

minimizing, or remedying harm from the breach.

**DATES:** This revision will become effective without further notice on September 12, 2007 unless comments received on or before that date cause a contrary decision. If changes are made based on NRC's review of comments received, a new final notice will be published. We note that the text of the proposed routine use is taken from the routine use that has already been published in final form by the Department of Justice after public comment at 72 FR 3410 (January 25, 2007).

**ADDRESSES:** Mail comments to the Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Comments can also be transmitted to the Chief of the Rulemaking, Directives, and Editing Branch by means of facsimile transmission to (301) 415-5144, or by e-mail to [nrcprep@nrc.gov](mailto:nrcprep@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Sandra S. Northern, Privacy Program Officer, FOIA/Privacy Act Team, Records and FOIA/Privacy Services Branch, Information and Records Services Division, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6879; e-mail: [ssn@nrc.gov](mailto:ssn@nrc.gov).

**SUPPLEMENTARY INFORMATION:** NRC proposes to revise its Prefatory Statement of General Routine Uses to include a new routine use (7) that will apply to all of its current systems of records, published October 10, 2006 (71 FR 59614) and December 15, 2006 (71 FR 77072), allowing disclosure to appropriate persons and entities for purposes of response and remedial efforts in the event that there has been a breach of data contained in the systems. This routine use will facilitate an effective response to a confirmed or suspected breach by allowing disclosure to those individuals affected by the breach, as well as to others who are in a position to assist in the NRC's response efforts, either by assisting in notification to affected individuals or by otherwise playing a role in preventing, minimizing, or remedying harm from the breach. Accordingly, the proposed new routine will read:

\* \* \* \* \*

7. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) the NRC suspects or has confirmed that the security or

confidentiality of information in the system of records has been compromised; (2) the NRC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the NRC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the NRC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

A report on this revision is being sent to the Office of Management and Budget (OMB), the Committee on Homeland Security and Governmental Affairs of the U.S. Senate, and the Committee on Government Reform of the U.S. House of Representatives as required by the Privacy Act and OMB Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals."

Dated at Rockville, Maryland, this 27th day of July, 2007.

For the Nuclear Regulatory Commission.

**Edward T. Baker III,**

*Director Office of Information Services.*

[FR Doc. E7-15082 Filed 8-2-07; 8:45 am]

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## **PENSION BENEFIT GUARANTY CORPORATION**

### **Pendency of Request for Variance from the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; P&O Ports Florida, Inc.**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of pendency of request.

**SUMMARY:** This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from P&O Ports Florida, Inc. for a variance from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, *as amended*, with respect to the Tampa Maritime Association-International Longshoremen's Association Pension Plan (the "Plan"). Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not

constitute a complete or partial withdrawal from the plan if the transaction meets certain conditions. One of these conditions is that the purchaser post a bond or deposit money in escrow for the five-plan-year period beginning after the sale. The PBGC is authorized to grant individual and class variances or exemptions from this requirement. Before granting a variance or exemption, the statute and PBGC regulations require PBGC to give interested persons an opportunity to comment on the variance or exemption request. The purpose of this notice is to advise interested persons of the variance or exemption request and solicit their views on it.

**DATES:** Comments must be submitted on or before September 17, 2007.

**ADDRESSES:** Comments may be mailed to the Office of the Chief Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to Suite 340 at the above address. Comments also may be submitted electronically through the PBGC's Web site at [reg.comments@pbgc.gov](http://reg.comments@pbgc.gov) or by fax to 202-326-4112. The PBGC will make all comments available on its Web site, <http://www.pbgc.gov>. Copies of the comments and the non-confidential portions of the request may be obtained by writing to the PBGC's Communications and Public Affairs Department at Suite 1200 at the above address or by visiting that office or calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.)

**FOR FURTHER INFORMATION CONTACT:** Eric Field, Attorney, Office of the Chief Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4020. (For TTY/TTD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4020.)

**SUPPLEMENTARY INFORMATION:**

### **Background**

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("ERISA" or "the Act"), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to covered operations for substantially the

same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) the contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale. Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the statute be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S.1076, *The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations* 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of a variance or exemption from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under the PBGC's regulation on variances for sales of assets (29 CFR Part 4204), a request for a variance or exemption from the bond/escrow requirement under any of the tests established in the regulation (sections 4204.12 & 4204.13) is to be made to the

plan in question. The PBGC will consider variance or exemption requests only when the request is not based on satisfaction of one of the four regulatory tests under regulation sections 4204.12 and 4204.13 or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. section 552(b)(4) (Freedom of Information Act).

Under section 4204.22(a) of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 4204.22(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

#### The Request

The PBGC has received a request from P&O Ports Florida, Inc., (the "Purchaser") for a variance from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its purchase of SSA Gulf, Inc., d/b/a Harborside Refrigeration and Garrison on May 26, 2006. In the request, the Purchaser represents among other things that:

1. The Seller was obligated to contribute to the Tampa Maritime Association-International Longshoremen's Association Pension Plan (the "Plan") for the purchased operations.

2. The Purchaser has agreed to assume the obligation to contribute to the Plan for substantially the same contribution base units as the Seller.

3. The Seller has agreed to be secondarily liable for any withdrawal liability it would have had with respect to the sold operations (if not for section 4204) should the Purchaser withdraw from the Plan and fail to pay its withdrawal liability.

4. The estimated amount of the withdrawal liability of the Seller with respect to the operations subject to the sale is \$1,191,462.

5. The amount of the bond/escrow established under section 4204(a)(1)(B) is \$421,864.

6. On April 9, 2007, the Purchaser established an escrow account for \$421,864 on behalf of the Plan through

Bank of America. Although the escrow account was established after the date required by section 4204(a)(1)(B), the Plan has agreed to accept the escrow while the variance request is pending with the PBGC.

7. In support of its request for a variance, the Purchaser has submitted a copy of its consolidated financial statements for 2005 and 2006, but has asserted that the information therein is privileged and confidential within the meaning of 552(b)(4) of the Freedom of Information Act.

8. A complete copy of the request was sent to the Plan and the collective bargaining representative of the Seller's employees by certified mail, return receipt requested.

#### Comments

All interested persons are invited to submit written comments on the pending variance request to the above address. All comments will be made a part of the record. The PBGC will make the comments received available on its Web site, [www.pbgc.gov](http://www.pbgc.gov). Copies of the comments and the non-confidential portions of the request may be obtained by writing or visiting the PBGC's Communications and Public Affairs Department (CPAD) at the above address or by visiting that office or calling 202-326-4040 during normal business hours.

Issued at Washington, DC, on this 26th of July, 2007.

**Charles E. F. Millard,**

*Interim Director.*

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27917; 812-13290]

### Medallion Financial Corp.; Notice of Application

July 30, 2007.

**AGENCY:** Securities and Exchange Commission (the "Commission").

**ACTION:** Notice of an Application for an Order Under Section 61(a)(3)(B) of the Investment Company Act of 1940 (the "Act").

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**SUMMARY OF APPLICATION:** Applicant, Medallion Financial Corp., requests an order approving a proposal to grant certain stock options to directors who are not also employees or officers of the applicant (the "Eligible Directors") under its 2006 Non-Employee Director