Value). The Employer represents that through July 1994, all payments due under the GICs had been paid.

3. The Employer represents that on August 11, 1994, the Canadian insurance regulatory authorities placed Confederation into a liquidation and winding-up process, and on August 12, 1994, the insurance authorities of the State of Michigan commenced legal action to place the U.S. operations of Confederation into a rehabilitation proceeding. As a result of these actions, all payments and withdrawals with respect to the GICs have been suspended.[4] The Employer represents that it cannot be determined accurately whether, to what extent, or at what time the Withdrawals and Interest Payments will be resumed. The Employer desires to alleviate the Plans' participants of the risks associated with continued investment in the GICs and to prevent any losses of the FI Fund's investments in the GICs. Accordingly, the Employer proposes to guarantee that the Plans will recover all amounts due under the GICs, plus post-maturity interest at a rate described below, and in its discretion to make advances to the Plans, and potentially purchase the GICs, pursuant to this guaranty. The Employer requests an exemption for these transactions under the terms and conditions described herein.

4. The Guaranty: The Employer's proposed guaranty, including the potential advances, repayments of the advances, and potential purchase of the GICs, will be embodied in a written agreement between the Trustee and the Employer (the Agreement). Under the Agreement, the Employer undertakes a guaranty (the Guaranty) that the Plans will recover with respect to each GIC no less than the ''Book Value'' of the GIC through its Maturity Date plus post-maturity interest. The Agreement defines the Book Value of each GIC as (a) The principal amount invested in the GIC, less Withdrawals, plus (b) interest thereon through the Maturity Date at the Contract Rate, plus (c) interest on any unpaid interest due under the GIC (Interest-Payment Interest), from the date such interest payment is due through the Maturity Date, at a rate referred to and defined in the Agreement as the Fixed Income Fund Rate (FIF Rate[5]). The total amount to which the Employer becomes obligated under the Agreement (the Guaranty Amount) with respect to each GIC is the Book Value plus post-maturity interest on the Book Value at the FIF Rate from the GIC's Maturity Date until (a) The entry of a final rehabilitation, liquidation or other similar order by a court of competent jurisdiction regarding Confederation's assets (the Final Order), and (b) the Plans' receipt of the Guaranty Amount from Confederation, state guaranty association funds, or other third parties paying recovery on the GICs (the GIC Proceeds); but in no event later than December 31, 2004.

Accordingly, as each Interest Payment and each Maturity Payment become due under each GIC, the Employer becomes obligated to pay the Plans (not necessarily on the Maturity Date, but in no event later than December 31, 2004, as explained below) the difference between the amount of such payment then due and the amount of GIC Proceeds, if any, actually received by the Plans with respect to such payment due (the Payment Obligation). After an Interest Payment or Maturity Payment is due, the amount of Payment Obligation then assumed by the Employer with respect to such payment earns interest at the FIF Rate set forth in the Agreement. The Agreement requires the Trustee to notify the Employer of the amount of the Payment Obligation upon the Plans' failure to receive in full any Interest Payment or Maturity Payment. As described below in the discussion of ''Advances'', the Employer may from time to time at its discretion make payments of amounts due the Plans under the Agreement, thereby reducing the amount of the outstanding Payment Obligation. However, the Agreement requires that the Plans receive the total Payment Obligation no later than final resolution of the Receivership and in no event later than December 31, 2004. If, by that date, the Plans have not recovered all of the GIC Proceeds which are to be paid with respect to a GIC, the Employer will discharge the Payment Obligation with respect to that GIC by purchasing the GIC from the Plans, as described below in the discussion of ''Potential Purchase''.

[4] The Department notes that the decisions to acquire and hold the GICs are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GICs.

[5] The FIF Rate is defined as a varying rate equal to the rate earned by the money market component of the FI Fund— specifically excluding the GICs— managed by CoreStates Investment Advisers, Inc. or a comparable rate as determined by the Trustee.

The Agreement provides that the Employer's Guaranty obligation with respect to each GIC will continue until, and terminate upon, the earlier of the following events: (a) Payment to the Plans of the Guaranty Amount with respect to the GIC by Confederation or other third parties; (b) the Employer's satisfaction of its Guaranty obligations with respect to the GIC under the Agreement; or (c) transfer of ownership of the GIC to the Employer pursuant to a purchase of the GIC from the Plans, as described below.

5. Advances: The Agreement enables (but does not obligate) the Employer at any time to make cash advances to the Plans (the Advances) and thereby reduce the balance of amounts the Employer owes the Plans under the Guaranty. The Advances are treated under the Agreement as interest-free loans of amounts guaranteed by the Employer under the Agreement. The Employer represents that Advances are anticipated only in the event the Plans encounter unforeseen liquidity problems.

6. Repayments: Under the Agreement the Trustee takes on an obligation to make repayment of the Advances (the Repayments) only in the event the Plans receive GIC Proceeds plus Advances in excess of the Guaranty Amount. The Repayments will be made only from the funds received by the Plans as GIC Proceeds, and the Repayments will be limited to the principal amount of any Advances made by the Employer. However, the Trustee will have no obligation to make Repayments of Advances with respect to any GICs which the Employer purchases, as described below. In such case, any Advances made with respect to the purchased GIC will be credited toward the purchase price.

The Trustee's obligation to make Repayments shall not apply until the entry of the Final Order and the Plans' receipt of all GIC Proceeds which are to be paid. Within sixty days thereafter, the total Repayments shall be made to the Employer by the Trustee in a lump sum or as agreed at that time by the parties. Under the Agreement, in the event the amount of GIC Proceeds with respect to a GIC exceeds the Guaranty Amount, any excess amount shall be retained as earnings of the Plans and allocated to each Plan based on its proportionate interest in the GIC. Under the Agreement the Employer waives Repayments with respect to a GIC to the extent the the total GIC Proceeds is less than the Repayments due under the Agreement. The Employer agrees that the GIC Proceeds shall be the sole source of the Repayments and that it will have no recourse against the Trustee, the Plans or their participants or beneficiaries for the Repayments.

7. Potential Purchase: The Agreement provides that at any time prior to the Plans' recovery of GIC Proceeds totalling an amount equal to the Guaranty Amount, but in no event later than December 31, 2004, the Employer may elect to purchase one or more of the GICs from the Plans. The Agreement further provides that if the Plans have not received full and final recovery of all GIC Proceeds which are to be paid with respect to a GIC by December 31, 2004, the Employer shall be required to purchase that GIC from the Plans. The purchase price of a GIC in either event will be calculated as of the purchase date and will equal the GIC's Book Value plus any Post Maturity Interest at the FIF Rate through the purchase date, less GIC Proceeds and any Advances made with respect to that GIC. The Employer may exercise its purchase option with respect to each GIC separately. To the extent necessary under the terms of the GIC, the Employer must obtain written approval of the transfer from Confederation or its successor.

5. In summary, the Employer represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The transactions will enable the Plans to recover all amounts due under the terms of the GICs, plus post-maturity interest; (2) Repayment of the Advances will be restricted to the GIC Proceeds and will be limited to the principal amount of the Advances; (3) The Repayments will be waived to the extent the Advances exceed the GIC Proceeds; and (4) No interest and/or expenses will be incurred by the Plans with respect to any of the transactions.

FOR FURTHER INFORMATION CONTACT: Ron Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

AmSouth Bancorporation Thrift Plan (the Plan) Located in Birmingham, Alabama

[Application No. D–10185]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale (the Sale) of Guaranteed Investment Contract No. 62531 and Guaranteed Investment Contract No. 62651 (collectively, the GICs), both issued by Confederation Life Insurance of Atlanta, Georgia (Confederation), by the Plan to AmSouth Bancorporation (AmSouth), a Delaware corporation, the sponsor of the plan and a party in interest with respect to the Plan; provided that (1) the Sale is a one-time transaction for cash; (2) the Plan experiences no losses nor incurs any expenses from the Sale; and (3) the Plan receives as consideration from the Sale an amount, as expressed below in paragraph No. 4, that is equal to the total amount expended by the Plan when acquiring the GICs plus all interest earnings occurring under the terms of the GICs until the date of the Sale.

Summary of Facts and Representations

1. AmSouth, a Delaware corporation incorporated in 1972, is a bank holding company headquartered in Birmingham, Alabama and is the sponsor of the Plan. The issued and outstanding common stock of AmSouth is listed and traded on the New York Exchange. It holds five state banks, of which two are incorporated and located in Alabama, and the remaining three are located and incorporated in Georgia, Florida, and Tennessee, respectively. Through its five wholly-owned subsidiaries, AmSouth offers to the public full commercial banking services in the four respective States.

2. The Plan is a defined contribution profit sharing plan with individual accounts for the respective participants that utilizes a thrift formula and contains a cash or deferred arrangement that is intended to satisfy the qualification requirements of sections 401(a) and 401(k) of the Code. As of September 30, 1995, there were the 5,748 participants in the Plan, and the approximate fair market value of the assets in the Plan was $95,940,526. The GICs had a book value of $2,687,290, as of September 30, 1995, which was approximately 2.8 percent of the total Plan assets.

The Plan offers the participants a choice of four different investment funds (collectively, the Funds) in which they can direct the investment of the assets held in their respective individual accounts. The Funds consist of (a) the Fixed Fund that invests in AmSouth Bank of Alabama's managed collective investment trust, GICs, notes, bills, mortgages or other non-equity

securities, and money-market or other debt obligations; (b) the Equity Fund that invests in common stock and other equity based investments; (c) the Balanced Fund that invests in shares of mutual funds holding a combination of stocks and bonds; and (d) the AmSouth Stock Fund that invests in the common stock of the Employer.

No assets of the plan are invested in loans to the Employer or property leased to the Employer. However, as of December 31, 1994, approximately $13,444,564 or 16.4 percent of the assets of the Plan was invested in common stock of the Employer.

The trustee of the plan is the Trust Division of AmSouth of Alabama (the Trustee), one of the wholly-owned subsidiaries of the Employer, whose officers have investment discretion over selecting for the Plan the Funds in which the participants direct the assets of their respective individual accounts to be invested.

3. The Fixed Fund of the Plan holds the two GICs, which were issued by Confederation on July 15, 1991, and May 20, 1992, respectively, and which are the subjects of the proposed exemption.[6] With respect to the GICs, Contract No. 62531, which matures on July 31, 1996, has a guaranteed annual interest rate of 8.59 percent, and a book value, as of September 30, 1995, of approximately $1,414,166. Contract No. 62651, which matures on May 19, 1997, has a guaranteed interest rate of 7.41 percent, and a book value, as of September 30, 1995, of approximately $1,272,124.

The book value represents the total amount deposited under the terms of the GICs plus accrued interest as provided by the GICs. The aggregated book value of two GICs represents, as of September 30, 1995, approximately 7.3 percent of the total assets in the Fixed Fund. At maturity the total aggregate value of the two GICs would be $2,945,277.

On August 12, 1994, the Ingham County Circuit Court, Lansing, Michigan placed Confederation in conservatorship and rehabilitation, causing Confederation to suspend all payments on its contracts, including the GICs. The applicant represents that it is not known whether, when, or under what circumstances Confederation will resume payments on its contracts, including payment of the interest and the principal on the GICs. Based upon estimates received with regard to the final settlement, the applicant estimates that a settlement of both GICs might pay the Plan between $2,042,977 and $2,338,347. If these estimates are correct, the applicant represents that the participants invested in the Fixed Fund would lose between $606,930 and $902,300; and, additional losses would be experienced because of missed investment opportunities if settlement of the GICs was delayed past their respective maturity dates.

4. In order to eliminate the risk associated with the continued investment in the GICs by the Plan and to allow the Plan to distribute or otherwise invest assets currently invested in the GICs, the Employer proposes to purchase the GICs from the Plan for cash in an amount equal to their book value on the date of the Sale (i.e., the original investment plus the accrued interest provided for by the GICs at the time of Sale).[7] The applicant represents that the elimination of the risks inherent in the continued investment in the GICs by the Plan would be in the best interests of the Plan and its participants and would serve to protect their rights under the Plan. The Plan will incur no expenses or losses from the proposed transaction.

5. In summary, the applicant represents that the proposed transaction will satisfy the criteria for an exemption under section 408(a) of the Act because (a) the Plan will receive from the Employer in a one-time transaction cash equal to the total amount expended by the Plan in acquiring the GICs plus all interest accruing under the terms of the GICs until the date of the Sale; (b) the proposed transaction will enable the Plan and its participants to avoid any risk associated with the continued holding of the GICs; (c) the Plan will not incur any losses or expenses from the proposed transaction; and (d) the Trustee of the Plan has determined that the proposed transaction is in the best interests of the Plan and its participants and would serve to protect their rights under the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

[6] The Department notes that decisions to acquire and hold the GICs are governed by fiduciary responsibility provisions of Part 4 of Title I of the Act. In this regard, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GICs.

[7] The applicant represents that there have not been any withdrawals from the GICs.

The Masters, Mates and Pilots Pension Plan (the Pension Plan) and Individual Retirement Account Plan (the IRAP; together, the Plans) Located in Linthicum Heights, Maryland

[Application Nos. D–10198 and D–10199]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continued holding by the Plans of their shares of stock (the Stock) in American Heavy Lift Shipping Company (AHL), provided that (a) the Plans' independent fiduciary has determined that the Plans' holding of the Stock is appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries; and (b) the Plans' independent fiduciary continues to monitor the Plans' holding of the Stock and determines at all times that such transaction remains in the best interests of the Plans.

TEMPORARY NATURE OF EXEMPTION: If the proposed exemption is granted, the exemption will be effective until the later of: (1) December 31, 1997, or (2) December 31, 1998 provided another application for exemption is filed with the Department prior to December 31, 1997.

Summary of Facts and Representations

1. The Pension Plan is a defined benefit plan that currently has approximately 5,800 participants. As of December 31, 1994, the Pension Plan had approximately $597 million in assets. The IRAP is a defined contribution plan that currently has approximately 4,700 participants. As of December 31, 1994, the IRAP had approximately $86 million in assets. The Plans principally cover members of the International Organization of Masters, Mates and Pilots (the Union).

2. Bear Stearns Fiduciary Services, Inc. (BSFS) is a registered investment advisor which serves as the Named Fiduciary for the Special Assets Portfolio of the Plans. The Special Assets Portfolio consists of various venture capital and other non-liquid investments which were made by a former investment manager of the Plans, Tower Asset Management, Inc. (Tower),

and which were the subject of protracted litigation (the Litigation) between the Department, Tower, the Plans and certain of their trustees, and certain plan participants.[8] The Litigation ultimately was settled pursuant to Court Order entered by the United States District Court for the Southern District of New York (the Court).

3. In the course of the Litigation, BSFS was appointed Named Fiduciary for the Plans' Special Assets Portfolio by Court Order dated September 18, 1990 (the Court Order). BSFS assumed its responsibilities on November 8, 1990. The Court Order provided that the Named Fiduciary, rather than the Plans' trustees, has the ''sole, exclusive, full and complete authority and discretion concerning the control, management and disposition of the Special Assets Portfolio''.

4. Since February 1987, the Plans have each owned 45 shares of the Stock, which Stock represents all of the outstanding shares of AHL. AHL is a Delaware corporation, headquartered in Houston, Texas, that is engaged in the shipping industry. Its principal assets consist of four single-hulled tankers, built in the 1950's, that are used primarily for the transportation of petroleum products in the Jones Act trade (i.e., American-flagged tankers in the domestic intra-coastal trade). The Plans' Stock can be traced back to certain prior investments made by Tower and is held in the Plans' Special Assets Portfolio, along with the Plans' other remaining Tower- initiated investments.

5. Since AHL is an employer of employees covered under the Plans, the Stock constitutes employer securities under section 407(d)(1) of the Act. The applicants represent that the Stock constituted qualifying employer securities within the meaning of section 407(d)(5) of the Act at the time of its acquisition, but as of January 1, 1993, the Stock ceased to be a qualifying employer security because the Stock is wholly-owned by the Plans and thus cannot meet the requirements of section 407(f) of the Act. However, the Plans' continued holding of the Stock was exempt from the prohibited transaction restrictions of the Act pursuant to Prohibited Transaction Class Exemption No. 79–15 as a result of a court order, dated November 2, 1992, entered in the Litigation (the PTE 79–15 Order). Under the terms of the PTE 79- 15 Order, this exemption was effective until the later of: (a) December 31, 1993; or b) December 31, 1994, provided the Plans made application to the Department for an exemption to permit the continued holding of the Stock. The Plans did file a request for an exemption in timely fashion, and thus the exemption provided under the PTE 79–15 Order was automatically extended to December 31, 1994. On December 19, 1994, the Department granted Prohibited Transaction Exemption 94–85 (PTE 94–85; 59 FR 65403), which continued the exemption for the holding of the Stock by the Plans until the later of: (a) December 31, 1995, or (b) December 31, 1996, provided another application for exemption was filed with the Department prior to December 31, 1995. By filing the request which is the subject of the exemption proposed herein, the exemption provided under PTE 94–85 has been automatically extended to December 31, 1996.

6. While BSFS, in its capacity as Named Fiduciary, has ultimate investment management responsibility for the Special Assets Portfolio, it does not exercise investment management discretion over the portfolio's assets on a day-to-day basis. Rather, as contemplated by the Court Order, responsibility for the day-to-day management and supervision of the portfolio's assets has been delegated at all times to independent investment managers selected by BSFS. With respect to the Plans' investment in the Stock, such responsibility was first delegated to Sunwestern Advisors, L.P. (Sunwestern), which served as the investment manager for this investment until July 14, 1992. Effective that date, Sunwestern's responsibilities were assumed by a new investment manager, Potomac Asset Management, Inc. (Potomac), which continues to serve in that capacity.

7. Potomac, a registered investment adviser founded in 1978, is owned by three principals, all of whom are analysts as well as portfolio managers. In addition to the principals, Potomac has an experienced fixed-income manager, equity manager, and corporate finance consultant. In addition to its traditional investment management of $165 million in bond and stock portfolios, Potomac maintains a corporate finance business consisting of private placement consulting and monitoring for pension funds, fair market value analysis for various clients, restructuring and financing of private companies and related activities. Potomac has had experience in managing investments by multi-employer plans in privately-held companies, similar to the situation involving the Plans' investment in the Stock.

8. Potomac represents that aggressive efforts were made by Sunwestern to sell the Plans' Stock in 1991 and 1992. However, by the spring of 1992, the purchase price under discussion with interested parties had fallen to levels near the scrap value of AHL's ships. This was the result of a number of adverse circumstances, including a marked deterioration in the market for AHL's services, the inability of AHL's then-current management to obtain more lucrative term (rather than spot) charters, and the impact of the Oil Pollution Act of 1990 (OPA 1990) on AHL's operations, given the age and single-hull construction of AHL's ships.[9] By the time these sales efforts were discontinued in mid-1992, no bona fide offers for any price above essentially scrap value had materialized. When it became apparent that AHL could not be sold in the short term without essentially forfeiting its going-concern value, Sunwestern and AHL's Board concluded in June, 1992 that they should discontinue the immediate sales effort and, instead, focus their attention on improving profitability and better positioning the company for a future disposition.

9. Shortly thereafter, Sunwestern was replaced as investment manager by Potomac. After conducting its own review of AHL's assets and operations, Potomac also concluded that a focus in the short term on addressing operational problems offered a better opportunity for realizing a reasonable return on the Plans' investment. Since 1992, Potomac has pursued this focus on improving the profitability of AHL's operations (while continuing to explore the possibility of disposition). These efforts resulted in AHL's return to profitability at the end of 1994. As of the end of 1994, Potomac was of the opinion that a sale of AHL on terms favorable to the Plans could not be achieved at that time. No buyers for AHL had appeared, and Potomac believed that a significant reason for the lack of buyer interest was the age of AHL's ships and the impact of OPA 90. Accordingly, Potomac advised BSFS that, in its view, any sale or attempted sale of the Plans' AHL investment at

[8] *In re Masters, Mates and Pilots Pension Plan and IRAP Litigation, Lead File No. 85 Civ. 9545 (VLB) (S.D.N.Y.)*

[9] OPA 90 provides that petroleum products will eventually be transported in United States intra-coastal trade only in double-hulled tankers. Beginning in 1995 and each year thereafter, some single-hulled vessels will be phased out of the domestic petroleum trade, including two AHL vessels in 1996. Thus, OPA 90 has effectively legislated AHL out of the petroleum business by January 1, 1997, unless AHL builds entirely new ships or rebuilds its existing fleet to conform to the new specifications.

that time was not in the Plans' financial interests.

10. However, Potomac and the AHL management were also concerned about the impending obsolescence of the AHL single-hulled tankers (see footnote 2, above). Preliminary analysis suggested that the cost of building a new double-hulled vessel to comply with OPA 90 requirements was approximately $65–70 million and it was unclear that projected charter rates could justify such a capital expenditure. Based on a proposal by Avondale Shipyard Division of Avondale Industries, Inc. of New Orleans, Louisiana (Avondale), one of the nation's leading shipbuilding companies, AHL's Board concluded that it would be more cost effective to rebuild the single-hulled tankers by attaching a new, double-hulled cargo body to the existing vessels. According to Avondale, this would cost approximately 50% less than constructing new ships. Based on its review of the decision of AHL's Board and its own independent analysis, Potomac believed that this potential cost saving (in the range of $30–40 million per ship) represented important potential value for AHL's existing vessels that far exceeded their scrap value and would be attractive to prospective buyers as a possible competitive advantage.

11. Following careful consideration of (i) the technical and financial feasibility of the rebuilding process, (ii) the possibility of federally guaranteed funding by the Federal Maritime Administration (MARAD) under Title XI of the Merchant Marine Act of 1936, and (iii) the absence of alternatives other than the sale of the vessels for their scrap value, Potomac concluded that the rebuilding project was in the financial interest of the Plans. MARAD responded favorably to AHL's initial application and indicated that AHL should act promptly for the guarantee to proceed. Potomac considered MARAD's terms to be extremely favorable to AHL, far more so than commercially available guarantees, and believed MARAD's guarantee would enhance both the projected cashflow and marketability of AHL. MARAD subsequently issued a commitment to AHL to provide a federal MARAD guarantee on an amount up to $139,364,000 of financing (out of a total cost of $159,273,686) to be obtained by AHL to rebuild the four ships. The closing of the MARAD guarantee and the issuance of the federally guaranteed debt occurred in May 1995. Based on the closing of the financing agreements and with the concurrence of Potomac, AHL directed Avondale to proceed with the rebuilding project and entered into a construction contract on May 12, 1995. Design for construction on the new forebody hulls commenced at Avondale shortly thereafter and fabrication of the first hull began in late June, 1995.

12. The applicant represents that the Plans remain committed to selling their interest in AHL. Potomac believes that the contractual commitment that AHL has made to rebuild the ships will enhance the long-term value of the AHL stock. However, even though the financial position of AHL has been enhanced by significant operational reorganization and the potentially valuable financing and construction contracts, Potomac has concluded that a sale of AHL at the present time is unlikely to garner the potential financial benefits resulting from these events. Potomac is of the view that a sale within the forthcoming year is unlikely to yield a price significantly in excess of the scrap value of the vessels, perhaps including a small premium to reflect the valuable contract rights. Accordingly, it has concluded that it is in the Plans' best interests to continue to hold the AHL stock until the rebuilding process is further along.[10]

13. Potomac has based this conclusion on several factors. First, Potomac is of the opinion that the rebuilding process is at a significantly sensitive juncture, and its ultimate success subject to enough uncertainty, that AHL could not be disposed of in the most advantageous way for the Plans at this time. The rebuilding process has recently begun and is not expected to be finished before late 1997, at the earliest. Potomac believes that it will be significantly easier both to identify potential buyers for the Plans' AHL stock and to obtain attractive offers for that stock once it becomes clear to buyers how profitable AHL will be with the rebuilt vessels. Secondly AHL is currently in the midst of labor negotiations, which could impact future labor costs. The removal of uncertainties over these costs and other expense items likewise should place AHL in a better sale posture. Finally, uncertainties surrounding such variables as charter rates and operational expenses should be substantially reduced as the rebuilding process moves further along, and as the date approaches on which the ships can return to operational status.

14. In view of these factors, Potomac does not believe it would be in the best interests of the Plans to liquidate their AHL holdings precipitously. Rather, based on the foregoing considerations, Potomac is of the opinion that a disposition should not be commenced until labor costs and other expense items have been resolved. This will enable prospective buyers to determine how profitable AHL will be and, therefore, how much they will be paying for the Plans' stock. While it is conceivable that this could occur during 1996, Potomac believes that there is a much greater likelihood that this may not occur until late 1997 or even 1998, i.e., the time at which the rebuilding project is expected to have been completed.

15. BSFS represents that its obligations under the Court Order to monitor and report on the activities of the investment managers for the Special Assets Portfolio sharply restrict Potomac's opportunity to perpetuate unduly the Plans' continued ownership of AHL. Pursuant to the investment management agreement with Potomac that BSFS negotiated on behalf of the Plans, Potomac is obligated to supply detailed quarterly reports on each of the Special Assets it manages and to comply with written investment guidelines. Those guidelines state that Potomac ''shall seek, among other prudent objectives, to: (A) Maximize the Plans' net, long-term investment return [and] (B) Liquidate each such investment when and insofar as prudent * * *'' Furthermore, the guidelines require Potomac to prepare and update on a quarterly basis an ''action plan'' for each asset, including AHL. The action plan requires the investment manager to state the timetable for achieving a sale (if sale is intended) or for achieving any other stated objective. In short, BSFS represents that significant mechanisms are in place to prevent Potomac from improperly seeking to continue indefinitely to manage the Plans' Stock in AHL. BSFS represents that in its capacity as Named Fiduciary, it has reviewed in depth Potomac's analysis of the various options available and has accepted Potomac's conclusion that the continued ownership of the Stock is in the best interests of the Plans. BSFS further represents that the applicant has fulfilled, or continues to fulfill all conditions of PTE 94–85. Furthermore BSFS confirms that the Plans have not provided any further investment in AHL, nor guarantees of any financial obligations of AHL. Finally, the applicant represents that the Plans will not provide any such investment or guarantees during the term of the exemption proposed herein, or any future exemption.

16. In summary, the applicant represents that the proposed transaction

[10] Nonetheless, Potomac continues to discuss disposition of the Plans' holdings in AHL with prospective buyers, including venture capital funds.

satisfies the criteria contained in section 408(a) of the Act because: (a) The proposed exemption would continue for a limited period of time a transaction originally permitted by the PTE 79–15 Order and currently by PTE 94–85; (b) the Plans' independent investment manager, Potomac, has reviewed the Plans' holding of the Stock and has determined that it is in the best interest of both Plans to continue holding the Stock; (c) Potomac will continue to monitor the transaction to determine whether it remains in the Plans' best interests to retain the Stock; (d) BSFS, which has the overall responsibility as Named Fiduciary over the Plans' investment in the Stock, has reviewed Potomac's findings and agrees with Potomac's determination that the Plans' continued holding of the Stock is in the best interests of both Plans; and (e) the Plans will make no additional investment in AHL, nor will they guarantee any financing to AHL, for the purpose of double-hulling of the ships.

NOTICE TO INTERESTED PERSONS: The applicant represents that the notice to interested persons required by 29 CFR 2570.43 will be effected by publication of a copy of this notice of proposed exemption and the required supplemental statement in *The Master, Mate and Pilot.* This publication is a newspaper published by the Union and is received by participants and beneficiaries of the Plans, including retirees. The notice will be published within 30 days of the publication of this notice of proposed exemption in the Federal Register. Comments and requests for a public hearing are due within 60 days of the publication of this notice of proposed exemption in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (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 of 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, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 96–11119 Filed 5–03–96; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

National Industrial Security Program Policy Advisory Committee: Notice of Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2) and implementing regulation 41 CFR 101–6, announcement is made of the following committee meeting:

Name of Committee: National Industrial Security Program Policy Advisory committee (NISPPAC).

Date of Meeting: May 20, 1996.

Time of Meeting: 2:00 p.m. to 4:00 p.m.

Place of Meeting: Davis-Monthan Air Force Base, Building No. 2050 5555 E. Ironwood Street, Tucson, Arizona 85707.

Purpose: To discuss National Industrial Security Program policy matters. The agenda will include a discussion on the current status of the program; discussion and amendment to the NISPPAC bylaws; a report on the implementation of the Executive Order 12958 and 12968, including the status of the financial disclosure form; an update on reporting on security costs; and an update on the most recent draft safeguarding directive.

This meeting will be open to the public. However, due to space limitations and access procedures, the names and telephone numbers of individuals planning to attend must be submitted to the information Security Oversight Office (ISOO) no later than May 15, 1996. Written statements from the public will be accepted in lieu of an opportunity for comment.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO, National Archives Building, 700 Pennsylvania Avenue, NW., Room 100, Washington, DC 200408, telephone (202) 219–5250.

Dated: May 2, 1996.

John W. Carlin,

Archivist of the United States.

[FR Doc. 96–11308 Filed 5–3–96; 8:45 am]

BILLING CODE 7515–01–M

Advisory Committee on Presidential Libraries; Meeting

Notice is hereby given that the Advisory Committee on Presidential Libraries will meet on Wednesday, May 15, 1996, from 1 p.m. to 4 p.m. at the National Archives and Records Administration, 7th Street and Pennsylvania Avenue, NW, Room 105, Washington, DC.

The agenda for the meeting will be foundation activities.

The meeting will be open to the public. For further information, call Lewis J. Bellardo on (301) 713–6410.

This notice is published less than 15 calendar days before the meeting because of scheduling difficulties.

Dated: May 2, 1996.

John W. Carlin,

Archivist of the United States.

[FR Doc. 96–11309 Filed 5–3–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL INSTITUTE FOR LITERACY

Advisory Board; Meeting

AGENCY: National Institute for Literacy Advisory Board, National Institute for Literacy.

ACTION: Notice of meeting.

SUMMARY: This Notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National