complainant Deere & Company (''Deere'') to amend the complaint and notice of investigation by identifying the registration number of its ''leaping deer'' trademark.

FOR FURTHER INFORMATION CONTACT: Michael Diehl, Esq, Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3095. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On February 13, 2003, the Commission instituted this investigation based on a complaint filed by Deere, alleging a violation of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and sale within the United States after importation of certain agricultural vehicles and components thereof by reason of infringement and dilution of U.S. registered Trademark Nos. 1,254,339, 1,502,103, 1,503,576, and 91,860. The complaint further alleged that an industry in the United States exists as required by subsections (a)(1)(A) and (a)(2) of section 337.

In the complaint, Deere stated that it owned an unregistered ''leaping deer'' mark, in addition to its registered trademarks. It stated also that it had applied for federal registration of the mark, and that it ''intend[ed] to amend this Complaint to include the leaping deer registration as soon as the registration is issued.'' (Complaint at ¶¶ 46–47). In the motion, Deere represented that its application for registration of the mark was granted on June 24, 2003, and it attached certified copies of the registration (U.S. Trademark Registration No. 2,729,766).

By Commission rule 210.14(b), the complaint and notice of investigation may be amended after the institution of the investigation ''only * * * for good cause shown and upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to the investigation.'' The ALJ found good cause for the amendment because the trademark registration in question did not issue until June 24, 2003. The ALJ also found that the amendment would not result in any prejudice to any of the parties in the investigation. The ALJ noted that Deere disclosed in the original complaint that it intended to assert infringement of the ''leaping deer'' mark when the registration issued. The ALJ found that the proposed amendments will not change the scope of the investigation in terms of either the products or issues involved. Finally, he noted that ''Deere has not asserted infringement of the 'leaping deer' mark by any products other than the agricultural vehicles already at issue.''

No party petitioned for review of the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

By order of the Commission.

Issued: August 27, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–22400 Filed 9–2–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application Number D–11047]

Proposed Amendment to Prohibited Transaction Exemption (PTE) 84–14 for Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers

AGENCY: Employee Benefits Security Administration.

ACTION: Notice of Proposed Amendment to PTE 84–14.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to PTE 84–14. The exemption permits various parties that are related to employee benefit plans to engage in transactions involving plan assets if, among other conditions, the assets are managed by ''qualified professional asset managers'' (QPAMs), which are independent of the parties in interest and which meet specified financial standards. Additional exemptive relief is provided for employers to furnish limited amounts of goods and services to a managed fund in the ordinary course of business. Limited relief is also provided for leases of office or commercial space between managed funds and QPAMs or contributing employers. Finally, relief is provided for transactions involving places of public accommodation owned by a managed fund.

The proposed amendment would affect participants and beneficiaries of employee benefit plans, the sponsoring employers of such plans, and other persons engaging in the described transactions.

DATES: Written comments must be received by the Department on or before October 20, 2003.

ADDRESSES: All written comments (preferably three copies) should be addressed to the U.S. Department of Labor, Office of Exemption Determinations, Employee Benefits Security Administration, Room N–5649, 200 Constitution Avenue NW., Washington, DC 20210 (attention: PTE 84–14 Amendment). Interested persons are also invited to submit comments to EBSA via e-mail or fax. Any such comments should be sent either by e-mail to *lloyd.karen@dol.gov* or by fax to 202–219–0204 by the end of the scheduled comment period. All comments received will be available for public inspection at the Public Documents Room, Employee Benefits Security Administration, Room N–1513, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Karen E. Lloyd, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, Room N–5649, 200 Constitution Avenue NW., Washington DC 20210, (202) 693–8540 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed amendment to PTE 84–14 (49 FR 9494, March 13, 1984, as corrected at 50 FR 41430, October 10, 1985). PTE 84–14 provides an exemption from certain of the restrictions of section 406 of ERISA, and from certain taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code. The Department is proposing this amendment to PTE 84–14 on its own motion, pursuant to section 408(a) of ERISA 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).[1]

Executive Order 12866 Statement

Under Executive Order 12866, the Department must determine whether the regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a ''significant regulatory action'' as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This proposed amendment has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this proposed amendment is not a ''significant regulatory action'' under Executive Order 12866, section 3(f). Accordingly, it does not require an assessment of potential costs and benefits under section 6(a)(3) of that order.

Paperwork Reduction Act Analysis

This Notice of Proposed Rulemaking is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it does not contain a ''collection of information'' as defined in 44 U.S.C. 3502(3).

Background

PTE 84–14, which was proposed on the Department's own motion on December 21, 1982, was granted as part of a continuing effort by the Department to improve the administration of the prohibited transaction rules of ERISA. The rules set forth in section 406 of ERISA prohibit various transactions between a plan and a party in interest (including a fiduciary) with respect to such plan. Unless a statutory or administrative exemption applies to the transaction, section 406(a) of ERISA prohibits, among other things: sales, leases, loans or the provision of services between a party in interest and a plan, as well as a use of plan assets by or for the benefit of, or a transfer of plan assets to, a party in interest. In addition, unless exempted, a fiduciary of a plan is not permitted to engage in any acts of self-dealing or make decisions on behalf of a plan if the fiduciary is in a conflict of interest situation.

The Department has frequently exercised its statutory authority under section 408(a) of ERISA to grant both individual and class exemptions from the prohibited transaction provisions where it has been able to find that the criteria for granting such exemptions have been satisfied. Based on its experience considering requests for individual and class exemptions, and in dealing with instances of abusive violations of the fiduciary responsibility rules of ERISA, the Department determined that as a general matter, transactions entered into on behalf of plans with parties in interest are most likely to conform to ERISA's general fiduciary standards where the decision to enter into the transaction is made by an independent fiduciary. As granted, PTE 84–14 provides broad relief for various party in interest transactions that involve plan assets that are transferred to a qualified professional asset manager (QPAM) for discretionary management.

Description of Existing Relief

PTE 84–14 consists of four separate parts. The General Exemption, set forth in Part I, permits an investment fund managed by a QPAM to engage in a wide variety of transactions described in ERISA section 406(a)(1)(A) through (D) with virtually all parties in interest except the QPAM which manages the assets involved in the transaction and those parties most likely to have the power to influence the QPAM. In this regard, under section I(a), the exemption would not be available if a QPAM caused the investment fund to enter into a transaction with a party in interest dealing with the fund, if the party in interest or its ''affiliate,'' (1) was authorized to appoint or terminate the QPAM as a manager of any of the plan's assets, (2) was authorized to negotiate the terms of the management agreement with the QPAM (including renewals or modifications thereof) on behalf of the plan, or (3) had exercised such powers in the immediately preceding one year. Additionally, under section I(d), the QPAM may not cause the investment fund which it manages to engage in a transaction with itself or a ''related'' party. Section V(h) provides generally that a party in interest and a QPAM are ''related'' if either entity (or parties controlling or controlled by either entity) owns a five percent or more interest in the other entity. Section I(e) makes explicit the Department's view that a plan (and its sponsor) which provides a significant portion of the QPAM's business as a manager of plan funds would, in many cases, be in a position to improperly influence investment decisions of the QPAM. Accordingly, the exemption would not be available for transactions with parties in interest of a plan if the amount of the plan's assets that are managed by a QPAM, together with the assets managed by the same QPAM that are attributable to other plans maintained by the same employer (or its affiliate), represent more than 20 percent of all client assets under the management of the QPAM at the time of the transaction.

Part II of the exemption provides limited relief under both section 406(a) and (b) of ERISA for certain transactions involving those employers and certain of their affiliates which could not qualify for the General Exemption provided by Part I. Section II(a) of the exemption provides conditional relief for employers and their affiliates to furnish limited amounts of goods and services to an investment fund managed by a QPAM. Section II(b) of the exemption permits such employers and their affiliates to lease office or commercial space from an investment fund managed by a QPAM.

Part III of the exemption provides limited relief under section 406(a) and (b) of ERISA for the leasing of office or commercial space by an investment fund to the QPAM, an affiliate of the QPAM, or a person who could not qualify for the General Exemption provided by Part I because it held the power of appointment described in section I(a).

Part IV of the exemption provides limited relief under section 406(a) and 406(b)(1) and (2) of ERISA for the furnishing of services and facilities by a place of public accommodation owned by an investment fund managed by a QPAM, to all parties in interest, if the services and facilities are furnished on a comparable basis to the general public.

[1] Section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), generally transferred the authority of the Secretary of Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

Description of the Proposed Amendments

Although the Department is proposing this amendment on its own motion, its proposal is based, in part, on information received from a number of interested persons concerning the difficulties encountered in complying with several conditions contained in PTE 84–14. The Department has been informed that, due to the consolidation in the financial services industry and the large size of the resulting institutions, many financial institutions have found it more difficult to ensure that section I(a) (power of appointment) and section I(d) (parties ''related'' to the QPAM), are satisfied.

As understood by the Department, the difficulties encountered by large financial institutions under the current exemption may be illustrated by the following examples:

EXAMPLE 1: A registered investment adviser, QPAM I, manages Commingled Investment Fund F. Fund F has 75 plan investors, all of which utilize various service providers in the administration of their respective plans. Broker-Dealer B is a party in interest to several plan investors. Corporation C was the named fiduciary of Plan P until December 31, 2002, and invested part of the assets of Plan P in Fund F on December 15, 2002. Corporation C is also an affiliate of Broker-Dealer B. On March 1, 2003, QPAM I used Fund F assets to purchase securities from Broker-Dealer B. The exemption would not be available for this transaction because an affiliate of a party in interest involved in the transaction exercised, within the immediately preceding year, its authority to acquire an interest in Fund F.

EXAMPLE 2: Bank B, a QPAM, is a wholly-owned subsidiary of a large financial services institution, Corporation C, and has been retained to manage a fund established by Plan P. Corporation C has numerous subsidiaries, joint ventures and other business structures, including a 10 percent interest in Joint Venture J. Joint Venture J provides actuarial services to Plan P. Bank B uses Plan P assets to purchase, on several occasions, debt instruments issued by Joint Venture J. The general exemption set forth in Part I would not be available for this transaction because Corporation C controls the QPAM and has an interest in the party in interest which exceeds five percent.

EXAMPLE 3: Bank C is a QPAM that manages several investment funds. Bank C also serves as a custodian for employee benefit plan assets and, as a result, holds legal title to securities owned on behalf of the plans. Bank C owns a three percent interest in Corporation Y. Ten employee benefit plans (the Client Plans), for which Bank C acts as custodian and also exercises voting rights for securities holdings, own stock in Corporation Y in varying amounts up to one percent each. Bank C uses assets of one of its investment funds to purchase a parcel of unimproved real property from Corporation Y, a party in interest with respect to a plan investor in the investment fund. The general exemption set forth in Part I may not be available for this transaction because Bank C owns three percent of Corporation Y and also is considered to own, for purposes of the exemption, the interests of the Client Plans in Corporation Y for which it holds legal title and exercises voting rights. Depending on the holdings of the Client Plans, from time to time, Bank C's aggregate ownership interest could exceed five percent of Corporation Y.

To address these concerns, the interested persons made a number of suggestions to modify several of the conditions of PTE 84–14 without sacrificing the protections embodied in the class exemption. First, with respect to section I(a) (power of appointment), several persons suggested that the Department delete the ''one year look-back rule'' under which the exemption would be unavailable to a party in interest if it had exercised the power of appointment within the one-year period preceding the transaction. Second, the interested persons suggested that the Department clarify that section I(a)'s power of appointment refers only to the power to appoint the QPAM as manager of the assets involved in the transaction, as opposed to any of the plan's assets.

The Department has determined to adopt these suggested modifications. The Department recognizes that the burdens of compliance in the current financial marketplace outweigh the benefits of the one year look-back rule. The Department believes that deletion of the rule would not significantly diminish the safeguards contained in the exemption. In addition, the Department believes that the focus of the ''power of appointment'' rule should be on the assets involved in the transaction, as opposed to all of the plan's assets. This proposed modification is consistent with the approach taken by the Department in more recent class exemptions.[2]

As amended, section I(a) would provide that at the time of the transaction, the party in interest or its affiliate does not have the authority to: (i) Appoint or terminate the QPAM as a manager of the plan assets involved in the transaction, or (ii) negotiate on behalf of the plan the terms of the management agreement with the QPAM (including renewals or modifications thereof) with respect to the plan assets involved in the transaction.

In addition, one of the interested persons suggested a modification to section I(a) in connection with commingled investment funds. In the preamble to PTE 84–14, the Department explained that a party in interest who has the authority to redeem or acquire units of such a fund is considered, for purposes of the exemption, to have the authority to appoint or terminate the QPAM as a manager of plan assets. To further reduce administrative burdens, it was suggested that section I(a) be amended to make the class exemption available to a party in interest with respect to a plan investing in a commingled investment fund, notwithstanding that the party in interest has the authority to redeem or acquire units of such a fund on behalf of the plan, if the plan's interest in the fund represents less than 25 percent of the investment fund's total assets. According to the interested person, a party in interest to a plan with a relatively small interest in a commingled investment fund is less likely to be in a position to exercise undue influence over the QPAM's investment decisions. On the basis of this suggestion, the Department has proposed an amendment to section I(a) of the class exemption. However, contrary to the opinion of the interested person, the Department views 10 percent, and not 25 percent, as the meaningful measure for determining whether a QPAM may be susceptible to undue influence.

Therefore, the Department proposes to further amend the class exemption by adding the following paragraph at the end of section I(a):

Notwithstanding the foregoing, in the case of an investment fund in which two or more unrelated plans have an interest, a transaction with a party in interest with respect to an employee benefit plan will be deemed to satisfy the requirements of section I(a) if the assets of the plan managed by the QPAM in the investment fund, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof described in section V(c)(1) of the exemption) or by the same employee organization, and managed in the same investment fund, represent less than 10 percent of the assets of the investment fund.

Finally, the Department proposes to amend section V(c), the definition of affiliate as it applies to section I(a) and Part II. The definition currently provides that ''an affiliate of a person means—

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

(2) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, 5 percent or more partner, or employee (but only if the

[2] See *e.g.*, PTE 94–20 (59 FR 8022, February 17, 1994) and PTE 98–54 (63 FR 63503, November 13, 1998).

employer or such employee is the plan sponsor), and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of the plan assets. A named fiduciary (within the meaning of section 402(a)(2) of ERISA) of a plan and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of section I(a) if such an employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.''

Interested persons requested that the Department narrow those persons and entities listed as affiliates under section V(c) of the exemption. According to the interested persons, the definition is difficult to monitor, particularly the portion of the definition that includes 5 percent or more partners and employees. Accordingly, after considering the suggestion, the Department has determined to delete those partnerships in which the person has less than a 10 percent interest. In addition, the Department proposes to amend section V(c)(2) to only include highly compensated employees as defined in section 4975(e)(2)(H) of the Code.

Over the years, a number of interested persons have sought clarification regarding the application of section I(b) of PTE 84–14. Section I(b) excludes from exemptive relief those transactions described in PTEs 81–6 (relating to securities lending arrangements), 83–1 (relating to acquisitions by plans of interests in mortgage pools) and 82–87 (relating to certain mortgage financing arrangements). According to the interested persons, there is uncertainty regarding the application of PTE 84–14 to certain types of transactions that, although similar to the transactions that are the subject of the three specialized exemptions, are beyond the scope of relief provided by those exemptions. Thus, for example, PTE 81–6 would not provide relief for the lending of securities that are assets of a plan to a foreign broker-dealer.[3] It is the view of the Department that PTE 84–14 would provide relief for such transactions if the conditions of that exemption were otherwise met. The Department cautions, however, that PTE 84–14 would not be available for any transaction specifically described in PTEs 81–6, 83–1 or 82–87, if a person determines not to satisfy one or more of the conditions of the specialized exemptions solely in order to take advantage of the relief provided by PTE 84–14.

With respect to section I(d) and the definition of ''related'' under section V(h), interested persons suggested that the threshold for determining whether a party in interest is related to the QPAM should be increased from a 5 percent ownership interest to a 20 percent ownership interest, and that the definition of ''interest'' under section V(h)(1) should be narrowed to exclude ownership interests held for the benefit of clients. Additionally, one interested person suggested that section I(d) be revised to make it easier to monitor for compliance. In this regard, the interested person suggested that the exemption permit a determination as to whether a party in interest is related to the QPAM to be made as of the last day of the preceding calendar quarter.

After considering the suggestions, the Department recognizes that compliance with section I(d) may create administrative burdens for a number of financial institutions. However, the Department does not believe that raising the percentage limitation to 20 percent would be appropriate in all cases. For example, while it may be more difficult to monitor the ownership interests of entities that ''control'' or are ''controlled by'' the QPAM and the party in interest, the Department believes that the QPAM and the party in interest should be able to determine any ownership interests in each other without excessive administrative burden. Accordingly, the Department is proposing to amend section V(h) to provide that a QPAM is ''related'' to a party in interest for purposes of section I(d) if:

- The QPAM or the party in interest owns a ten percent or more interest in the other entity;
- A person controlling or controlled by the QPAM or the party in interest owns a twenty percent or more interest in the other entity; or
- A person controlling, or controlled, by the QPAM or the party in interest owns less than a twenty percent interest in the other entity, but nevertheless exercises control over the management or policies of the other party by reason of its ownership interest.

In addition, the Department proposes to modify section V(h) to provide that generally determinations of whether the QPAM is ''related'' to a party in interest for purposes of section I(d) may be made as of the last day of the most recent calendar quarter. Finally, the Department is proposing to amend section V(h)(1) to provide that shares held in a fiduciary capacity need not be considered in applying the percentage limitation. The Department believes that these modifications should further lessen the compliance burdens under the class exemption.

Accordingly, the Department is proposing to amend the definition of ''related'' to in section V(h) as follows:

A QPAM is ''related'' to a party in interest for purposes of section I(d) of this exemption if, as of the last day of its most recent calendar quarter: (i) The QPAM owns a ten percent or more interest in the party in interest; (ii) a person controlling, or controlled by, the QPAM owns a twenty percent or more interest in the party in interest; (iii) the party in interest owns a ten percent or more interest in the QPAM; or (iv) a person controlling, or controlled by, the party in interest owns a twenty percent or more interest in the QPAM. Notwithstanding the foregoing, a party in interest is ''related'' to a QPAM if: (i) A person controlling, or controlled by, the party in interest owns less than a twenty percent interest in the QPAM and such person exercises control over the management or policies of the QPAM by reason of its ownership interest; or (ii) a person controlling, or controlled by, the QPAM owns less than a twenty percent interest in the party in interest and such person exercises control over the management or policies of the party in interest by reason of its ownership interest.

(1) The term ''interest'' means with respect to ownership of an entity—(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation, (B) The capital interest or the profits interest of an entity if the entity is a partnership, or (C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest if, other than in a fiduciary capacity, the person has or shares the authority—(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or (B) To dispose or to direct the disposition of such interest.

An interested person also requested that the Department clarify the language in section V(a)(4) which defines a QPAM to include ''[a]n investment adviser registered under the Investment Advisers Act of 1940 that has, as of the last day of its most recent fiscal year, total client assets under its management and control in excess of $50,000,000, and either (A) shareholders' or partners' equity (as defined in section V(m)) in excess of $750,000* * *'' The interested person noted that section V(m) provides that:

[3] PTE 81–6 does provide relief for broker-dealers registered under the Securities Exchange Act of 1934 (the 1934 Act) or exempted from registration under section 15(a)(1) of the 1934 Act as a dealer in exempted Government securities (as defined in section 3(a)(12) of the 1934 Act).

For purposes of section V(a)(4), the term ''shareholders'' or partners' equity'' means the equity shown in the most recent balance sheet prepared within the two years immediately preceding a transaction undertaken pursuant to this exemption, in accordance with generally accepted accounting principles.

According to the interested person, the two-year time period referenced in section V(m), which defines the term ''shareholders'' or partners' equity,'' appears to conflict with the phrase ''as of the last day of its most recent fiscal year'' contained in section V(a)(4). The Department proposes to amend section V(a)(4) to clarify that the phrase ''as of the last day of its most recent fiscal year'' only modifies the term ''total client assets under management and control in excess of $50,000,000,'' and does not refer to the shareholders' or partners' equity requirement.

The Department also notes that the $50 million of client assets under management standard utilized in section V(a)(4) for investment advisers has not been revised since 1984 and may no longer provide significant protections for plans in the current financial marketplace. The Department has determined to adjust the $50 million figure to $85 million, to reflect the change in the Consumer Price Index. Additionally, the Department proposes to increase the shareholders' and partners' equity requirement from $750,000 to $1,000,000, to correspond to the preceding subsections of section V(a).

As amended, section V(a)(4) would read as follows:

An investment adviser registered under the Investment Advisers Act of 1940 that has total client assets under its management and control in excess of $85,000,000 as of the last day of its most recent fiscal year, and either (A) shareholders' or partners' equity (as defined in section V(m)) in excess of $1,000,000, or (B) payment of all its liabilities including any liabilities that may arise by reason of a breach or violation of a duty described in sections 404 and 406 of ERISA is unconditionally guaranteed by—(i) A person with a relationship to such investment adviser described in section V(c)(1) if the investment adviser and such affiliate have, as of the last day of their most recent fiscal year, shareholders' or partners' equity, in the aggregate, in excess of $1,000,000, or (ii) A person described in (a)(1), (a)(2) or (a)(3) of section V above, or (iii) A broker-dealer registered under the Securities Exchange Act of 1934 that has, as of the last day of its most recent fiscal year, net worth in excess of $1,000,000; provided that such bank, savings and loan association, insurance company or investment adviser has acknowledged in a written management agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

In response to inquiries regarding the definition of QPAM contained in section V(a), the Department proposes to modify the exemption to specifically provide that a QPAM must be independent of an employer with respect to a plan whose assets are managed by the QPAM. As the Department noted in the preamble to PTE 84–14 (49 FR 9497):

This class exemption was developed, and is being granted, by the Department based on the essential premise that broad exemptive relief from the prohibitions of section 406(a) of ERISA can be afforded for all types of transactions in which a plan engages only if the commitments and the investments of plan assets and the negotiations leading thereto, are the sole responsibility of an independent investment manager.

To avoid further uncertainty on this issue, the Department has amended the definition of QPAM accordingly.

The Department also has received inquiries about section V(i) of PTE 84–14, which defines ''the time as of which any transaction occurs.'' The Department understands there is uncertainty regarding the role of a QPAM in a continuing transaction. Section V(i) states the following with respect to a continuing transaction:

[I]n the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after December 21, 1982, or a renewal that requires the consent of a QPAM occurs on or after December 21, 1982 and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied thereafter with respect to the transaction. Notwithstanding the foregoing, this exemption shall cease to apply to a transaction exempt by virtue of Part I or Part II at such times as the percentage requirement contained in section I(e) is exceeded, unless no portion of such excess results from an increase in the assets transferred for discretionary management to a QPAM. For this purpose, assets transferred do not include the reinvestment of earnings attributable to those plan assets already under the discretionary management of the QPAM. Nothing in this paragraph shall be construed as exempting a transaction entered into by an investment fund which becomes a transaction described in section 406 of ERISA or section 4975 of the Code while the transaction is continuing, unless the conditions of this exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

In the Department's view, the exemption would be available for a continuing transaction (*e.g.,* a loan or lease), provided that all the conditions of the exemption are satisfied on the date on which the transaction is entered into (or on the date of a renewal that requires the consent of the QPAM), notwithstanding the subsequent failure to satisfy one or more of the conditions of the exemption. The only exception to the availability of the exemption for a continuing transaction is the requirement that section I(e) must be satisfied throughout the duration of the transaction. Nonetheless, the Department cautions that, although Part I may continue to be available for the entire term of a continuing transaction which subsequently fails to satisfy one or more of the conditions of that Part, no relief would be provided for an act of self-dealing described in section 406(b)(1) of ERISA if the QPAM has an interest in the person which may affect the exercise of its best judgment as a fiduciary. Although Part I provides an exemption from section 406(a)(1)(A) through (D) of ERISA, it does not provide relief from acts described in section 406(b) of ERISA. The Department urges fiduciaries to take appropriate steps to avoid engaging in 406(b) violations should circumstances change during the course of a continuing transaction.

An interested person also was concerned about the availability of Part I in the context of a continuing transaction where the QPAM becomes unable to continue to serve as a QPAM, or is terminated, prior to the appointment of a replacement QPAM. In the Department's view, the exemption would continue to be available provided no decisions were required to be made by the QPAM on behalf of the investment fund with respect to the transaction (*e.g.*, how to respond to a default in payments on a lease) during the interim period before the appointment of the replacement QPAM.

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 ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting plan solely in the interests of the participants and beneficiaries of the plan. Additionally, the fact that a transaction is the subject of an exemption does not 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 ERISA and 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) If granted, the proposed amendment is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(4) The proposed amendment, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and 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.

Written Comments

The Department invites all interested persons to submit written comments on the proposed amendment to the address and within the time period set forth above. All comments received will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection at the above address.

Proposed Amendment

Under 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), the Department proposes to amend PTE 84–14 as set forth below:

Part I—General Exemption

Effective as of the date of publication of the final class exemption in the **Federal Register**, the restrictions of ERISA section 406(a)(1)(A) through (D) and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (D), shall not apply to a transaction between a party in interest with respect to an employee benefit plan and an investment fund (as defined in section V(b)) in which the plan has an interest, and which is managed by a qualified professional asset manager (QPAM) (as defined in section V(a)), if the following conditions are satisfied:

(a) At the time of the transaction (as defined in section V(i)) the party in interest, or its affiliate (as defined in section V(c)), does not have the authority to—

(1) Appoint or terminate the QPAM as a manager of the plan assets involved in the transaction, or

(2) Negotiate on behalf of the plan the terms of the management agreement with the QPAM (including renewals or modifications thereof) with respect to the plan assets involved in the transaction;

Notwithstanding the foregoing, in the case of an investment fund in which two or more unrelated plans have an interest, a transaction with a party in interest with respect to an employee benefit plan will be deemed to satisfy the requirements of section I(a) if the assets of the plan managed by the QPAM in the investment fund, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof described in section V(c)(1) of the exemption) or by the same employee organization, and managed in the same investment fund, represent less than 10 percent of the assets of the investment fund;

(b) The transaction is not described in—

(1) Prohibited Transaction Exemption 81–6 (46 FR 7527; January 23, 1981) (relating to securities lending arrangements),

(2) Prohibited Transaction Exemption 83–1 (48 FR 895; January 7, 1983) (relating to acquisitions by plans of interests in mortgage pools), or

(3) Prohibited Transaction Exemption 82–87 (47 FR 21331; May 18, 1982) (relating to certain mortgage financing arrangements);

(c) The terms of the transaction are negotiated on behalf of the investment fund by, or under the authority and general direction of, the QPAM, and either the QPAM, or (so long as the QPAM retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the QPAM, makes the decision on behalf of the investment fund to enter into the transaction, provided that the transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest;

(d) The party in interest dealing with the investment fund is neither the QPAM nor a person related to the QPAM (within the meaning of section V(h));

(e) The transaction is not entered into with a party in interest with respect to any plan whose assets managed by the QPAM, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof described in section V(c)(1) of this exemption) or by the same employee organization, and managed by the QPAM, represent more than 20 percent of the total client assets managed by the QPAM at the time of the transaction;

(f) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the QPAM, the terms of the transaction are at least as favorable to the investment fund as the terms generally available in arm's length transactions between unrelated parties;

(g) Neither the QPAM nor any affiliate thereof (as defined in section V(d)), nor any owner, direct or indirect, of a 5 percent or more interest in the QPAM is a person who within the 10 years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of: Any felony involving abuse or misuse of such person's employee benefit plan position or employment, or position or employment with a labor organization; any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company or fiduciary; income tax evasion; any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or any other crime described in section 411 of ERISA. For purposes of this section (g), a person shall be deemed to have been ''convicted'' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

Part II—Specific Exemption for Employers

Effective December 21, 1982, the restrictions of sections 406(a), 406(b)(1) and 407(a) of ERISA and the taxes imposed by section 4975(a) and (b) of the Code, by reason of Code section 4975(c)(1)(A) through (E), shall not apply to:

(a) The sale, leasing, or servicing of goods (as defined in section V(j)), or to the furnishing of services, to an investment fund managed by a QPAM by a party in interest with respect to a plan having an interest in the fund, if—

(1) The party in interest is an employer any of whose employees are

covered by the plan or is a person who is a party in interest by virtue of a relationship to such an employer described in section V(c),

(2) The transaction is necessary for the administration or management of the investment fund,

(3) The transaction takes place in the ordinary course of a business engaged in by the party in interest with the general public,

(4) Effective for taxable years of the party in interest furnishing goods and services after the date this exemption is granted, the amount attributable in any taxable year of the party in interest to transactions engaged in with an investment fund pursuant to section II(a) of this exemption does not exceed one (1) percent of the gross receipts derived from all sources for the prior taxable year of the party in interest, and

(5) The requirements of sections I(c) through (g) are satisfied with respect to the transaction;

(b) The leasing of office or commercial space by an investment fund maintained by a QPAM to a party in interest with respect to a plan having an interest in the investment fund, if—

(1) The party in interest is an employer any of whose employees are covered by the plan or is a person who is a party in interest by virtue of a relationship to such an employer described in section V(c),

(2) No commission or other fee is paid by the investment fund to the QPAM or to the employer, or to an affiliate of the QPAM or employer (as defined in section V(c)), in connection with the transaction,

(3) Any unit of space leased to the party in interest by the investment fund is suitable (or adaptable without excessive cost) for use by different tenants,

(4) The amount of space covered by the lease does not exceed fifteen (15) percent of the rentable space of the office building, integrated office park, or of the commercial center (if the lease does not pertain to office space),

(5) In the case of a plan that is not an eligible individual account plan (as defined in section 407(d)(3) of ERISA), immediately after the transaction is entered into, the aggregate fair market value of employer real property and employer securities held by investment funds of the QPAM in which the plan has an interest does not exceed 10 percent of the fair market value of the assets of the plan held in those investment funds. In determining the aggregate fair market value of employer real property and employer securities as described herein, a plan shall be considered to own the same proportionate undivided interest in each asset of the investment fund or funds as its proportionate interest in the total assets of the investment fund(s). For purposes of this requirement, the term ''employer real property'' means real property leased to, and the term ''employer securities'' means securities issued by, an employer any of whose employees are covered by the plan or a party in interest of the plan by reason of a relationship to the employer described in subparagraphs (E) or (G) of ERISA section 3(14), and

(6) The requirements of sections I(c) through (g) are satisfied with respect to the transaction.

Part III—Specific Lease Exemption for QPAMs

Effective December 21, 1982, the restrictions of section 406(a)(1)(A) through (D) and 406(b)(1) and (2) of ERISA and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (E), shall not apply to the leasing of office or commercial space by an investment fund managed by a QPAM to the QPAM, a person who is a party in interest of a plan by virtue of a relationship to such QPAM described in subparagraphs (G), (H), or (I) of ERISA section 3(14) or a person not eligible for the General Exemption of Part I by reason of section I(a), if—

(a) The amount of space covered by the lease does not exceed the greater of 7500 square feet or one (1) percent of the rentable space of the office building, integrated office park or of the commercial center in which the investment fund has the investment,

(b) The unit of space subject to the lease is suitable (or adaptable without excessive cost) for use by different tenants,

(c) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the QPAM, the terms of the transaction are not more favorable to the lessee than the terms generally available in arm's length transactions between unrelated parties, and

(d) No commission or other fee is paid by the investment fund to the QPAM, any person possessing the disqualifying powers described in section I(a), or any affiliate of such persons (as defined in section V(c)), in connection with the transaction.

Part IV—Transactions Involving Places of Public Accommodation

Effective December 21, 1982, the restrictions of section 406(a)(1)(A) through (D) and 406(b)(1) and (2) of ERISA and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (E), shall not apply to the furnishing of services and facilities (and goods incidental thereto) by a place of public accommodation owned by an investment fund managed by a QPAM to a party in interest with respect to a plan having an interest in the investment fund, if the services and facilities (and incidental goods) are furnished on a comparable basis to the general public.

Part V—Definitions and General Rules

For purposes of this exemption:

(a) The term ''qualified professional asset manager'' or ''QPAM'' means an independent fiduciary (as defined in section V(n)) which is—

(1) A bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 that has the power to manage, acquire or dispose of assets of a plan, which bank has, as of the last day of its most recent fiscal year, equity capital (as defined in section V(k)) in excess of $1,000,000 or

(2) A savings and loan association, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, that has made application for and been granted trust powers to manage, acquire or dispose of assets of a plan by a State or Federal authority having supervision over savings and loan associations, which savings and loan association has, as of the last day of its most recent fiscal year, equity capital (as defined in section V(k)) or net worth (as defined in section V(l)) in excess of $1,000,000 or

(3) An insurance company which is qualified under the laws of more than one State to manage, acquire, or dispose of any assets of a plan, which company has, as of the last day of its most recent fiscal year, net worth (as defined in section V(l)) in excess of $1,000,000 and which is subject to supervision and examination by a State authority having supervision over insurance companies, or

(4) An investment adviser registered under the Investment Advisers Act of 1940 that has total client assets under its management and control in excess of $85,000,000 as of the last day of its most recent fiscal year, and either (A) shareholders' or partners' equity (as defined in section V(m)) in excess of $1,000,000, or (B) payment of all of its liabilities including any liabilities that may arise by reason of a breach or violation of a duty described in sections 404 and 406 of ERISA is unconditionally guaranteed by—(i) A person with a relationship to such investment adviser described in section

V(c)(1) if the investment adviser and such affiliate have, as of the last day of their most recent fiscal year, shareholders' or partners' equity, in the aggregate, in excess of $1,000,000, or (ii) A person described in (a)(1), (a)(2) or (a)(3) of section V above, or (iii) A broker-dealer registered under the Securities Exchange Act of 1934 that has, as of the last day of its most recent fiscal year, net worth in excess of $1,000,000; Provided that such bank, savings and loan association, insurance company or investment adviser has acknowledged in a written management agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

(b) An ''investment fund'' includes single customer and pooled separate accounts maintained by an insurance company, individual trusts and common, collective or group trusts maintained by a bank, and any other account or fund to the extent that the disposition of its assets (whether or not in the custody of the QPAM) is subject to the discretionary authority of the QPAM.

(c) For purposes of section I(a) and Part II, an ''affiliate'' of a person means—

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

(2) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, 10 percent or more partner (except with respect to part II this figure shall be 5 percent), or highly compensated employee as defined in section 4975(e)(2)(H) of the Code (but only if the employer of such employee is the plan sponsor), and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets. A named fiduciary (within the meaning of section 402(a)(2) of ERISA) of a plan and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of section I(a) if such employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

(d) For purposes of section I(g) an ''affiliate'' of a person means—

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

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and

(4) Any employee or officer of the person who—

(A) Is a highly compensated employee (as defined in section 4975(e)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person), or

(B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

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

(f) The term ''party in interest'' means a person described in ERISA section 3(14) and includes a ''disqualified person,'' as defined in Code section 4975(e)(2).

(g) The term ''relative'' means a relative as that term is defined in ERISA section 3(15), or a brother, a sister, or a spouse of a brother or sister.

(h) A QPAM is ''related'' to a party in interest for purposes of section I(d) of this exemption if, as of the last day of its most recent calendar quarter: (i) The QPAM owns a ten percent or more interest in the party in interest; (ii) a person controlling, or controlled by, the QPAM owns a twenty percent or more interest in the party in interest; (iii) the party in interest owns a ten percent or more interest in the QPAM; or (iv) a person controlling, or controlled by, the party in interest owns a twenty percent or more interest in the QPAM. Notwithstanding the foregoing, a party in interest is ''related'' to a QPAM if: (i) a person controlling, or controlled by, the party in interest owns less than a twenty percent interest in the QPAM and such person exercises control over the management or policies of the QPAM by reason of its ownership interest; (ii) a person controlling, or controlled by, the QPAM owns less than a twenty percent interest in the party in interest and such person exercises control over the management or policies of the party in interest by reason of its ownership interest. For purposes of this definition:

(1) The term ''interest'' means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(B) The capital interest or the profits interest of the entity if the entity is a partnership, or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest if, other than in a fiduciary capacity, the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest.

(i) The time as of which any transaction occurs is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after December 21, 1982, or a renewal that requires the consent of the QPAM occurs on or after December 21, 1982 and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied thereafter with respect to the transaction. Notwithstanding the foregoing, this exemption shall cease to apply to a transaction exempt by virtue of Part I or Part II at such time as the percentage requirement contained in section I(e) is exceeded, unless no portion of such excess results from an increase in the assets transferred for discretionary management to a QPAM. For this purpose, assets transferred do not include the reinvestment of earnings attributable to those plan assets already under the discretionary management of the QPAM. Nothing in this paragraph shall be construed as exempting a transaction entered into by an investment fund which becomes a transaction described in section 406 of ERISA or section 4975 of the Code while the transaction is continuing, unless the conditions of this exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(j) The term ''goods'' includes all things which are movable or which are fixtures used by an investment fund but does not include securities, commodities, commodities futures, money, documents, instruments, accounts, chattel paper, contract rights and any other property, tangible or intangible, which, under the relevant

facts and circumstances, is held primarily for investment.

(k) For purposes of section V(a)(1) and (2), the term ''equity capital'' means stock (common and preferred), surplus, undivided profits, contingency reserves and other capital reserves.

(l) For purposes of section V(a)(3), the term ''net worth'' means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves.

(m) For purposes of section V(a)(4), the term ''shareholders'' or partners' equity'' means the equity shown in the most recent balance sheet prepared within the two years immediately preceding a transaction undertaken pursuant to this exemption, in accordance with generally accepted accounting principles.

(n) For purposes of section V(a), the term ''independent fiduciary'' means a fiduciary managing the assets of a plan in an investment fund that is independent of and unrelated to the employer sponsoring such plan. For purposes of this exemption, the independent fiduciary will not be deemed to be independent of and unrelated to the employer sponsoring the plan if such fiduciary directly or indirectly controls, is controlled by, or is under common control with the employer sponsoring the plan.

Signed at Washington, DC, this 28th day of August, 2003.

Ivan L. Strasfeld,

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

[FR Doc. 03–22383 Filed 9–2–03; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Working Group on Optional Professional Management in Defined Contribution Plans, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, an open public teleconference meeting will be held Monday, September 22, 2003, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study optional professional management for defined contribution plans.

The session will take place in Room N–3437 C–D, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 10:30 a.m. to approximately 1 p.m., is for Working Group members to discuss their findings and begin drafting the Advisory Council's report for the Secretary of Labor.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before September 17, 2003 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary at the above address or via telephone at (202) 693–8668. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Sharon Morrissey by September 17 at the address indicated in this notice.

Signed at Washington, DC, this 26th day of August, 2003.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 03–22384 Filed 9–2–03; 8:45 am]

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

123rd Full Meeting, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 123rd open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held via teleconference on Tuesday, September 23, 2003.

The session will take place in Room N–3437 C–D, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the meeting, which will begin at 2 p.m. and end at approximately 3 p.m., is for the chairpersons of the Advisory Council's Working Groups to provide progress reports on their individual study topics.

Organizations or members of the public wishing to submit a written statement pertaining to any topics under consideration by the Advisory Council may do so by submitting 20 copies to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before September 17, 2003 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary at the above address or via telephone at (202) 693–8668. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Sharon Morrissey by September 17 at the address indicated in this notice.

Signed at Washington, DC, this 26th day of August, 2003.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 03–22385 Filed 9–2–03; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Working Group on Defined Benefit Funding and Discount Rate Issues, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, an open public teleconference meeting will be held Tuesday, September 23, 2003, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study defined benefit plan funding and discount rate issues.

The session will take place in Room N–3437 C–D, U.S. Department of Labor Building, 200 Constitution Avenues, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 10:30 a.m. to approximately 1:30 p.m., is for Working Group members to discuss their findings and begin drafting the Advisory Council's report for the Secretary of Labor.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies to Sharon