

“General Wage Determinations Issued Under The Davis-Bacon And Related Acts,” shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S-3014, Washington, DC 20210.

#### Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled “General Wage Determinations Issued Under the Davis-Bacon and related Acts” being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

##### Volume I

None

##### Volume II

###### Pennsylvania

PA000009 (Feb. 11, 2000)  
PA000014 (Feb. 11, 2000)  
PA000023 (Feb. 11, 2000)  
PA000024 (Feb. 11, 2000)  
PA000029 (Feb. 11, 2000)  
PA000040 (Feb. 11, 2000)

##### Volume III

###### Georgia

GA000032 (Feb. 11, 2000)  
GA000073 (Feb. 11, 2000)

##### Volume IV

###### Michigan

MI000001 (Feb. 11, 2000)  
MI000002 (Feb. 11, 2000)  
MI000003 (Feb. 11, 2000)  
MI000004 (Feb. 11, 2000)  
MI000005 (Feb. 11, 2000)  
MI000007 (Feb. 11, 2000)  
MI000008 (Feb. 11, 2000)  
MI000010 (Feb. 11, 2000)  
MI000011 (Feb. 11, 2000)  
MI000012 (Feb. 11, 2000)  
MI000015 (Feb. 11, 2000)  
MI000016 (Feb. 11, 2000)  
MI000017 (Feb. 11, 2000)

##### Volume V

None

##### Volume VI

None

##### Volume VII

None

#### General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled “General Wage Determinations Issued Under The Davis-Bacon and Related Acts.” This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 16th day of November 2000.

**Carl J. Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 00-29846 Filed 11-22-00; 8:45 am]

**BILLING CODE 4510-27-M**

#### DEPARTMENT OF LABOR

##### Pension and Welfare Benefits Administration

**[Prohibited Transaction Exemption 2000-59; Exemption Application No. D-10770, et al.]**

##### Grant of Individual Exemptions; Deutsche Bank and Its Affiliates (Collectively, Deutsche Bank of the Applicants)

**AGENCY:** Pension and Welfare Benefits 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 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are 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 exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

**Deutsche Bank AG and Its Affiliates (Collectively, Deutsche Bank or the Applicants) Located in Frankfurt, Germany**

[Prohibited Transaction Exemption 2000-59; Exemption Application No. D-10770]

*Exemption*

Section I—Retroactive Exemption for the Acquisition, Holding and Disposition of Deutsche Bank AG Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and 406(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)(D) and (E) of the Code, shall not apply, as of June 4, 1999 until November 24, 2000, to the acquisition, holding and disposition of the common stock of Deutsche Bank AG (the Deutsche Bank AG Stock) by Index and Model-Driven Funds managed by Deutsche Bank, provided that the following conditions and the general conditions in Section III are met:

(a) The acquisition or disposition of the Deutsche Bank AG Stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring the Deutsche Bank AG Stock which is intended to benefit Deutsche Bank or any party in which Deutsche Bank may have an interest.

(b) All aggregate daily purchases of Deutsche Bank AG Stock by the Funds do not exceed on any particular day the greater of:

(1) 15 percent of the average daily trading volume for the Deutsche Bank AG Stock occurring on the applicable exchange and automated trading system (as described in paragraph (c) below) for the previous five (5) business days, or

(2) 15 percent of the trading volume for Deutsche Bank AG Stock occurring on the applicable exchange and automated trading system on the date of the transaction, as determined by the best available information for the trades occurring on that date.

(c) All purchases and sales of Deutsche Bank AG Stock occur either (i) on a recognized securities exchange as defined in Section IV(k) below, (ii) through an automated trading system (as defined in Section IV(j) below) operated by a broker-dealer independent of Deutsche Bank that is subject to regulation and supervision by the Deutsche Bundesbank and the Bundesaufsichtsamt fuer das Kreditwesen (the BAK), the

Bundesaufsichtsamt fuer den Wertpapierhandel (the BAWe), or another applicable regulatory authority (pursuant to the applicable securities laws) that provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) in a direct, arms-length transaction entered into on a principal basis with a broker-dealer, in the ordinary course of its business, where such broker-dealer is independent of Deutsche Bank and is either registered under the Securities Exchange Act of 1934 (the '34 Act), and thereby subject to regulation by the U.S. Securities and Exchange Commission (SEC), or subject to regulation and supervision by the BAK, the BAWe, or another applicable regulatory authority.

(d) No transactions by a Fund involve purchases from, or sales to, Deutsche Bank (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would otherwise be subject to an exemption).

(e) No more than five (5) percent of the total amount of Deutsche Bank AG Stock issued and outstanding at any time is held in the aggregate by Index and Model-Driven Funds managed by Deutsche Bank.

(f) Deutsche Bank AG Stock constitutes no more than three (3) percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based.

(g) A plan fiduciary independent of Deutsche Bank authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds Deutsche Bank AG Stock, pursuant to the procedures described in the notice of proposed exemption published on September 19, 2000 (65 FR 56708, 56714), other than in the case of an employee benefit plan sponsored or maintained by Deutsche Bank and/or an Affiliate for its own employees (a Deutsche Bank Plan).

(h) A fiduciary independent of Deutsche Bank directs the voting of the Deutsche Bank AG Stock held by an Index or Model-Driven Fund on any matter in which shareholders of Deutsche Bank AG Stock are required or permitted to vote.

(i) No more than ten (10) percent of the assets of any Fund that acquires and holds Deutsche Bank AG Stock is comprised of assets of any Deutsche Bank Plan(s) for which Deutsche Bank exercises investment discretion.

Section II—Prospective Exemption for the Acquisition, Holding and Disposition of Deutsche Bank Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and 406(b)(2) of the Act, section 8477(c)(2)(A) and (B) of FERSA, and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply to the acquisition, holding and disposition of Deutsche Bank AG Stock or the common stock of an affiliate of Deutsche Bank AG (Deutsche Bank Affiliate Stock) by Index and Model-Driven Funds managed by Deutsche Bank, provided that the following conditions and the general conditions in Section II are met:

(a) The acquisition or disposition of Deutsche Bank AG Stock or Deutsche Bank Affiliate Stock (collectively, Deutsche Bank Stock) is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring the Deutsche Bank Stock which is intended to benefit Deutsche Bank or any party in which Deutsche Bank may have an interest.

(b) Whenever Deutsche Bank Stock is initially added to an index on which an Index or Model-Driven Fund is based, or initially added to the portfolio of an Index or Model-Driven Fund, all acquisitions of Deutsche Bank Stock necessary to bring the Fund's holdings of such Stock either to its capitalization-weighted or other specified composition in the relevant index, as determined by the independent organization maintaining such index, or to its correct weighting as determined by the model which has been used to transform the index, occur in the following manner:

(1) Purchases are from, or through, only one broker or dealer on a single trading day;

(2) Based on the best available information, purchases are not the opening transaction for the trading day;

(3) Purchases are not effected in the last half hour before the scheduled close of the trading day;

(4) Purchases are at a price that is not higher than the lowest current independent offer quotation, determined on the basis of reasonable inquiry from non-affiliated brokers;

(5) Aggregate daily purchases do not exceed 15 percent of the average daily trading volume for the security, as determined by the greater of either (i) the trading volume for the security

occurring on the applicable exchange and automated trading system on the date of the transaction, or (ii) an aggregate average daily trading volume for the security occurring on the applicable exchange and automated trading system for the previous five (5) business days, both based on the best information reasonably available at the time of the transaction;

(6) All purchases and sales of Deutsche Bank Stock occur either (i) on a recognized securities exchange (as defined in Section IV(k) below), (ii) through an automated trading system (as defined in Section IV(j) below) operated by a broker-dealer independent of Deutsche Bank that is either registered under the '34 Act, and thereby subject to regulation by the SEC, or subject to regulation and supervision by the BAK, the BAWe, or another applicable regulatory authority, which provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) through an automated trading system (as defined in Section IV(j) below) that is operated by a recognized securities exchange (as defined in Section IV(k) below), pursuant to the applicable securities laws, and provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer; and

(7) If the necessary number of shares of Deutsche Bank Stock cannot be acquired within 10 business days from the date of the event which causes the particular Fund to require Deutsche Bank Stock, Deutsche Bank appoints a fiduciary which is independent of Deutsche Bank to design acquisition procedures and monitor Deutsche Bank's compliance with such procedures.

(c) Subsequent to acquisitions necessary to bring a Fund's holdings of Deutsche Bank Stock to its specified weighting in the index or model pursuant to the restrictions described in paragraph (b) above, all aggregate daily purchases of Deutsche Bank Stock by the Funds do not exceed on any particular day the greater of:

(1) 15 percent of the average daily trading volume for the Deutsche Bank Stock occurring on the applicable exchange and automated trading system (as defined below) for the previous five (5) business days, or

(2) 15 percent of the trading volume for Deutsche Bank Stock occurring on the applicable exchange and automated trading system (as defined below) on the date of the transaction, as determined by the best available information for the trades that occurred on such date.

(d) All transactions in Deutsche Bank Stock not otherwise described in paragraph (b) above are either: (i) Entered into on a principal basis in a direct, arms-length transaction with a broker-dealer, in the ordinary course of its business, where such broker-dealer is independent of Deutsche Bank and is either registered under the '34 Act, and thereby subject to regulation by the SEC, or subject to regulation and supervision by the BAK, the BAWe, or another applicable regulatory authority, (ii) effected on an automated trading system (as defined in Section IV(j) below) operated by a broker-dealer independent of Deutsche Bank that is subject to regulation by either the SEC, the BAK, the BAWe, or another applicable regulatory authority, or an automated trading system operated by a recognized securities exchange (as defined in Section IV(k) below) which, in either case, provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) effected through a recognized securities exchange (as defined in Section IV(k) below) so long as the broker is acting on an agency basis.

(e) No transactions by a Fund involve purchases from, or sales to, Deutsche Bank (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would otherwise be subject to an exemption).

(f) No more than five (5) percent of the total amount of either Deutsche Bank AG Stock or any Deutsche Bank Affiliate Stock, that is issued and outstanding at any time, is held in the aggregate by Index and Model-Driven Funds managed by Deutsche Bank.

(g) Deutsche Bank Stock constitutes no more than five (5) percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based.

(h) A plan fiduciary independent of Deutsche Bank authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds Deutsche Bank Stock, pursuant to the procedures described in the notice of proposed exemption published on September 19, 2000 (65 FR 56708, 56714), other than with respect to a Deutsche Bank Plan.

(i) A fiduciary independent of Deutsche Bank directs the voting of the Deutsche Bank Stock held by an Index or Model-Driven Fund on any matter in which shareholders of Deutsche Bank Stock are required or permitted to vote.

(j) No more than ten (10) percent of the assets of any Fund that acquires and holds Deutsche Bank Stock is comprised of assets of Deutsche Bank Plan(s) for which Deutsche Bank exercises investment discretion.

### Section III—General Conditions

(a) Deutsche Bank maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (b) of this Section 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, due to circumstances beyond the control of Deutsche Bank, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than Deutsche Bank 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 paragraph (b) below.

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

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

(B) Any fiduciary of a plan participating in an Index or Model-Driven Fund who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an Index or Model-Driven Fund or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an Index or Model-Driven Fund, or a representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (b) shall be authorized to examine trade secrets of Deutsche Bank or commercial or financial information which is considered confidential.

### Section IV—Definitions

(a) The term "Index Fund" means any investment fund, account or portfolio sponsored, maintained, trusteeed, or managed by Deutsche Bank, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile and other characteristics of an independently maintained securities Index, as described in Section IV(c) below, by either (i) replicating the same combination of securities which compose such Index or (ii) sampling the securities which compose such Index based on objective criteria and data;

(2) For which Deutsche Bank does not use its discretion, or data within their control, to affect the identity or amount of securities to be purchased or sold;

(3) That contains "plan assets" subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3-101, Definition of "plan assets"—plan investments); and,

(4) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund which is intended to benefit Deutsche Bank or any party in which Deutsche Bank may have an interest.

(b) The term "Model-Driven Fund" means any investment fund, account or portfolio sponsored, maintained, trustee, or managed by Deutsche Bank, in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third party data, not within the control of Deutsche Bank, to transform an independently maintained Index, as described in Section IV(c) below;

(2) Which contains "plan assets" subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3-101, Definition of "plan assets"—plan investments); and

(3) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund or the utilization of any specific objective criteria which is intended to benefit Deutsche Bank or any party in which Deutsche Bank may have an interest.

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

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

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

(B) A publisher of financial news or information, or

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

(2) The index is created and maintained by an organization independent of Deutsche Bank; and,

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

(d) The term "opening date" means the date on which investments in or withdrawals from an Index or Model-Driven Fund may be made.

(e) The term "Buy-up" means an acquisition of Deutsche Bank Stock by an Index or Model-Driven Fund in connection with the initial addition of such Stock to an independently maintained index upon which the Fund is based or the initial investment of a Fund in such Stock.

(f) The term "Deutsche Bank" refers to Deutsche Bank AG or an Affiliate, as defined below in paragraph (g).

(g) The term "Affiliate" means, with respect to Deutsche Bank AG, an entity which, directly or indirectly, through one or more intermediaries, is controlled by Deutsche Bank AG.

(h) An "affiliate" of Deutsche Bank 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 or relative of such person, or partner of any such person; and

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

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

(j) The term "automated trading system" means an electronic trading system that functions in a manner intended to simulate a securities exchange by electronically matching orders on an agency basis from multiple buyers and sellers, such as an "alternative trading system" within the meaning of the SEC's Reg. ATS [17 CFR Part 242.300], as such definition may be amended from time to time, or an "automated quotation system" as described in Section 3(a)(51)(A)(ii) of the "34 Act [15 U.S.C. 78c(a)(51)(A)(ii)].

(k) The term "recognized securities exchange" means a U.S. securities exchange that is registered as a "national securities exchange" under Section 6 of the "34 Act (15 U.S.C. 78f), or a designated offshore securities market, as defined in Regulation S of the SEC [17 CFR Part 230.902(b)], as such definition may be amended from time to

time, which performs with respect to securities the functions commonly performed by a stock exchange within the meaning of definitions under the applicable securities laws (e.g., 17 CFR Part 240.3b-16).

**EFFECTIVE DATE:** This exemption is effective as of June 4, 1999, for those transactions described in Section I above, and as of the date the exemption is published in the **Federal Register** for those transactions described in Section II above.

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 September 19, 2000 at 65 FR 56708.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary H. Lefkowitz of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

**John L. Rust Co. Profit Sharing Plan (the Plan) Located in Albuquerque, New Mexico**

[Prohibited Transaction Exemption 2000-60; Exemption Application No. D-10877]

*Exemption*

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 purchases by the Plan of certain leases of equipment (the Leases) from John L. Rust Co. (Rust), the Plan sponsor and a party in interest with respect to the Plan, and (2) the agreement by Rust to indemnify the Plan against any loss relating to the Leases and also to repurchase any Leases that are in default in accordance with paragraph (E) below, provided that the following conditions are met:

A. Any sale of Leases to the Plan is on terms at least as favorable to the Plan as an arm's length transaction with an unrelated third party.

B. Subsequent to September 22, 2000, the acquisition of a Lease from Rust shall not cause the Plan to hold immediately following the acquisition (1) more than 25% of the current value (as that term is defined in section 3(26) of the Act)<sup>1</sup> of Plan assets in customer notes (Notes) and Leases sold by Rust or (2) more than 10% of Plan assets in the

<sup>1</sup> According to section 3(26) of the Act, the term "current Value" means fair market value where available and otherwise the fair market value as determined in good faith by a trustee or a named fiduciary pursuant to the terms of the plan and in accordance with regulations of the Secretary [of Labor], assuming an orderly liquidation at the time of such determination.

aggregate of Leases with and Notes of any one entity.

C. Prior to the purchase of each Lease, an independent, qualified fiduciary determines that the purchase is appropriate and suitable for the Plan and that any Lease purchase is a fair market value transaction.

D. The independent fiduciary, on behalf of the Plan, monitors the terms of the Leases and the exemption and takes whatever action is necessary to enforce the rights of the Plan.

E. Upon default by the lessee on any payment due under a Lease, Rust repurchases the Lease from the Plan at the payout value<sup>2</sup> as of the date of the default, without discount, and indemnifies the Plan for any loss suffered. The occurrence of any of the following events shall be considered events of default for purposes of this section: (1) The lessee's failure to pay any amounts due hereunder within five days after receipt of written notice from the Plan's independent fiduciary, or the lessee's failure to pay any amounts due hereunder within 30 days after payment becomes past due, if earlier; (2) the lessee's failure to perform any other obligation under this agreement within ten days of receipt of written notice from the Plan's independent fiduciary; (3) abandonment of the equipment by the lessee; (4) the lessee's cessation of business; (5) the commencement of any proceeding in bankruptcy, receivership or insolvency or assignment for the benefit of creditors by the lessee; (6) false representation by the lessee as to its credit or financial standing; (7) attachment or execution levied on lessee's property; or (8) use of the equipment by third parties without lessor's prior written consent.

F. The Plan receives adequate security for the Lease. For purposes of this exemption, the term adequate security means that the Lease is secured by a perfected security interest in the leased property which will name the Plan as the secured party.

G. Insurance against loss or damage to the leased property from fire or other hazards is procured and maintained by the lessee and the proceeds from such insurance are assigned to the Plan.

H. The Plan maintains for the duration of any Lease which is sold to the Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The Plan continues to maintain the records for a period of six years following the expiration of the

Lease or the disposition by the Plan of the Lease. The records referred to above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plan, during normal business hours by the Internal Revenue Service, the Department, Plan participants, any employee organization any of whose members are covered by the Plan, or any duly authorized employee or representative of the above described persons.

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 September 22, 2000 at 65 FR 57394.

#### *Temporary Nature of Exemption*

**EFFECTIVE DATES:** This exemption is temporary and will be effective from September 21, 2000 through September 21, 2005 with respect to the Plan's purchases of Leases. The Plan may hold the Leases acquired pursuant to the terms of the exemption subsequent to the end of the five year period.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Lefkowitz of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

#### **Maple Partners Financial Group, Inc. (Maple) Located in Toronto, Ontario, Canada**

[Prohibited Transaction Exemption 2000-61; Exemption Application No. D-10905]

#### *Exemption*

##### Section I—Transactions

A. The restrictions of section 406(a)(1)(A) through (D) 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 (D) of the Code, shall not apply, effective May 31, 2000, to any purchase or sale of securities between certain non-U.S. affiliates of Maple, which are foreign broker-dealers or banks (the Foreign Affiliates, as defined below) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, Maple, or a Foreign Affiliate, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer or bank;

(2) The terms of any transaction are at least as favorable to the Plan as those the Plan could obtain in a comparable

arm's length transaction with an unrelated party; and

(3) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice [within the meaning of 29 CFR 2510.3-21(c)] with respect to those assets, and the Foreign Affiliate is a party in interest or disqualified person with respect to the Plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, the Foreign Affiliate shall not be deemed to be a fiduciary with respect to a Plan solely by reason of providing securities custodial services for a Plan.

B. The restrictions of sections 406(a)(1)(A) through (D) and 406(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 (D) of the Code, shall not apply, effective May 31, 2000, to any extension of credit to the Plan by the Foreign Affiliate, to permit the settlement of securities transactions, regardless of whether they are effected on an agency or a principal basis, or in connection with the writing of options contracts, provided that the following conditions and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate is not a fiduciary with respect to the Plan assets involved in the transaction, unless no interest or other consideration is received by the Foreign Affiliate or an affiliate thereof, in connection with such extension of credit; and

(2) Any extension of credit would be lawful under the Securities Exchange Act of 1934 (the 1934 Act) and any rules or regulations thereunder, if the 1934 Act, rules, or regulations were applicable.

C. The restrictions of section 406(a)(1)(A) through (D) 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 (D) of the Code, shall not apply, effective May 31, 2000, to the lending of securities to the Foreign Affiliates by the Plans, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice [within the meaning of 29 CFR

<sup>2</sup> "Payout value" of a Lease is defined as the price that the lessee would pay at any point in time to obtain title to the leased property.

2510. 3–21(c)] with respect to those assets;

(2) The Plan receives from the Foreign Affiliate (by physical delivery, by book entry in a securities depository, wire transfer, or similar means) by the close of business on the day the loaned securities are delivered to the Foreign Affiliate, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, irrevocable U.S. bank letters of credit issued by persons other than the Foreign Affiliate or an affiliate of the Foreign Affiliate, or any combination thereof. All collateral shall be in U.S. dollars, or dollar-denominated securities or bank letters of credit, and shall be held in the United States;

(3) The collateral has, as of the close of business on the preceding business day, a market value equal to at least 100 percent of the then market value of the loaned securities (or, in the case of letters of credit, a stated amount equal to same);

(4) The loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains terms at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party;

(5) In return for lending securities, the Plan either (a) receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the Plan may pay a loan rebate or similar fee to the Foreign Affiliate, if such fee is not greater than what the Plan would pay in a comparable arm's length transaction with an unrelated party;

(6) The Plan receives at least the equivalent of all distributions on the borrowed securities made during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits, and rights to purchase additional securities, that the Plan would have received (net of applicable tax withholdings)<sup>3</sup> had it remained the record owner of such securities;

<sup>3</sup> The Department notes the applicant's representation that dividends and other distributions on foreign securities payable to a lending Plan may be subject to foreign tax withholdings and that the Foreign Affiliate will always put the Plan back in at least as good a position as it would have been in had it not loaned the securities.

(7) If the market value of the collateral as of the close of trading on a business day falls below 100 percent of the market value of the borrowed securities as of the close of trading on that day, the Foreign Affiliate delivers additional collateral, by the close of business on the following business day, to bring the level of the collateral back to at least 100 percent. However, if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, the Foreign Affiliate may require the Plan to return part of the collateral to reduce the level of the collateral to 100 percent;

(8) Before entering into a Loan Agreement, the Foreign Affiliate furnishes to the independent Plan fiduciary (a) the most recent available audited statement of the Foreign Affiliate's financial condition, (b) the most recent available unaudited statement of its financial condition (if more recent than the audited statement), and (c) a representation that, at the time the loan is negotiated, there has been no material adverse change in its financial condition that has not been disclosed since the date of the most recent financial statement furnished to the independent Plan fiduciary. Such representation may be made by the Foreign Affiliate's agreeing that each loan of securities shall constitute a representation that there has been no such material adverse change;

(9) The Loan Agreement and/or any securities loan outstanding may be terminated by the Plan at any time, whereupon the Foreign Affiliate shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within (a) the customary delivery period for such securities, (b) three business days, or (c) the time negotiated for such delivery by the Plan and the Foreign Affiliate, whichever is least, or, alternatively, such period as permitted by Prohibited Transaction Class Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), as it may be amended or superseded;<sup>4</sup>

(10) In the event that the loan is terminated and the Foreign Affiliate fails to return the borrowed securities,

<sup>4</sup> PTE 81–6 provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to a U.S. broker-dealer registered under the 1934 Act (or exempted from registration under the 1934 Act as a dealer in exempt Government securities, as defined therein) or to a U.S. bank, that is a party in interest with respect to such plan.

or the equivalent thereof, within the time described in paragraph 9, the Plan may purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the Foreign Affiliate under the Loan Agreement, and any expenses associated with the sale and/or purchase. The Foreign Affiliate is obligated to pay, under the terms of the Loan Agreement, and does pay, to the Plan the amount of any remaining obligations and expenses not covered by the collateral, plus interest at a reasonable rate.

Notwithstanding the foregoing, the Foreign Affiliate may, in the event it fails to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then current market value of the collateral, provided that such replacement is approved by the independent Plan fiduciary; and

(11) The independent Plan fiduciary maintains the situs of the Loan Agreement in accordance with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1. However, in the event that the independent Plan fiduciary does not maintain the situs of the Loan Agreement in accordance with the indicia of ownership requirements of Section 404(b) of the Act, the Foreign Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or the taxes imposed by section 4975(a) and (b) of the Code.

If the Foreign Affiliate fails to comply with any condition of the exemption in the course of engaging in a securities lending transaction, the Plan fiduciary who caused the Plan to engage in such transaction shall not be deemed to have caused the Plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of the Act solely by reason of the Foreign Affiliate's failure to comply with the conditions of the exemption.

#### Section II—General Conditions

A. The Foreign Affiliate is a registered broker-dealer or bank subject to regulation by a governmental agency, as described in Section III.B, and is in compliance with all applicable rules and regulations thereof in connection with any transactions covered by this exemption, if granted;

B. The Foreign Affiliate, in connection with any transactions covered by this exemption, is in compliance with the requirements of Rule 15a–6 (17 CFR 240.15a–6) of the

1934 Act, and Securities and Exchange Commission (SEC) interpretations thereof, providing for foreign affiliates a limited exemption from U.S. broker-dealer registration requirements;

C. Prior to any transaction, the Foreign Affiliate enters into a written agreement with the Plan in which the Foreign Affiliate consents to the jurisdiction of the courts of the United States for any civil action or proceeding brought in respect of the subject transactions;

D. The Foreign Affiliate maintains, or causes to be maintained, within the United States for a period of six years from the date of any transaction such records as are necessary to enable the persons described in paragraph E. to determine whether the conditions of the exemption have been met, except that—

(1) A party in interest with respect to a Plan, other than the Foreign Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or not available for examination, as required by paragraph E; and

(2) A prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond the Foreign Affiliate's control, such records are lost or destroyed prior to the end of the six year period; and

E. Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the Foreign Affiliate makes the records referred to in paragraph D unconditionally available during normal business hours at their customary location to the following persons or a duly authorized representative thereof:

(1) The Department, the Internal Revenue Service, or the SEC; (2) any fiduciary of a Plan; (3) any contributing employer to a Plan; (4) any employee organization any of whose members are covered by a Plan; and (5) any participant or beneficiary of a Plan. However, none of the persons described in (2) through (5) of this subsection are authorized to examine the trade secrets of the Foreign Affiliate or commercial or financial information which is privileged or confidential.

### Section III—Definitions

A. The term "affiliate" of another person shall include: (1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person; (2) any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and (3) any corporation or partnership of which

such other person is an officer, director or partner. For purposes of this definition, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual;

B. The term "Foreign Affiliate" shall mean an affiliate of Maple that is subject to regulation as a broker-dealer or bank by (1) the Ontario Securities Commission and the Investment Dealers Association in Canada; (2) the Securities and Futures Authority in the United Kingdom; (3) the Deutsche Bundesbank and the Federal Banking Supervisory Authority, i.e., der Bundesaufsichtsamt für das Kreditwesen (the BAK) in Germany, and the Federal Securities Trading Supervisory Commission, Bundesaufsichtsamt für den Wertpapierhandel (the BAWe); and

C. The term "security" shall include equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term "security" does not include swap agreements or other notional principal contracts.

**EFFECTIVE DATE:** This exemption is effective as of May 31, 2000.

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 September 19, 2000 at 65 FR 56732.

**FOR FURTHER INFORMATION CONTACT:** Ekaterina A. Uzlyan of the Department, telephone (202) 219-8883. (This is not a toll-free number.)

### **Pembroke Construction Company, Inc. Employees 401(k) Profit Sharing Plan (the Plan) Located in Hampton, Virginia**

[Prohibited Transaction Exemption 2000-62; Exemption Application No. D-10915]

#### *Exemption*

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 the sale of a condominium (the Condo) by Thomas N. Hunnicutt (Mr. Hunnicutt), and his wife Ann N. Hunnicutt, to Mr. Hunnicutt's self-directed individual account (the Account) in the Plan, with respect to which the Hunnicutts are parties in interest; provided that the following conditions are satisfied:

(a) the proposed sale will be a one-time cash transaction;

(b) the Account will pay the current fair market value for the Condo, as

established at the time of the purchase by an independent qualified appraiser;

(c) the Account will pay no expenses or commissions associated with the purchase; and

(d) the purchase will enable the Account to acquire the Condo, which is expected to be a valuable asset that will yield significant rental income.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 11, 2000 at 65 FR 60469.

**FOR FURTHER INFORMATION CONTACT:** Ekaterina A. Uzlyan of the Department at (202) 219-8883. (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.

Signed at Washington, D.C., this 20th day of November, 2000.

**Ivan Strasfeld,**

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

[FR Doc. 00-29971 Filed 11-22-00; 8:45 am]

BILLING CODE 4510-29-P

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Exemption Application D-10608 and D-10609]

#### Withdrawal of Notice of Proposed Exemption Involving the Millcraft Industries Salaried Employees' Pension Plan and the Millcraft Products, Inc. Hourly Employees' Pension Plan (collectively, the Plans); Located in Canonsburg, PA

In the **Federal Register** dated October 6, 1998 (63 FR 53720), the Department of Labor (the Department) published a notice of proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986. The notice of proposed exemption, for which retroactive relief had been requested, concerned three cash sales by the Plans of certain third party common stock to Millcraft Industries, Inc., (Millcraft), the sponsor of the Plans and a party in interest.

By letter dated November 3, 2000, Millcraft, its wholly owned subsidiary, Millcraft, Products, Inc., and the trustees of the Plans, informed the Department that they wished to withdraw the notice of proposed exemption.

Accordingly the notice of proposed exemption is hereby withdrawn.

Signed at Washington, D.C., this 20th day of November, 2000.

**Ivan L. Strasfeld,**

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

[FR Doc. 00-29972 Filed 11-22-00; 8:45 am]

BILLING CODE 4510-29-P

## NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

### Public Meeting

*Date, Time, and Place:* Monday, December 4, 2000 from 1:00 p.m. to 5:00 p.m., 342 Dirksen Senate Office

Building, First Street and Constitution Avenue, NE., Washington, DC.

**Matter To Be Discussed:** The public is invited to comment on the proposed recommendations of the National Commission on Libraries and Information Science (NCLIS) resulting from the comprehensive assessment of public information dissemination policies and practices. Information about the assessment is available on the Commission website at <http://www.nclis.gov/govt/assess/assess.html>. The Commission's final report to Congress must be completed by December 15, 2000.

Written comments must be received not later than 9 a.m. Monday, December 11, 2000. Comments may be submitted to the Commission by mail at 1110 Vermont Avenue, NW., Washington, DC 20005-3552, Attn: F. Woody Horton, Ph.D., by fax to 202-606-9203, or by e-mail to [whorton@nclis.gov](mailto:whorton@nclis.gov).

Individuals and organizations desiring to participate in the public meeting should contact NCLIS Deputy Director Judith C. Russell by fax at 202-606-9203 or by e-mail to [jrussell@nclis.gov](mailto:jrussell@nclis.gov), identifying the speaker and the organization(s) represented by the speaker. Each speaker should bring at least thirty copies of their statement to the meeting as well as providing an electronic copy to the Commission, preferably by e-mail to [jrussell@nclis.gov](mailto:jrussell@nclis.gov). Oral presentations will be limited to five minutes. There will be an opportunity to respond to questions from the Commission, and if time permits, there will be an opportunity for further comments from the audience once all scheduled speakers have made their presentations.

The Commission will select speakers to represent the widest possible range of organizations and points of view in the available time. The Commission is particularly interested in hearing from end users of government information, such as students from elementary school through graduate school, senior citizens, individuals with disabilities, individuals from rural communities, individuals who are economically disadvantaged, researchers, employees of state, local or tribal governments, and small business owners. Other speakers are also welcome, including intermediaries who assist users with government information, such as librarians, information specialists and value-added providers, and representatives of Federal agency information dissemination programs.

### Background

The assessment was initiated by NCLIS at the request of Senator John

McCain, Chairman, Senate Committee on Commerce, Science, and Transportation and Senator Joseph Lieberman, Ranking Minority Member, Senate Committee on Governmental Affairs. The Commission was asked to identify reforms necessary in the federal government's public information dissemination policies and practices.

The Commission's proposed strategic recommendations were presented at the Commission meeting on November 15, 2000. As a result of that meeting, the Commission decided to hold a public meeting on the December 4th to provide for additional public comment.

In this report the Commission states that the Federal government's public information is a critical national resource that must be exploited to the fullest extent possible. The Commission contends that public information resources are no less important to the nation's economic and social livelihood than are its human, financial, capital, and natural resources. However, exploiting the full potential benefits and values of this resource has not been given top-level national focus, attention, and support.

The Commission believes that there is a missing building block in the nation's public information statutory foundation. A new law is needed, not only to put in place the concept of treating public information as a strategic national asset, but also to make clear the obligation of all government agencies with respect to their public information resources. To that end, every mission agency's authorizing legislation should have a standard clause mandating the dissemination of information to the public, and agencies should directly budget for the cost of implementing that recommendation in their annual budgets.

Diffusing the government's public information resources proactively, broadly, and pervasively throughout all sectors of the economy and the society, for the benefit of all Americans, is a positive, social and moral construct which must be crafted in crystal clear terms in new legislation which spells out both agency obligations and overall national policy leadership and oversight needs.

The complete draft report should be available on the Commission website by Monday, November 27, 2000. A draft Executive Summary of the final report is available at <http://www.nclis.gov/govt/assess/execsum.pdf>.

The proposed legislation should be read and evaluated in the context of the strategic recommendations in the Commission's draft report. The purpose of the proposed legislation is to bring