DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

[OMB Number 1121–0291]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: National Juvenile Probation Census Project.

The Department of Justice (DOJ), Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 196, page 57965 on October 11, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 16, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Requests of written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New.

(2) *Title of the Form/Collection:* National Juvenile Probation Census Project which consists of two forms: Census of Juvenile Probation Supervision Offices (CJPSO) and Census of Juveniles on Probation (CJP).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Numbers: CJ–16 (CJPSO) and CJ–17 (CJP). Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: *Primary:* State, Local or Tribal Governments. *Other:* N/A. This project consists of two forms that will be sent to juvenile geographic probation supervision areas (GPSAs), on alternate years. The CJPSO will collect information regarding the activities of juvenile probation offices nationwide; the CJP will collect information regarding the number and characteristics of juveniles on probation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The CJPSO response burden is estimated at .75 hours per response. The study will first field test the CJPSO form on a sample of 336 juvenile GPSAs. Then the form will be sent to all 1,715 juvenile GPSAs. The following year, approximately 500 of the 1,715 will also be asked to complete the CJP, at an estimate of 5.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 4,289 public burden hours associated with the CJPSO and CJP collections.

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: December 12, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–24358 Filed 12–14–07; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Prohibited Transaction Exemption 2007–17; Grant of Individual Exemptions Involving; D–11390, BSC Services Corp. 401(k) Profit Sharing Plan (the Plan), PTE 2007–17; D–11402 and D–11403, Owens Corning Savings Plan and Owens Corning Savings and Security Plan (Collectively, the Plans), PTE 2007–18; D–11405, Middleburg Trust Company (Middleburg), PTE 2007–19; D–11420, BlackRock, Inc (BlackRock), and Merrill Lynch & Co. (Merrill Lynch) (Collectively, the Applicants), PTE 2007–20; D–11441, Gastroenterology and Oncology Associates, P.A. (the Plan), 2007–21

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

BSC Services Corp. 401(k) Profit Sharing Plan (the Plan), Located in Philadelphia, PA

[Prohibited Transaction Exemption 2007–17; Exemption Application No. D–11390]

Exemption

Section I—Covered Transactions

The restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code,[1] by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective April 27, 2006, to (1) the acquisition by the Plan of certain stock rights (the Rights) pursuant to a stock rights offering (the Offering) from First Bank of Delaware (the Bank), a party in interest and the parent company of BSC Services Corp., which is the Plan sponsor as well as a party in interest with respect to the Plan; (2) the holding of the Rights by the Plan during the subscription period of the Offering; and (3) the disposition or exercise of the Rights by the Plan.

Section II—Conditions

This exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following conditions:

(a) The Rights were acquired by the Plan pursuant to Plan provisions for the individually-directed investment of participant accounts.

(b) The Plan's receipt of the Rights occurred in connection with the Rights Offering made available to all shareholders of the Bank's common stock (the Bank Stock).

(c) All decisions regarding the holding and disposition of the Rights by the Plan were made in accordance with Plan provisions for the individually-directed investment of participant accounts by the individual participants whose accounts in the Plan received Rights in the Offering, and if no instructions were received, the Rights expired.

(d) The Plan's acquisition of the Rights resulted from an independent act of the Bank as a corporate entity, and all holders of the Rights, including the Plan, were treated in the same manner with respect to the acquisition, holding and disposition of such Rights.

(e) The Plan received the same proportionate number of the Rights as other owners of Bank Stock.

Effective Date: This exemption is effective as of April 27, 2006.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 2, 2007 at 72 FR 36059.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone number (202) 693–8556. (This is not a toll-free number.)

Owens Corning Savings Plan and Owens Corning Savings and Security Plan (Collectively, the Plans), Located in Toledo, Ohio

[Prohibited Transaction Exemption 2007–18; Exemption Application Numbers D–11402 and D–11403, respectively]

Exemption

The restrictions of sections 406(a), 406(b)(1), 406(b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective October 31, 2006, to: (1) The acquisition by the Plans of certain warrants (the Warrants) issued by Owens Corning (the Applicant), a party in interest with respect to the Plans, where such Warrants have been issued in exchange for the common stock (the Old Common Stock) of the Applicant incident to a bankruptcy reorganization; (2) the holding of the Warrants by each of the Plans pending the exercise or other disposition of said Warrants; (3) the exercise of the Warrants by participants in the Plans to permit acquisition of shares of the Applicant's new common stock (the New Common Stock).

In addition, 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 October 31, 2006, to the sale or disposition of the Warrants by participants in the Plans through a broker-dealer acting as an agent on behalf of such participants.

Conditions

(a) Other than the right to vote on the Reorganization Plan, the Plans had no ability to affect the provisions of the Sixth Amended Joint Plan of Reorganization for Owens Corning and Its Affiliated Debtors and Debtors-in-Possession (the Reorganization Plan) approved by the United States Bankruptcy Court for the District of Delaware (the Bankruptcy Court) on September 26, 2006 pursuant to Chapter 11 of Title 11 of the United States Code (the Bankruptcy Code);

(b) The acquisition and holding of the Warrants by the Plans occurred in connection with the Reorganization Plan, in which all holders of the Applicant's stock of the same class have been and will be treated similarly;

(c) The Warrants were acquired automatically and without any action on the part of the Plans;

(d) The Plans did not pay any fees or commissions in connection with the acquisition or holding of the Warrants;

(e) The Plans will not pay any fees or commissions in connection with the exercise of the Warrants;

(f) All decisions regarding the exercise or other disposition of the Warrants have been and will be made by the individual participants of the Plans in whose accounts the Warrants were allocated, in accordance with the respective provisions of the Plans pertaining to the individually-directed investment of such accounts, subject to the duty of the fiduciaries of the Plans to take action consistent with sections 403 and 404 of the Act, in the event the current market price for the New Common Stock is below $45.25 per share (the Strike Price) at the time of participant exercise or in the event that it becomes clear that the Warrants would otherwise expire ''in the money'' unexercised by participants; and

(g) The terms and conditions applicable to the sale of the Warrants by participants in the Plans have been and will be at least as favorable to the Plans as those that would have been obtained in an arm's length transaction with an unrelated party.

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

Written Comments

The Notice of Proposed Exemption (the Notice), published in the **Federal Register** on July 2, 2007, stated that the Applicant would distribute the Notice to interested persons within fifteen (15) days of its publication in the **Federal Register**; the Notice also invited all interested persons to submit written comments and requests for a hearing to the Department concerning the proposed exemption within forty-five (45) days of the date of its publication.

Shortly after the Notice was published in the **Federal Register**, the Applicant requested that the Department extend the foregoing deadlines for notification to interested persons. The Department agreed to this request, and advised the Applicant that notification to interested persons be provided no later than August 16, 2007. The Department received a written certification from the Applicant dated August 17, 2007 confirming that the Notice and the accompanying supplemental statement had been distributed to interested persons on August 15, 2007 via first class mail.

During the comment period, the Department received two written comments concerning the Notice. One comment, submitted by a former employee of the Applicant, expressed opposition to the proposed exemption, but did not offer any information or rationale in support of this viewpoint. The second comment received by the Department was submitted by the Applicant. In its comment, the Applicant represented that although it had originally requested exemptive relief from the Department for the acquisition, holding, exercise, and other disposition of the Warrants (including the sale of the Warrants to third parties), the Notice did not contain relief for the disposition of the Warrants.

In this regard, the Applicant also expressed its understanding that securities traded through the Pink Sheets (such as the Warrants) may be sold in the context of either principal transactions (wherein a market maker or broker purchases the security for its own account) or agency transactions (wherein the broker acts as agent for a non-broker purchaser). In either instance, the commenter stated, it was possible that the purchaser of the Warrants could be a party in interest with respect to the plan. Further, the Applicant commented that neither Part II nor Part IV of PTE 75–1 (40 FR 50845, October 31, 1975, as amended at 71 FR 5883, February 3, 2006) would provide relief from the restriction of section 406(a) of the Act for an agency transaction involving the Warrants. In this connection, the Applicant expressed the view that it would not be in the interests of the Plans or of the Plans' participants to limit the potential purchasers of the Warrants to market makers or other brokers who could rely on PTE 75–1. The Applicant also commented that the applicability of section 408(b)(17) of the Act to the transactions described in the proposed exemption was problematic because certain interpretive issues may be raised in applying the adequate consideration condition contained therein, particularly in the case of participant-directed plans and/or securities not traded on an exchange.

The Applicant also commented that Fidelity Brokerage Services, LLC (Fidelity), which is not affiliated with the Applicant, will process the Warrant sales ''in accordance with its customary provisions for the execution of securities transactions in the over the counter [OTC] market and neither [the Applicant] nor any affiliate will have any role in that process.'' Based on the foregoing considerations, the Applicant requested in its comment that the Department modify the proposed exemption by (1) permitting relief from the applicable restrictions of the Act and the Code for the sale or disposition of the Warrants and (2) limiting such relief to those sales transactions that are ''at least as favorable to the Plan as an arms'' length transaction with an unrelated party would be.'' [2]

In response to the Applicant's request, the Department has determined to grant exemptive relief to the Applicant for the sale or disposition of the Warrants by participants in the Plans provided that such sale or disposition was effected through a broker-dealer acting as an agent on behalf of such participants. In addition, the Department has determined to add a condition (Condition (g)) to the exemption which stipulates that such relief is only available where ''the terms and conditions applicable to the sale of the Warrants by participants in the Plans have been and will be at least as favorable to the Plans as those that would have been obtained in an arm's length transaction with an unrelated party.''

Condition (a) of the proposed exemption (located in the first column on page 36058 of the July 2, 2007 edition of the **Federal Register**) states that ''[t]he Plans had no ability to affect the provisions of the Sixth Amended Joint Plan of Reorganization for Owens Corning and its Affiliated Debtors and Debtors-in-Possession (the Reorganization Plan) approved by the United States Bankruptcy Court for the District of Delaware (the Bankruptcy Court) on September 26, 2006 pursuant to Chapter 11 of Title 11 of the United States Code (the Bankruptcy Code).'' The Applicant suggested that, ''[f]or the purpose of clarity,'' Condition (a) of the proposed exemption should be modified by the Department by inserting the words ''Other than the right to vote on the Reorganization Plan'' at the beginning of the condition. The Department has agreed to adopt the Applicant's request concerning this matter.

Condition (f) of the proposed exemption (located in the second column on page 36058) states that ''[a]ll decisions regarding the exercise or other disposition of the Warrants have been and will be made by the individual participants in the Plans in whose accounts the Warrants were allocated, in accordance with the respective provisions of the Plans pertaining to the individually-directed investment of such accounts.'' The Applicant suggested in its comment that Condition (f) of the proposed exemption should be modified by the Department to read as follows: ''All decisions regarding the exercise or other disposition of the Warrants have been and will be made by the individual participants of the Plans to whose accounts the Warrants were allocated, subject to the duty of the Plan fiduciaries to take action with respect to the employer securities held by the Plans pursuant to sections 403 and 404 of ERISA, and the right of the Plan sponsor to amend the Plans.'' The Applicant commented that such a revision is necessary to confirm that the relief provided by the exemption would still be available even if the fiduciaries of the Plans were required to exercise their fiduciary duty with respect to the Warrants (as noted by the Department in footnote 10 of the proposed exemption, located at the bottom of page 36059, which states that ''[t]he Applicant acknowledges that the appropriate fiduciaries of the Plans shall be responsible for monitoring the investment options available to participants in the Plans, and taking such action as they deem appropriate under the circumstances.'' Such action

[2] On November 22, 2007, the Department received a written communication from the Applicant stating that the New Common Stock became an investment option for participants in the Plans as of November 6, 2007. The Applicant further represented that this development does not affect the rights of participants in the Plans with respect to the Warrants held in their respective accounts (i.e., the participants will continue to have the ability to sell or exercise the Warrants).

may include preventing participants from exercising the Warrants if the current market price for the Common Stock is below the Strike Price, or causing the Plans to sell the Warrants in the event that it becomes clear that they would otherwise expire unexercised by participants.

After due consideration of this comment, the Department has decided to modify the text of Condition (f) of the exemption to read as follows: ''All decisions regarding the exercise or other disposition of the Warrants have been and will be made by the individual participants of the Plans in whose accounts the Warrants were allocated, in accordance with the respective provisions of the Plans pertaining to the individually-directed investment of such accounts, subject to the duty of the fiduciaries of the Plans to take action consistent with sections 403 and 404 of the Act, in the event the current market price for the New Common Stock is below $45.25 per share (the Strike Price) at the time of participant exercise or in the event that it becomes clear that the Warrants would otherwise expire 'in the money' unexercised by participants.'' In this regard, the Department notes that no relief is provided under this final exemption for the plan fiduciaries to overrule the direction of participants, unless the direction or lack of direction is clearly imprudent under the particular circumstances.

The Applicant also provided a comment concerning the content of footnote 8 of the Notice (located at the bottom of the first column on page 36059), which states that ''[b]ased on the Applicant's representations, to the extent the Warrants are publicly traded on a national exchange to unrelated third parties, no exemptive relief is being provided by the Department.'' In this regard, the Applicant represented in its comment that the Warrants are not traded on a national exchange. The Department concurs with the Applicant, and hereby deletes footnote 8 in its entirety.

The Applicant also made two additional suggestions for technical revisions to the proposed exemption. In the fifth sentence of the second paragraph of the ''Summary of Facts and Representations'' section of the proposed exemption (located in the second column of page 36058), the following language appears: ''The Reorganization Plan became effective on October 31, 2006, at which time the Old Common Stock was delisted from the New York Stock Exchange and all outstanding shares of the Old Common Stock were cancelled.'' The Applicant has now advised the Department in its comment that the Old Common Stock was delisted some time before October 31, 2006, the date on which it was cancelled. In addition, the Applicant suggested modification of the content of the seventh sentence of the same paragraph (located in the third column of page 36058), which states that ''[t]he Applicant represents that the Warrants do not constitute qualifying employer securities as defined in section 407(d)(5) of the Act.'' In this connection, the Applicant commented that ''it did not concede in its [a]pplication [for exemption] that the Warrants 'do not constitute' qualifying employer securities, but indicated that they may not be.'' After due consideration, the Department has adopted these clarifications requested by the Applicant.

Therefore, after giving full consideration to the entire record, the Department has determined to grant the exemption subject to the modifications described herein.

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 in the **Federal Register** on July 2, 2007 at 72 FR 36058.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Judge of the Department, telephone (202) 693–8339. (This is not a toll-free number).

Middleburg Trust Company (Middleburg), Located in Richmond, VA

[Prohibited Transaction Exemption 2007–19; Application No. D–11405]

Exemption

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 past sale, on March 28, 2006, by the William T. Smith IRA (the IRA) [3] of certain bonds (the Bonds) to Middleburg, a disqualified person with respect to the IRA, provided that the following conditions are satisfied:

(a) The sale was a one-time transaction for cash;

(b) The purchase price for the Bonds was based on the Bonds' face value;

(c) The Bonds' face value was in excess of bids for the Bonds solicited from independent brokers and in excess of the price for the Bonds quoted by an independent valuation service for the date of the sale;

(d) Neither the IRA nor Mr. William T. Smith, the owner of the IRA, paid any fees, commissions, or other costs or expenses associated with the sale;

(e) The IRA received its portion of income and all interest accrued on the Bonds through the date of the sale;

(f) The terms and conditions of the sale were at least as favorable to the IRA as those obtainable in an arm's length transaction with an unrelated party; and

(g) Within 30 days of the publication of the grant notice in the **Federal Register**, Middleburg will pay the IRA $196.53 to make up for the loss sustained by the IRA as a result of the sale.

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 26, 2007 at 72 FR 60904.

FOR FURTHER INFORMATION CONTACT: Ms. Blessed Chuksorji of the Department, telephone number (202) 693–8567. (This is not a toll-free number).

BlackRock, Inc. (BlackRock), and Merrill Lynch & Co. (Merrill Lynch) (Collectively, the Applicants), Located in New York, New York

[Prohibited Transaction Exemption 2007–20 Application No. D–11420]

Exemption

Section I—Transactions

The restrictions of section 406 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 (F) of the Code, shall not apply to the purchase of certain securities (the Securities), as defined, below in Section III(k), by an Asset Manager, as defined, below, in Section III(f), from any person other than a Merrill Lynch/BlackRock Related Entity or Merrill Lynch/BlackRock Related Entities, as defined, below, in Section III(c), during the existence of an underwriting or selling syndicate with respect to such Securities, where a Merrill Lynch/BlackRock Related Broker-Dealer, as defined, below, in Section III(b), is a manager or member of such syndicate and the Asset Manager purchases such Securities, as a fiduciary:

(a) On behalf of an employee benefit plan or employee benefit plans (Client Plan(s)), as defined, below, in Section III(h); or

(b) On behalf of Client Plans, and/or In-House Plans, as defined, below, in Section III(o), which are invested in a pooled fund or in pooled funds (Pooled

[3] Pursuant to 29 CFR 2510.3–2(d), the IRA is not within the jurisdiction of Title I of the Employee Retirement Income Security Act of 1974 (the Act). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Fund(s)), as defined, below, in Section III(i); provided that the conditions as set forth, below, in Section II, are satisfied (Transactions described in Section I(a) and (b) are referred to herein as an affiliated underwriter transaction(s) (AUT(s)).[4]

Section II—Conditions

The exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following requirements:

(a)(1) The Securities to be purchased are either—

(i) Part of an issue registered under the Securities Act of 1933 (the 1933 Act) (15 U.S.C. 77a *et seq.*). If the Securities to be purchased are part of an issue that is exempt from such registration requirement, such Securities:

(A) Are issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States,

(B) Are issued by a bank,

(C) Are exempt from such registration requirement pursuant to a federal statute other than the 1933 Act, or

(D) Are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such Securities and that has filed all reports required to be filed thereunder with the Securities and Exchange Commission (SEC) during the preceding twelve (12) months; or

(ii) Part of an issue that is an Eligible Rule 144A Offering, as defined in SEC Rule 10f–3 (17 CFR 270.10f–3(a)(4)). Where the Eligible Rule 144A Offering of the Securities is of equity securities, the offering syndicate shall obtain a legal opinion regarding the adequacy of the disclosure in the offering memorandum;

(2) The Securities to be purchased are purchased prior to the end of the first day on which any sales are made, pursuant to that offering, at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities, except that—

(i) If such Securities are offered for subscription upon exercise of rights, they may be purchased on or before the fourth day preceding the day on which the rights offering terminates; or

(ii) If such Securities are debt securities, they may be purchased at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities and may be purchased on a day subsequent to the end of the first day on which any sales are made, pursuant to that offering, provided that the interest rates, as of the date of such purchase, on comparable debt securities offered to the public subsequent to the end of the first day on which any sales are made and prior to the purchase date are less than the interest rate of the debt Securities being purchased; and

(3) The Securities to be purchased are offered pursuant to an underwriting or selling agreement under which the members of the syndicate are committed to purchase all of the Securities being offered, except if—

(i) Such Securities are purchased by others pursuant to a rights offering; or

(ii) Such Securities are offered pursuant to an over-allotment option.

(b) The issuer of the Securities to be purchased pursuant to this exemption must have been in continuous operation for not less than three years, including the operation of any predecessors, unless the Securities to be purchased—

(1) Are non-convertible debt securities rated in one of the four highest rating categories by Standard & Poor's Rating Services, Moody's Investors Service, Inc., Fitch Ratings, Inc., Dominion Bond Rating Service Limited, Dominion Bond Rating Service, Inc., or any successors thereto (collectively, the Rating Organizations); provided that none of the Rating Organizations rates such securities in a category lower than the fourth highest rating category; or

(2) Are debt securities issued or fully guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States; or

(3) Are debt securities which are fully guaranteed by a person (the Guarantor) that has been in continuous operation for not less than three years, including the operation of any predecessors, provided that such Guarantor has issued other securities registered under the 1933 Act; or if such Guarantor has issued other securities which are exempt from such registration requirement, such Guarantor has been in continuous operation for not less than three years, including the operation of any predecessors, and such Guarantor:

(a) Is a bank, or

(b) Is an issuer of securities which are exempt from such registration requirement, pursuant to a Federal statute other than the 1933 Act; or

(c) Is an issuer of securities that are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act)(15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such securities and that has filed all reports required to be filed hereunder with the SEC during the preceding twelve (12) months.

(c) The aggregate amount of Securities of an issue purchased, pursuant to this exemption, by the Asset Manager with: (i) The assets of all Client Plans; and (ii) the assets, calculated on a *pro-rata* basis, of all Client Plans and In-House Plans investing in Pooled Funds managed by the Asset Manager; and (iii) the assets of plans to which the Asset Manager renders investment advice within the meaning of 29 CFR 2510.3–21(c) does not exceed:

(1) 10 percent (10%) of the total amount of the Securities being offered in an issue, if such Securities are equity securities;

(2) 35 percent (35%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in one of the four highest rating categories by at least one of the Rating Organizations; provided that none of the Rating Organizations rates such Securities in a category lower than the fourth highest rating category; or

(3) 25 percent (25%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in the fifth or sixth highest rating categories by at least one of the Rating Organizations; provided that none of the Rating Organizations rates such Securities in a category lower than the sixth highest rating category; and

(4) The assets of any single Client Plan (and the assets of any Client Plans and any In-House Plans investing in Pooled Funds) may not be used to purchase any Securities being offered, if such Securities are debt securities rated lower than the sixth highest rating category by any of the Rating Organizations;

(5) Notwithstanding the percentage of Securities of an issue permitted to be acquired, as set forth in Section II(c)(1),

[4] For purposes of this exemption an In-House Plan may engage in AUT's only through investment in a Pooled Fund.

(2), and (3), above, of this exemption, the amount of Securities in any issue (whether equity or debt securities) purchased, pursuant to this exemption, by the Asset Manager on behalf of any single Client Plan, either individually or through investment, calculated on a *pro-rata* basis, in a Pooled Fund may not exceed three percent (3%) of the total amount of such Securities being offered in such issue, and;

(6) If purchased in an Eligible Rule 144A Offering, the total amount of the Securities being offered for purposes of determining the percentages, described, above, in Section II(c)(1)–(3) and (5), is the total of:

(i) The principal amount of the offering of such class of Securities sold by underwriters or members of the selling syndicate to ''qualified institutional buyers'' (QIBs), as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)); plus

(ii) The principal amount of the offering of such class of Securities in any concurrent public offering.

(d) The aggregate amount to be paid by any single Client Plan in purchasing any Securities which are the subject of this exemption, including any amounts paid by any Client Plan or In-House Plan in purchasing such Securities through a Pooled Fund, calculated on a *pro-rata* basis, does not exceed three percent (3%) of the fair market value of the net assets of such Client Plan or In-House Plan, as of the last day of the most recent fiscal quarter of such Client Plan or In-House Plan prior to such transaction.

(e) The covered transactions are not part of an agreement, arrangement, or understanding designed to benefit any Merrill Lynch/BlackRock Related Entity.

(f) No Merrill Lynch/BlackRock Related Broker-Dealer receives, either directly, indirectly, or through designation, any selling concession, or other compensation or consideration that is based upon the amount of Securities purchased by any single Client Plan, or that is based on the amount of Securities purchased by Client Plans or In-House Plans through Pooled Funds, pursuant to this exemption. In this regard, a Merrill Lynch/BlackRock Related Broker-Dealer may not receive, either directly or indirectly, any compensation or consideration that is attributable to the fixed designations generated by purchases of the Securities by the Asset Manager on behalf of any single Client Plan or any Client Plan or In-House Plan in Pooled Funds.

(g)(1) The amount a Merrill Lynch/BlackRock Related Broker-Dealer receives in management, underwriting, or other compensation or consideration is not increased through an agreement, arrangement, or understanding for the purpose of compensating such Merrill Lynch/BlackRock Related Broker-Dealer for foregoing any selling concessions for those Securities sold pursuant to this exemption. Except as described above, nothing in this Section II(g)(1) shall be construed as precluding a Merrill Lynch/BlackRock Related Broker-Dealer from receiving management fees for serving as manager of an underwriting or selling syndicate, underwriting fees for assuming the responsibilities of an underwriter in the underwriting or selling syndicate, or other compensation or consideration that is not based upon the amount of Securities purchased by the Asset Manager on behalf of any single Client Plan, or on behalf of any Client Plan or In-House Plan participating in Pooled Funds, pursuant to this exemption; and

(2) Each Merrill Lynch/BlackRock Related Broker-Dealer shall provide to the Asset Manager a written certification, signed by an officer of such Merrill Lynch/BlackRock Related Broker-Dealer, stating the amount that each such Merrill Lynch/BlackRock Related Broker-Dealer received in compensation or consideration during the past quarter, in connection with any offerings covered by this exemption, was not adjusted in a manner inconsistent with Section II(e), (f), or (g) of this exemption.

(h) The covered transactions are performed under a written authorization executed in advance by an independent fiduciary of each single Client Plan (the Independent Fiduciary), as defined, below, in Section III(j).

(i) Prior to the execution by an Independent Fiduciary of a single Client Plan of the written authorization described, above, in Section II(h), the following information and materials (which may be provided electronically) must be provided by the Asset Manager to such Independent Fiduciary:

(1) A copy of the Notice of Proposed Exemption (the Notice) and a copy of the final exemption (the Grant) as published in the **Federal Register**, provided that the Notice and the Grant are supplied simultaneously; and

(2) Any other reasonably available information regarding the covered transactions that such Independent Fiduciary requests the Asset Manager to provide.

(j) Subsequent to the initial authorization by an Independent Fiduciary of a single Client Plan permitting the Asset Manager to engage in the covered transactions on behalf of such single Client Plan, the Asset Manager will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary requests the Asset Manager to provide.

(k)(1) In the case of an existing employee benefit plan investor (or existing In-House Plan investor, as the case may be) in a Pooled Fund, such Pooled Fund may not engage in any covered transactions pursuant to this exemption, unless the Asset Manager provides the written information, as described, below, and within the time period described, below, in this Section II(k)(2), to the Independent Fiduciary of each such plan participating in such Pooled Fund (and to the fiduciary of each such In-House Plan participating in such Pooled Fund).

(2) The following information and materials, (which may be provided electronically) shall be provided by the Asset Manager not less than 45 days prior to such Asset Manager engaging in the covered transactions on behalf of a Pooled Fund, pursuant to this exemption; and provided further that the information described, below, in this Section II(k)(2)(i) and (iii) is supplied simultaneously:

(i) A notice of the intent of such Pooled Fund to purchase Securities pursuant to this exemption, a copy of this Notice, and a copy of the Grant, as published in the **Federal Register**;

(ii) Any other reasonably available information regarding the covered transactions that the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund requests the Asset Manager to provide; and

(iii) A termination form expressly providing an election for the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund to terminate such plan's (or In-House Plan's) investment in such Pooled Fund without penalty to such plan (or In-House Plan). Such form shall include instructions specifying how to use the form. Specifically, the instructions will explain that such plan (or such In-House Plan) has an opportunity to withdraw its assets from a Pooled Fund for a period of no more than 30 days after such plan's (or such In-House Plan's) receipt of the initial notice of intent, described, above, in Section II(k)(2)(i), and that the failure of the Independent Fiduciary of such plan (or fiduciary of such In-House Plan) to return the termination form to the Asset Manager in the case of a plan (or In-House Plan) participating in a Pooled

Fund by the specified date shall be deemed to be an approval by such plan (or such In-House Plan) of its participation in the covered transactions as an investor in such Pooled Fund.

Further, the instructions will identify the Asset Manager and the Merrill Lynch/BlackRock Related Broker-Dealer and will provide the address of the Asset Manager. The instructions will state that this exemption may be unavailable, unless the fiduciary of each plan participating in the covered transactions as an investor in a Pooled Fund is, in fact, independent of the Merrill Lynch/BlackRock Related Entities. The instructions will also state that the fiduciary of each such plan must advise the Asset Manager, in writing, if it is not an ''Independent Fiduciary,'' as that term is defined, below, in Section III(j).

For purposes of this Section II(k), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this exemption for each plan be independent of the Merrill Lynch/BlackRock Related Entities shall not apply in the case of an In-House Plan.

(l)(1) In the case of each plan (and in the case of each In-House Plan) whose assets are proposed to be invested in a Pooled Fund after such Pooled Fund has satisfied the conditions set forth in this exemption to engage in the covered transactions, the investment by such plan (or by such In-House Plan) in the Pooled Fund is subject to the prior written authorization of an Independent Fiduciary representing such plan (or the prior written authorization by the fiduciary of such In-House Plan, as the case may be), following the receipt by such Independent Fiduciary of such plan (or by the fiduciary of such In-House Plan, as the case may be) of the written information described, above, in Section II(k)(2)(i) and (ii); provided that the Notice and the Grant, described, above, in Section II(k)(2)(i) are provided simultaneously.

(2) For purposes of this Section II(l), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this exemption for each plan proposing to invest in a Pooled Fund be independent of the Merrill Lynch/BlackRock Related Entities shall not apply in the case of an In-House Plan.

(m) Subsequent to the initial authorization by an Independent Fiduciary of a plan (or by a fiduciary of an In-House Plan) to invest in a Pooled Fund that engages in the covered transactions, the Asset Manager will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary of such plan (or the fiduciary of such In-House Plan, as the case may be) requests the Asset Manager to provide.

(n) At least once every three months, and not later than 45 days following the period to which such information relates, the Asset Manager shall furnish:

(1) In the case of each single Client Plan that engages in the covered transactions, the information described, below, in this Section II(n)(3)–(7), to the Independent Fiduciary of each such single Client Plan.

(2) In the case of each Pooled Fund in which a Client Plan (or in which an In-House Plan) invests, the information described, below, in this Section II(n)(3)–(6) and (8), to the Independent Fiduciary of each such Client Plan (and to the fiduciary of each such In-House Plan) invested in such Pooled Fund.

(3) A quarterly report (the Quarterly Report) (which may be provided electronically) which discloses all the Securities purchased pursuant to this exemption during the period to which such report relates on behalf of the Client Plan, In-House Plan, or Pooled Fund to which such report relates, and which discloses the terms of each of the transactions described in such report, including:

(i) The type of Securities (including the rating of any Securities which are debt securities) involved in each transaction;

(ii) The price at which the Securities were purchased in each transaction;

(iii) The first day on which any sale was made during the offering of the Securities;

(iv) The size of the issue of the Securities involved in each transaction;

(v) The number of Securities purchased by the Asset Manager for the Client Plan, In-House Plan, or Pooled Fund to which the transaction relates;

(vi) The identity of the underwriter from whom the Securities were purchased for each transaction;

(vii) The underwriting spread in each transaction (*i.e.*, the difference, between the price at which the underwriter purchases the securities from the issuer and the price at which the securities are sold to the public);

(viii) The price at which any of the Securities purchased during the period to which such report relates were sold; and

(ix) The market value at the end of the period to which such report relates of the Securities purchased during such period and not sold;

(4) The Quarterly Report contains:

(i) A representation that the Asset Manager has received a written certification signed by an officer of each Merrill Lynch/BlackRock Related Broker-Dealer, as described, above, in Section II(g)(2), affirming that, as to each AUT covered by this exemption during the past quarter, such Merrill Lynch/BlackRock Related Broker-Dealer acted in compliance with Section II(e), (f), and (g) of this exemption, and

(ii) A representation that copies of such certifications will be provided upon request;

(5) A disclosure in the Quarterly Report that states that any other reasonably available information regarding a covered transaction that an Independent Fiduciary (or fiduciary of an In-House Plan) requests will be provided, including, but not limited to:

(i) The date on which the Securities were purchased on behalf of the Client Plan (or the In-House Plan) to which the disclosure relates (including Securities purchased by Pooled Funds in which such Client Plan (or such In-House Plan) invests;

(ii) The percentage of the offering purchased on behalf of all Client Plans (and the *pro-rata* percentage purchased on behalf of Client Plans and In-House Plans investing in Pooled Funds); and

(iii) The identity of all members of the underwriting syndicate;

(6) The Quarterly Report discloses any instance during the past quarter where the Asset Manager was precluded for any period of time from selling Securities purchased under this exemption in that quarter because of its relationship to a Merrill Lynch/BlackRock Related Broker-Dealer and the reason for this restriction;

(7) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each single Client Plan that engages in the covered transactions that the authorization to engage in such covered transactions may be terminated, without penalty to such single Client Plan, within five (5) days after the date that the Independent Fiduciary of such single Client Plan informs the person identified in such notification that the authorization to engage in the covered transactions is terminated; and

(8) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each Client Plan (and to the fiduciary of each In-House Plan) that engages in the covered transactions through a Pooled Fund that the investment in such Pooled Fund may be terminated, without penalty to such Client Plan (or such In-House Plan), within such time as may be necessary to effect the

withdrawal in an orderly manner that is equitable to all withdrawing plans and to the non-withdrawing plans, after the date that that the Independent Fiduciary of such Client Plan (or the fiduciary of such In-House Plan, as the case may be) informs the person identified in such notification that the investment in such Pooled Fund is terminated.

(o) For purposes of engaging in covered transactions, each Client Plan (and each In-House Plan) shall have total net assets with a value of at least $50 million (the $50 Million Net Asset Requirement). For purposes of engaging in covered transactions involving an Eligible Rule 144A Offering,[5] each Client Plan (and each In-House Plan) shall have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be) (the $100 Million Net Asset Requirement).

For purposes of a Pooled Fund engaging in covered transactions, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets with a value of at least $50 million. Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets with a value of at least $50 million, the $50 Million Net Asset Requirement will be met, if 50 percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which has total net assets with a value of at least $50 million. For purposes of a Pooled Fund engaging in covered transactions involving an Eligible Rule 144A Offering, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be). Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or In-House Plan, as the case may be), the $100 Million Net Asset Requirement will be met if 50 percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be), and the Pooled Fund itself qualifies as a QIB, as determined pursuant to SEC Rule 144A (17 CFR 230.144A(a)(F)).

For purposes of the net asset requirements described, above, in this Section II(o), where a group of Client Plans is maintained by a single employer or controlled group of employers, as defined in section 407(d)(7) of the Act, the $50 Million Net Asset Requirement (or in the case of an Eligible Rule 144A Offering, the $100 Million Net Asset Requirement) may be met by aggregating the assets of such Client Plans, if the assets of such Client Plans are pooled for investment purposes in a single master trust.

(p) No more than 20 percent of the assets of a Pooled Fund, at the time of a covered transaction, are comprised of assets of In-House Plans for which the Asset Manager or a Merrill Lynch/BlackRock Related Entity exercises investment discretion.

(q) The Asset Manager and the Merrill Lynch/BlackRock Related Broker-Dealer, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the persons, described, below, in Section II(r), to determine whether the conditions of this exemption have been met, except that—

(1) No party in interest with respect to a plan which engages in the covered transactions, other than the Asset Manager, and the Merrill Lynch/BlackRock Related Broker-Dealer, as applicable, shall 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, below, by Section II(r); and

(2) A prohibited transaction shall not be considered to have occurred if, due to circumstances beyond the control of the Asset Manager, or the Merrill Lynch/BlackRock Related Broker-Dealer, as applicable, such records are lost or destroyed prior to the end of the six-year period.

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

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

(ii) Any fiduciary of any plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by a plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(iv) Any participant or beneficiary of a plan that engages in the covered transactions, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in Section II(r)(1)(ii)–(iv) shall be authorized to examine trade secrets of the Asset Manager, or the Merrill Lynch/BlackRock Related Broker-Dealer, or commercial or financial information which is privileged or confidential; and

(3) Should the Asset Manager, or the Merrill Lynch/BlackRock Related Broker-Dealer refuse to disclose information on the basis that such information is exempt from disclosure, pursuant to Section II(r)(2), above, the Asset Manager shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section III—Definitions

(a) The term, ''the Applicants,'' means BlackRock Inc. and Merrill Lynch & Co, Inc.

(b) The term, ''Merrill Lynch/BlackRock Related Broker-Dealer,'' means any broker-dealer that is a Merrill Lynch/BlackRock Related Entity that meets the requirements of this exemption. Such Merrill Lynch/BlackRock Related Broker-Dealer may participate in an underwriting or selling syndicate as a manager or member. The term, ''manager,'' means any member of an underwriting or selling syndicate who, either alone or together with other members of the syndicate, is authorized to act on behalf of the members of the syndicate in connection with the sale and distribution of the Securities, as

[5] SEC Rule 10f–3(a)(4), 17 CFR 270.10f–3(a)(4), states that the term ''Eligible Rule 144A Offering'' means an offering of securities that meets the following conditions:

(i) The securities are offered or sold in transactions exempt from registration under section 4(2) of the Securities Act of 1933 [15 U.S.C. 77d(d)], rule 144A there under [§ 230.144A of this chapter], or rules 501–508 there under [§§ 230.501–230–508 of this chapter];

(ii) The securities are sold to persons that the seller and any person acting on behalf of the seller reasonably believe to include qualified institutional buyers, as defined in § 230.144A(a)(1) of this chapter; and

(iii) The seller and any person acting on behalf of the seller reasonably believe that the securities are eligible for resale to other qualified institutional buyers pursuant to § 230.144A of this chapter.

defined, below, in Section III(k), being offered or who receives compensation from the members of the syndicate for its services as a manager of the syndicate.

(c) The term, ''Merrill Lynch/BlackRock Related Entity(s)'' includes all entities listed in this Section III(c)(i) and (ii): (i) Merrill Lynch and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with Merrill Lynch, and (ii) BlackRock and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with, BlackRock. For purposes of this exemption, the definition of a Merrill Lynch/BlackRock Related Entity shall include any entity that satisfies such definition in the future.

(d) The term, ''BlackRock Related Entity'' or ''BlackRock Related Entities,'' means BlackRock and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with BlackRock.

(e) The term, ''Merrill Lynch Related Entity'' or ''Merrill Lynch Related Entities,'' means Merrill Lynch and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with Merrill Lynch.

(f) The term, ''Asset Manager,'' means a BlackRock Related Entity, as defined, above, in Section III(d). For purposes of this exemption, the Asset Manager must be registered with the Securities and Exchange Commission as an investment advisor, have total client assets under management in excess of $5 billion, have shareholders' or partners' equity in excess of $1 million, and must satisfy the definition of a ''qualified professional asset manager'' (QPAM), as that term is defined in Part V(a) of PTE 84–14, 49 Fed. Reg. 9494 (Mar. 13, 1984), as amended, 70 Fed. Reg. 49305 (Aug. 23, 2005). Accordingly, the Asset Manager must have total client asset under its management and control in excess of $5 billion, as of the last day of it most recent fiscal year, and shareholders' or partners' equity in excess of $1 million in addition to satisfying the requirements for a QPAM under Part V(a) of PTE 84–14.

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

(h) The term, ''Client Plan(s),'' means an employee benefit plan or employee benefit plans that are subject to the Act and/or the Code, and for which plan(s) an Asset Manager exercises discretionary authority or discretionary control respecting management or disposition of some or all of the assets of such plan(s), but excludes In-House Plans, as defined, below, in Section III(o).

(i) The term, ''Pooled Fund(s),'' means a common or collective trust fund(s) or a pooled investment fund(s): (i) In which employee benefit plan(s) subject to the Act and/or Code invest, (ii) which is maintained by an Asset Manager, and (iii) for which such Asset Manager exercises discretionary authority or discretionary control respecting the management or disposition of the assets of such fund(s).

(j)(1) The term, ''Independent Fiduciary,'' means a fiduciary of a plan who is unrelated to, and independent of any Merrill Lynch/BlackRock Related Entity. For purposes of this exemption, a fiduciary of a plan will be deemed to be unrelated to, and independent of any Merrill Lynch/BlackRock Related Entity, if such fiduciary represents that neither such fiduciary, nor any individual responsible for the decision to authorize or terminate authorization for the transactions described, above, in Section I of this exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of any Merrill Lynch/BlackRock Related Entity, and represents that such fiduciary shall advise the Asset Manager within a reasonable period of time after any change in such facts occur.

(2) Notwithstanding anything to the contrary in this Section III(j), a fiduciary of a plan is not independent:

(i) If such fiduciary, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with any Merrill Lynch/BlackRock Related Entity;

(ii) If such fiduciary directly or indirectly receives any compensation or other consideration from any Merrill Lynch/BlackRock Related Entity for his or her own personal account in connection with any transaction described in this exemption;

(iii) If any officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the Asset Manager responsible for the transactions described, above, in Section I of this exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the sponsor of a plan or of the fiduciary responsible for the decision to authorize or terminate authorization for the transactions described, above, in Section I. However, if such individual is a director of the sponsor of a plan or of the responsible fiduciary, and if he or she abstains from participation in: (A) The choice of such plan's investment manager/adviser; and (B) the decision to authorize or terminate authorization for transactions described, above, in Section I, then Section III(j)(2)(iii) shall not apply.

(3) The term, ''officer,'' means a president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), or any other officer who performs a policy-making function for a Merrill Lynch/BlackRock Related Entity.

(k) The term, ''Securities,'' shall have the same meaning as defined in section 2(36) of the Investment Company Act of 1940 (the 1940 Act), as amended (15 U.S.C. 80a–2(36)(1996)). For purposes of this exemption, mortgage-backed or other asset-backed securities rated by one of the Rating Organizations, as defined, below, in Section III(n), will be treated as debt securities.

(l) The term, ''Eligible Rule 144A Offering,'' shall have the same meaning as defined in SEC Rule 10f–3(a)(4) (17 CFR 270. 10f–3(a)(4)) under the 1940 Act.

(m) The term, ''qualified institutional buyer,'' or the term, ''QIB,'' shall have the same meaning as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)) under the 1933 Act.

(n) The term, ''Rating Organizations,'' means Standard & Poor's Rating Services, Moody's Investors Service, Inc., Fitch Ratings Inc., Dominion Bond Ratings Service Limited, and Dominion Bond Rating Service, Inc., or any successors thereto.

(o) The term, ''In-House Plan(s),'' means an employee benefit plan(s) that is subject to the Act and/or the Code, and that is sponsored by: (i) A Merrill Lynch Related Entity, as defined, above, in Section III(e), or (ii) a BlackRock Related Entity, as defined, above, in Section III(d), for their respective employees.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

Effective Date: This exemption will be effective as of the date the Grant is published in the **Federal Register**.

Written Comments

In the Notice, the Department invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within forty-five (45) days of the date of the publication of the Notice in the **Federal Register** on September 10, 2007. All comments and requests for a hearing were due by October 10, 2007. During the comment period, the Department received no comments or requests for a hearing. However, in order to clarify the meaning of the term, ''Asset Manager,'' the Department has determined to delete the last sentence in the definition of the term, ''Asset Manager,'' as set forth in Section III(f) of the Notice, at 72 FR 51680, column 1, lines 11–20, and to substitute the following sentence, ''Accordingly, the Asset Manager must have total client asset under its management and control in excess of $5 billion, as of the last day of its most recent fiscal year, and shareholders' or partners' equity in excess of $1 million in addition to satisfying the requirements for a QPAM under Part V(a) of PTE 84–14.''

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 693–8540. (This is not a toll-free number).

Gastroenterology and Oncology Associates, P.A. Profit Sharing Plan and Trust (the Plan), Located in St. Petersburg, FL

[Prohibited Transaction Exemption 2007–21; Exemption Application No. D–11441]

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 proposed sale of certain shares of common stock (the Stock) issued by Alden Enterprises, Inc., an unrelated party, by the individually directed account in the Plan (the Account) of Jayaprakash K. Kamath, M.D. (Dr. Kamath), to Geetha J. Kamath, M.D., (Mrs. Kamath), Dr. Kamath's spouse and a party in interest with respect to the Plan.

This exemption is subject to the following conditions:

(a) The sale of the Stock by the Account to Mrs. Kamath is a one-time transaction for cash.

(b) The Stock is sold to Mrs. Kamath for a price that reflects the fair market value of the Stock, as determined by a qualified, independent appraiser (the Appraiser).

(c) The closing of the sale (the Closing Date) occurs at a time that is mutually agreed upon by Mrs. Kamath and the Plan trustees (the Trustees) within 30 days of the Department's approval of the final exemption.

(d) As of the Closing Date, the Appraiser reviews the assumptions previously made in determining the appraised value of the Stock to see whether there has been a 3% or more increase (Material Increase) in the fair market value of the Stock between December 31, 2006 (the Appraisal Date) and the Closing Date.

(e) If the Appraiser determines that there has been no Material Increase in the fair market value of the Stock on the Closing Date, the Appraiser issues a letter to the parties to the sale to such effect and the sale price of the Stock remains at the value determined on the Appraisal Date.

(f) If the Appraiser determines that there has been a Material Increase in the fair market value of the Stock, he advises the parties to the transaction, in writing, as to the increased value as of the Closing Date. Then, the sale price for the Stock is revised to reflect the increased value and the amount of such increase is paid to the Trustees by Mrs. Kamath following the receipt of the updated appraisal report from the Appraiser setting forth the increased value of the Stock.

(g) The sale proceeds from the transaction are credited to Dr. Kamath's Account simultaneously with the transfer of the Stock's title to Mrs. Kamath.

(h) The Account is not responsible for paying any fees, commissions, or other costs or expenses associated with the sale of the Stock.

(i) The terms and conditions of the Stock sale remain at least as favorable to the Account as the terms and conditions obtainable under similar circumstances negotiated at arm's length with an unrelated party.

Written Comments

In the notice of proposed exemption, the Department invited all interested persons to submit written comments and requests for a hearing with respect to the proposed exemption within (30) thirty days of the publication of the notice of pendency in the **Federal Register** on October 26, 2007. All comments and requests for a hearing were due by November 26, 2007.

During the comment period, the Department received no comments or hearing requests. However, the Department has noted two errors in the proposed exemption that require either revision or clarification. In this regard, the reference to the Exemption Application Number appearing on pages 60889 and 60890 of the proposal has been modified in the grant notice to read ''D–11441'' instead of ''D–11141.'' In addition, on page 60891 of the proposal, in the paragraph captioned ''Notice to Interested Persons,'' the Department wishes to clarify that the phrase ''whose Account will be affected by the proposed transaction,'' should have been inserted after that portion of the sentence which states ''Because Dr. Kamath is the only participant in the Plan, * * *''

Accordingly, the Department has considered the entire record and has determined to grant the exemption. 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 26, 2007 at 72 FR 60889.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 693–8556. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations

contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 11th day of December, 2007.

Ivan Strasfeld,

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

[FR Doc. E7–24313 Filed 12–14–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0082]

Meeting Notice, Work Group Meetings and Appointment of Committee Members for the Advisory Committee on Construction Safety and Health (ACCSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Meeting notice, work group meetings and appointment of committee members for the Advisory Committee on Construction Safety and Health (ACCSH).

SUMMARY: The Occupational Safety and Health Administration announces ACCSH membership, including representation categories and terms; work group meetings January 23, 2008; and a full committee meeting on January 24–25, 2008. ACCSH is meeting to address construction safety and health issues.

DATES: *ACCSH work groups will meet* Wednesday, January 23, 2008.

ACCSH will meet Thursday and Friday, January 24–25, 2008.

Submit written materials for ACCSH or make requests to speak to ACCSH on or before January 14, 2008.

ADDRESSES: *ACCSH Meeting Locations:* ACCSH and ACCSH Work Groups will meet in Room N3437–B/C/D of the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

Submission of comments and requests to speak: Comments and requests to speak, must be submitted to Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *Chatmon.veneta@dol.gov*. OSHA requests that interested parties submit 20 copies of their comments, which OSHA will provide to ACCSH members and put into the official record of the meeting.

Instructions: All submissions must include the Agency name, OSHA and the docket number for this **Federal Register** notice (Docket No. OSHA–2007–0082). Submissions in response to this **Federal Register** notice, including personal information, will be posted without change at: *http://www.regulations.gov*. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates. For additional information on submitting comments and requests to speak, see the **SUPPLEMENTARY INFORMATION** section.

Docket: To read or download submissions or the official record of this ACCSH meeting, go to *http://www.regulations.gov*. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some documents (e.g., copyrighted materials) are not publicly available to read or download through *http://www.regulations.gov*. The official record and all submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (TTY number (877) 889–5627). The Department of Labor's and the OSHA Docket Office's normal business hours are 8:15 a.m.–4:45 p.m., e.t.

FOR FURTHER INFORMATION CONTACT: *For general information about ACCSH and ACCSH meetings:* Mr. Michael Buchet, OSHA, Directorate of Construction, Room N–3468, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202)–693–2020; e-mail *Buchet.michael@dol.gov*.

For information about submitting comments or requests to speak, and for special accommodations for the meeting: Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *Chatmon.veneta@dol.gov*.

SUPPLEMENTARY INFORMATION:

ACCSH Meeting: ACCSH will meet January 24–25, 2008. The proposed agenda for this meeting includes:

- *Welcoming and Remarks*—OSHA, Office of the Assistant Secretary
- *Remarks*—OSHA, Directorate of Construction.
- *Standards Update*—OSHA, Directorates of Construction.
- *Standards Update*—OSHA, Directorate of Standards and Guidance.
- Committee governance, work group assignments and reports.
- OSHA's role in the National Response Plan—Overview.
- OSHA's Structural Collapse Response.
- Minnesota's I–35W Highway Bridge Collapse and OSHA's Role.
- Construction Cooperative Programs Update.
- Post-Frame Construction presentation—National Frame Builders Association.
- Concrete Masonry Unit Construction Safety presentation—Stonesmith Patented Systems, Inc.
- Public Comment.

Requests to Present or Speak to ACCSH: Interested parties may request to make oral presentations to ACCSH by notifying Ms. Veneta Chatmon at the address above on or before January 14, 2008. Requests must state the amount of time desired, the interests represented by the presenters (e.g., businesses, organizations, themselves, affiliations, etc., if any), and briefly outline the presentation. Alternately, at the Committee meeting, attendees may request to address ACCSH by signing the public comment request sheet and listing the interests they represent (e.g., businesses, organizations, themselves, affiliations, etc., if any) and the topics to be addressed. All requests to present to or address the committee may be granted at the ACCSH Chair's discretion and as time permits. Time permitting OSHA will provide speaker submissions to ACCSH members. OSHA will include all submissions in the record of the meeting.

Access to meeting record: For access to the official record of ACCSH committee meetings and copies of this **Federal Register** notice, go to *http://www.regulations.gov* and find Docket No. OSHA–2007–0082. Although all documents in the record will be listed in Docket No. OSHA–2007–0082 at *http://www.regulations.gov* index, some documents (e.g., copyrighted materials) are not publicly available to read or download. The official record, including these materials, is available for inspection and copying at the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (TTY number (877) 899–5627). Electronic copies of this **Federal Register** notice, as well as information about ACCSH work groups and other relevant documents, are available on OSHA's Web page at *http://www.osha.gov*.