

Signed at Washington, DC, this 3rd day of April 2009.

**Richard Church,**

*Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-65,620]

#### Foamade Industries, Inc.; Auburn Hills, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 17, 2009 in response to a petition filed by company officials on behalf of workers at Foamade Industries, Inc., Auburn Hills, Michigan.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 1st day of April 2009.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

**Notice of a Proposed Amendment to Prohibited Transaction Exemption (PTE) 90-29, 55 FR 21459 (May 24, 1990), as Amended by PTE 97-34, 62 FR 39021 (July 21, 1997), PTE 2000-58, 65 FR 67765 (November 13, 2000), PTE 2002-41, 67 FR 54487 (August 22, 2002) and PTE 2007-05, 72 FR 13130 (March 20, 2007) as Corrected at 72 FR 16385 (April 4, 2007) (PTE 2007-05), (PTE 90-29), Involving Merrill Lynch, Pierce, Fenner & Smith, Inc., the Principal Subsidiary of Merrill Lynch & Co., Inc. and Its Affiliates (Merrill Lynch) and to PTE 2002-19, 67 FR 14979 (March 28, 2002) as Amended by PTE 2007-05, (PTE 2002-19), Involving J.P. Morgan Chase & Company and Its Affiliates (D-11519)**

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**ACTION:** Notice of a Proposed Amendment to PTE 90-29.

**SUMMARY:** This document contains a notice of pendency before the

Department of Labor (the Department) of a proposed amendment to PTE 90-29 and PTE 2002-19, Underwriter Exemptions.<sup>1</sup> The Underwriter Exemptions are individual exemptions that provide relief for the origination and operation of certain asset pool investment trusts and the acquisition, holding and disposition by employee benefit plans (Plans) of certain asset-backed pass-through certificates representing undivided interests in those investment trusts. The proposed amendment to PTE 90-29 and 2002-19, if granted, would provide a six month period to resolve certain affiliations, as a result of Bank of America Corporation's acquisition of Merrill Lynch, between Bank of America, N.A., the Trustee, and Merrill Lynch as members of the Restricted Group, as those terms are defined in the Underwriter Exemptions (the Proposed Amendment). The Proposed Amendment, if granted, would affect the participants and beneficiaries of the Plans participating in such transactions and the fiduciaries with respect to such Plans.

**DATES:** Written comments and requests for a hearing should be received by the Department by June 5, 2009.

**ADDRESSES:** All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Employee Benefits Security Administration, Room N-5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (Attention: Exemption Application Number D-11519). Interested persons are invited to submit comments and/or hearing requests to the Department by the end of the scheduled comment period either by facsimile to (202) 219-0204 or by electronic mail to [moffitt.betty@dol.gov](mailto:moffitt.betty@dol.gov). The application pertaining to the Proposed Amendment (Application) and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue, NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Wendy M. McCoolough of the Department, telephone (202) 693-8540. (This is not a toll-free number.)

<sup>1</sup>The "Underwriter Exemptions" are a group of individual exemptions that provide substantially identical relief for the operation of certain asset-backed or mortgage-backed investment pools and the acquisition and holding by Plans of certain securities representing interests in those investment pools.

**SUPPLEMENTARY INFORMATION:** This document contains a notice of pendency before the Department of a proposed exemption to amend PTE 90-29 and PTE 2002-19, Underwriter Exemptions. The Underwriter Exemptions are a group of individual exemptions granted by the Department that provide substantially identical relief from certain of the restrictions of sections 406 and 407 of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by sections 4975(a) and (b) of the Internal Revenue Code of 1986, as amended (Code), by reason of certain provisions of section of 4975(c)(1) of the Code for the operation of certain asset pool investment trusts and the acquisition, holding, and disposition by Plans of certain asset-backed pass-through certificates representing undivided interests in those investment trusts.

All of the Underwriter Exemptions were amended by PTE 97-34, 62 FR 39021 (July 21, 1997), PTE 2000-58, 65 FR 67765 (November 13, 2000), and PTE 2007-05, 72 FR 13130 (March 20, 2007), as corrected at 72 FR 16385 (April 4, 2007). Certain of the Underwriter Exemptions were amended by PTE 2002-41, 67 FR 54487 (August 22, 2002) or modified by PTE 2002-19.

The Department is proposing this amendment to PTE 90-29 and to PTE 2002-19 pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).<sup>2</sup>

1. The Underwriter Exemptions permit Plans to invest in pass-through securities representing undivided interests in asset-backed or mortgage-backed investment pools (Securities). The Securities generally take the form of certificates issued by a trust (Trust). The Underwriter Exemptions permit transactions involving a Trust, including the servicing, management and operation of the Trust, and the sale, exchange or transfer of Securities evidencing interests therein, in the initial issuance of the Securities or in the secondary market for such Securities (the Covered Transactions). The most recent amendment to the Underwriter Exemptions is PTE 2007-05, 72 FR 13130 (March 20, 2007), as corrected at 72 FR 16385 (April 4, 2007) (PTE 2007-05). One of the General Conditions of the Underwriter Exemptions, as amended, requires that the Trustee not

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