parole violators, other conditional release violators returned, transfers from other jurisdictions, AWOLs and escapees returned, and returns from appeal and bond;

(d) *Prison release information in the calendar year for the following categories:* Expirations of sentence, commutations, other conditional releases, probations, supervised mandatory releases, paroles, other conditional releases, deaths by cause, AWOLs, escapes, transfers to other jurisdictions, and releases to appeal or bond;

(e) Number of inmates under jurisdiction on December 31 by race and Hispanic origin;

(f) Number of inmates in custody classified as non-citizens and/or under 18 years of age;

(g) Testing of incoming inmates for HIV; and HIV infection and AIDS cases on December 31; and

(h) The aggregate rated, operational, and design capacities, by sex, of each State's correctional facilities at year-end.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond to both forms:* 51 respondents each taking an average 6.5 total hours to respond to the NPS–1B. Burden hours are down by 76 hours since the last clearance because we are eliminating the NPS–1A midyear counts to reduce redundancy. We plan to establish a series of rotating short forms to replace the NPS–1A which will collect data on special topics, such as mental health, medical problems, and reentry, but these forms are in the working stages. A supplemental approval and burden adjustment will be sought through OMB when the materials are ready for review.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 332 annual burden hours.

If additional information is required contact: Mrs. Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–808, Washington, DC 20530.

Dated: March 9, 2011.

Lynn Murray,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. 2011–5966 Filed 3–14–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. L–11641]

Notice of Proposed Amendment to Prohibited Transaction Exemption (PTE) 2010–08 Involving Ford Motor Company, Located in Detroit, MI

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of proposed amendment.

This document contains a notice of pendency (the Notice) before the Department of Labor (the Department) of a proposed amendment to PTE 2010–08 (75 FR 14192, March 24, 2010), an individual exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act or ERISA). The transactions involve the UAW Ford Retirees Medical Benefits Plan (the Ford VEBA Plan) and its funding vehicle, the UAW Retiree Medical Benefits Trust (the VEBA Trust), (collectively the VEBA).[1] The proposed amendment, if granted, would affect the VEBA, and its participants and beneficiaries.

DATES: *Effective Date:* If granted, this proposed amendment will be effective as of December 31, 2009, except with respect to Section I(a)(7), which will be effective as of June 25, 2010.

DATES: Written comments and requests for a public hearing on the proposed amendment should be submitted to the Department within 51 days from the date of publication of this **Federal Register** Notice.

ADDRESSES: All written comments and requests for a public hearing concerning the proposed amendment 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:* Application No. L–11641. Interested persons are also invited to submit comments and/or hearing requests to the Department by facsimile to (202) 219–0204 or by electronic mail to *Blinder.Warren@dol.gov* by the end of the scheduled comment period. The application pertaining to the proposed amendment 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. Comments and hearing requests will also be available online at *http://www.regulations.gov* and *http://www.dol.gov/ebsa,* at no charge.

Warning: If you submit written comments or hearing requests, do not include any personally-identifiable or confidential business information that you do not want to be publicly-disclosed. All comments and hearing requests are posted on the Internet exactly as they are received, and they can be retrieved by most Internet search engines. The Department will make no deletions, modifications or redactions to the comments or hearing requests received, as they are public records.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Blinder, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8553. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: [2]

This document contains a notice of proposed exemption that, if granted, would amend PTE 2010–08, which relates to the Ford VEBA Plan and the VEBA Trust. Specifically, PTE 2010–08, which is effective as of December 31, 2009, provides exemptive relief from the restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of ERISA for (a) the acquisition by the Ford VEBA Plan and the VEBA Trust of the Securities,[3] transferred by Ford and deposited in the Ford Employer Security Sub-Account of the Ford

[1] Because the Ford VEBA Plan is not qualified under section 401 of the Code, there is no jurisdiction under Title II of the Act pursuant to section 4975 of the Code. However, there is jurisdiction under Title I of the Act.

[2] The Notice incorporates by reference information contained in the Notice of Proposed Individual Exemption Involving Ford Motor Company Located in Detroit, MI, 74 FR 64716, December 8, 2009 (the Proposed PTE) and PTE 2010–08. For ease of reference, unless otherwise specified herein, all capitalized terms used in this Summary have the meaning set forth in PTE 2010–08.

[3] The term "Securities" includes New Note A and New Note B, the Warrants, the LLC Interests, any Payment Shares received under New Note B, and any additional shares of Ford Common Stock acquired in accordance with other transactions described in Sections I(a)(2) and (3) of the proposed exemption, as such terms are defined in Section VII of the proposed exemption.

Separate Retiree Account of the VEBA Trust; (b) the acquisition by the Ford VEBA Plan of Payment Shares; (c) the acquisition by the Ford VEBA Plan of shares of Ford Common Stock pursuant to (i) the Independent Fiduciary's exercise of all or a pro rata portion of the Warrants, and (ii) an adjustment, substitution, conversion, or other modification of Ford Common Stock in connection with a reorganization, restructuring, recapitalization, merger, or similar corporate transaction, provided that each holder of Ford Common Stock is treated in an identical manner; (d) the holding by the Ford VEBA Plan of the Securities in the Ford Employer Security Sub-Account of the Ford Separate Retiree Account of the VEBA Trust; (e) the deferred payment of any amounts due under New Note B by Ford pursuant to the terms thereunder; and (f) the disposition of the Securities by the Independent Fiduciary.

In addition, PTE 2010–08 provides relief from the restrictions of sections 406(a)(1)(A), 406(b)(1), and 406(b)(2) of ERISA for the sale of Ford Common Stock or Warrants held by the Ford VEBA Plan to Ford in accordance with the Right of First Offer or a Ford self-tender under the Securityholder and Registration Rights Agreement.

Furthermore, PTE 2010–08 provides relief from the restrictions of sections 406(a)(1)(B), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of ERISA, for (a) the extension of credit or transfer of assets by Ford, the Ford Retiree Health Plan, or the Ford VEBA Plan in payment of a benefit claim that was the responsibility and legal obligation of one of the other aforementioned parties; (b) the reimbursement by Ford, the Ford Retiree Health Plan, or the Ford VEBA Plan, of a benefit claim that was paid by another of the aforementioned parties, which was not legally responsible for the payment of such claim, plus interest; (c) the retention of an amount by Ford until payment to the Ford VEBA Plan resulting from an overaccrual of pre-transfer expenses attributable to the TAA or the retention of an amount by the Ford VEBA Plan until payment to Ford resulting from an underaccrual of pre-transfer expense attributable to the TAA; and (d) the Ford VEBA Plan's payment to Ford of an amount equal to any underaccrual by Ford of pre-transfer expenses attributable to the TAA or the payment by Ford to the Ford VEBA Plan of an amount equal to any overaccrual by Ford of pre-transfer expenses attributable to the TAA.

Finally, PTE 2010–08 provides relief from the restrictions of sections 406(a)(1)(B), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of ERISA for the return to Ford of assets deposited or transferred to the Ford VEBA Plan by mistake, plus interest.

Summary of Facts and Representations [4]

1. Background

The Department originally granted PTE 2010–08 in response to an application for exemption submitted by Ford on July 24, 2009 (the Application). The Application was an integral part of the wholesale restructuring of retiree health care benefits by the three major domestic car companies, which sought to contain skyrocketing healthcare costs and settle lawsuits brought by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (the UAW) and the companies' respective classes of retirees.[5]

Pursuant to a court approved class wide settlement (the 2008 Settlement Agreement) in the case of *Int'l Union, UAW, et al.* v. *Ford Motor Company,* on January 1, 2010, the Ford VEBA Plan assumed the responsibility for providing post-retirement medical benefits for a class of retirees of Ford (the Class) and a group of Ford active employees (the Covered Group) eligible for retiree benefits.[6] Pursuant to the 2008 Settlement Agreement, the Ford VEBA Plan would be funded by the VEBA Trust, which would be responsible for the payment of post-retirement medical benefits to members of the Class and the Covered Group as of January 1, 2010.[7] Ford agreed to transfer assets to the VEBA Trust on behalf of the Ford VEBA Plan with an estimated worth of $13.2 billion, based on a present value as of December 31, 2007, designed to provide retiree health benefits for members of the Class and the Covered Group for an indefinite duration.[8]

On July 23, 2009, Ford, the UAW, and counsel for the Class amended the 2008 Settlement Agreement, effective November 9, 2009 (as amended, the 2009 Settlement Agreement), to provide that, *inter alia,* Ford could contribute Ford Common Stock to the VEBA Trust to satisfy up to approximately 50% of certain future obligations to the VEBA Trust on behalf of the Ford VEBA Plan.[9] In accordance with the terms of the 2009 Settlement Agreement, on December 31, 2009, Ford transferred the Securities to the Ford Employer Security Sub-Account, the sub-account established and maintained in the Ford Separate Retiree Account of the VEBA Trust to hold Securities on behalf of the Ford VEBA Plan and any proceeds from the disposition of any such Security.[10]

2. The New Notes

Among the Securities transferred to the VEBA Trust and held in the Ford Employer Security Sub-Account were the New Notes, consisting of New Note A and New Note B, which were structured to provide a series of payments over 13 years. New Note A was issued in the principal amount of $6,705,470,000, and New Note B was issued in the principal amount of $6,511,850,000. The New Notes were to be non-interest bearing and mature on June 30, 2022.[11]

Whereas New Note A was payable only in cash, under the 2009 Settlement Agreement, New Note B was to be payable in either cash or, upon the satisfaction of certain conditions, shares of Ford Common Stock designated as "Payment Shares" of equal value. The number of Payment Shares payable would be determined based on the volume-weighted average selling price per share (VWAP) of Ford Common Stock for the 30 trading-day period ending on the second business day prior to the relevant payment date. In addition, Payment Shares received by the VEBA Trust in lieu of cash pursuant to New Note B would be subject to certain registration rights and transfer restrictions, as described in the Proposed PTE.

[4] The Summary of Facts and Representations (the Summary) is based on the Applicant's representations and does not reflect the views of the Department.

[5] *See UAW* v. *Ford Motor Company,* No. 07–14845, 2008 WL 4104329 (E.D. Mich. August 29, 2008); *UAW* v. *Gen. Motors Corp.,* No. 07–CV–14074–DT, 2008 WL 2968408 (E.D. Mich. July 31, 2008); *UAW* v. *Chrysler,* No. 07–CV–14310, 2008 WL 2980046 (E.D. Mich. July 31, 2008).

[6] *See Ford Motor Co.,* 2008 WL 4104329.

[7] For a full description of the VEBA Trust, see pages 64718–64719 of the Proposed PTE.

[8] *See Ford Motor Co.,* 2008 WL 4104329.

[9] *See Int'l Union, UAW, et al.* v. *Ford Motor Company,* Civil Action No. 07–14845, (E.D. Mich. November 9, 2009) (Doc. # 71, Order and Final J.).

[10] For a full description of the assets transferred to the VEBA Trust under the 2009 Settlement Agreement, see pages 64720–64721 of the Proposed PTE and pages 14195–14197, 14199, and 14200–14201 of PTE 2010–08.

[11] For a full description of the New Notes, see pages 64721–64722 of the Proposed PTE and pages 14195–14196 of PTE 2010–08.

Ford made its first scheduled payments in respect of the New Notes on December 31, 2009, including a partial prepayment of New Note A in the amount of $500,000,000.[12] After Ford made such payments, the payment schedule under the New Notes, beginning with the June 30, 2010 payment date, became the following:

Payment date	Payment of Note A	Payment of Note B
June 30, 2010	$249.45 million	$609.95 million.
June 30, 2011	$249.45 million	$609.95 million.
June 30, 2012	$584.06 million	$654 million.
June 30, 2013	$584.06 million	$654 million.
June 30, 2014	$584.06 million	$654 million.
June 30, 2015	$584.06 million	$654 million.
June 30, 2016	$584.06 million	$654 million.
June 30, 2017	$584.06 million	$654 million.
June 30, 2018	$584.06 million	$654 million.
June 30, 2019	$22.36 million	$26 million.
June 30, 2020	$22.36 million	$26 million.
June 30, 2021	$22.36 million	$26 million.
June 30, 2022	$22.36 million	$26 million.

As noted above, Ford could prepay in cash either or both of the New Notes in whole or in part. For prepayments in whole, the payment on each payment date would equal the corresponding amounts set forth as a schedule to the applicable New Note. In the event of any partial prepayment, future payments would be determined on a basis that provided the economically equivalent present value and duration to the VEBA Trust using a discount rate of 9% per annum.

3. The Holding, Management and Disposition of the Ford Securities Held in the Ford Employer Security Sub-Account

As a condition of the Department's granting relief under PTE 2010–08 for the transactions described above, the Committee of the Ford VEBA Plan was required to retain an Independent Fiduciary to manage the Securities, including the New Notes, held in the Ford Employer Security Sub-Account.[13] To satisfy such condition, and in accordance with the Trust Agreement, the Committee appointed Independent Fiduciary Services, Inc. (IFS) to represent the interests of the Ford VEBA Plan for the duration of the Ford VEBA Plan's holding of the New Notes or any Ford security in the Ford Employer Security Sub-Account of the VEBA Trust.

In accordance with PTE 2010–08, IFS may also authorize the disposition, by the trustee of the VEBA Trust, State Street Bank and Trust Company (the Trustee), of any Securities, including the New Notes, once IFS determines, at the time of the transaction, that the transaction is feasible, in the interest of the Ford VEBA Plan, and protective of the participants and beneficiaries of the Ford VEBA Plan. Furthermore, IFS must discharge its duties consistent with the terms of the Ford VEBA Plan, the Trust Agreement, and the UAW Retiree Medical Benefits Trust Independent Fiduciary Agreement Relating to Ford Motor Company, dated as of December 1, 2009, between the VEBA Trust and IFS, as amended by Amendment Number 1 thereto effective June 25, 2010 (the Independent Fiduciary Agreement), and any other documents governing the Securities, such as the Securityholder and Registration Rights Agreement, and any successors to those agreements.

As the Independent Fiduciary representing the Ford VEBA Plan's interest in the Ford Employer Security Sub-Account of the VEBA Trust, IFS has had sole discretionary authority relating to the holding, ongoing management and disposition of the Securities pursuant to the Trust Agreement and the Independent Fiduciary Agreement. In that regard, on April 6, 2010, IFS, on behalf of the Ford VEBA Plan, completed the sale in a secondary public offering of all 362,391,305 Warrants held by the VEBA Trust. The offering was priced at $5.00 per Warrant through a modified Dutch auction that took place on March 30, 2010. The aggregate net proceeds to the VEBA Trust from the offering were approximately $1.78 billion.

IFS states that, after the sale of the Warrants, it began looking for ways to further reduce the amount of Securities that the Ford VEBA Plan held, which still equaled as much as 42.8% of the assets in the Ford Separate Retiree Account. Accordingly, IFS met with representatives from leading investment banking firms to discuss possible approaches to the marketing of New Note A and of any shares of Ford Common Stock that the VEBA Trust might receive from Ford on June 30, 2010 in its annual principal payment on New Note B. IFS states that, as the June 30th payment date approached, it was aware that conditions in the credit markets had deteriorated as a result of uncertainties surrounding European nations' sovereign debt and other market factors.

According to IFS, it also approached Ford, in order to inform the company of its desire to monetize the New Notes, particularly New Note A, and prepare for the possibility of receiving the June 30th payment of New Note B in Payment Shares. IFS represents that Ford then indicated that it would be interested in purchasing a substantial portion of New Note A, provided that Ford could obtain additional prepayment rights under New Note B. After considerable negotiation, during which it consulted extensively with its legal counsel, Proskauer Rose LLP (Proskauer Rose), and its financial advisors, including Sutter Securities Incorporated (Sutter), IFS states that it entered into an agreement, dated as of June 25, 2010 (the Note Agreement), by and among Ford, Ford Motor Credit Company LLC (Ford Credit), and the VEBA Trust, under which the VEBA Trust would sell New Note A to Ford and Ford Credit and New Note B would be amended to add provisions permitting Ford to prepay all or a portion of New Note B, in each case under the terms and conditions set forth

[12] Pursuant to the terms of New Note A, Ford's partial pre-payment of New Note A reduced proportionately each future principal payment on New Note A, beginning with the June 30, 2010 payment.

[13] For a full description of the rights and obligations of the Independent Fiduciary, *see* pages 64727–64728 of the Proposed PTE and pages 14197–14201 of PTE 2010–08.

therein, described in further detail below.

4. Amendment of PTE 2010–08

Ford, on behalf of IFS, the Trustee, and Ford Credit, has requested a new exemption that would amend PTE 2010–08, effective as of June 25, 2010, which is the effective date of the Note Agreement. The amendment would extend the exemptive relief provided under PTE 2010–08 to (a) the execution of the Note Agreement by and between Ford, Ford Credit, and the VEBA Trust, acting by and through IFS; and (b) the amendment of New Note B to provide for a new prepayment right pursuant to the Note Agreement (the Subject Transactions).

The Applicant states that the VEBA Trust's entering into the Note Agreement with Ford and Ford Credit and simultaneously amending New Note B to provide Ford additional prepayment rights in exchange for Ford's commitment to purchase the outstanding balance under New Note A and to make the June 30, 2010 scheduled principal payment under New Note B in cash, could be viewed as the sale or exchange of property between the Ford VEBA Plan and Ford if the new prepayment right is deemed to be "property" and a "sale or exchange" is deemed to occur for purposes section 406(a)(1)(A) of the Act, which prohibits such transactions. As a result, the Applicant explains that the Subject Transactions could be deemed to be a prohibited exchange of property under section 406(a)(1)(A). To facilitate this relief, the Applicant has requested that the Covered Transactions set forth in Section I(a) of PTE 2010–08 be modified to incorporate the Subject Transactions described above, retroactive to June 25, 2010.

Furthermore, the Applicant is aware that the amendment of New Note B pursuant to the Note Agreement may constitute a material change of New Note B, and as such, New Note B, as amended, may not be covered by PTE 2010–08.[14] Therefore, the Applicant has requested exemptive relief retroactively effective to June 25, 2010 for the holding of New Note B, as amended, by the Ford VEBA Plan. To facilitate this relief, the Applicant has requested that the definition of "New Note B" in PTE 2010–08 be amended to incorporate the terms of the amendment of New Note B pursuant to the Note Agreement, also retroactive to June 25, 2010.

After considering the Applicants' request, the Department has determined to propose an amendment to PTE 2010–08. The proposed amendment has been requested in an application filed by the Ford Motor Company (Ford or the Applicant) pursuant to section 408(a) of ERISA and in accordance with the procedures set forth in 29 CFR 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this proposed amendment is being issued solely by the Department.

5. The Note Agreement

On June 25, 2010, Ford and Ford Credit entered into the Note Agreement with the VEBA Trust, acting by and through IFS. The Note Agreement generally provides for Ford's agreement to purchase New Note A and pay the June 30, 2010 principal payment of New Note B in cash, in exchange for the VEBA Trust's agreement to amend New Note B to grant additional prepayment rights for Ford.

Pursuant to the Note Agreement, Ford made the June 30, 2010 New Note A principal payment of $249,452,786 to the VEBA Trust in cash, as scheduled under the terms of such note and without any discount. Furthermore, the Applicant represents that, in compliance with the Note Agreement, on June 30, 2010, Ford made the scheduled New Note B principal payment of $609,950,000 to the VEBA Trust in cash and did not elect to make such payment in Payment Shares, as otherwise permitted by the terms of New Note B.[15]

In addition, on June 30, 2010, following Ford's payment of principal under the New Notes, Ford and Ford Credit together purchased the remaining outstanding principal amount of New Note A ($2,962,066,894 on a present value basis) at a price of 98% of such remaining principal amount.[16] In this regard, Ford purchased $1,635,536,281.76 of the present value of the remaining outstanding principal amount for a price of $1,602,825,556.12 and Ford Credit purchased $1,326,530,612.24 of the present value of the remaining outstanding principal amount for a price of $1.3 billion.

The Applicant further represents that, pursuant to the Note Agreement, Section 2(g) of New Note B was amended to provide Ford a three-year right beginning in July 2010 to prepay in cash from time to time, on the last business day of each month except May and June, all or a portion of the present value of the outstanding principal amount of New Note B ($3,622,050,000 on a present value basis as of June 30, 2010, following Ford's required annual payment of principal)[17] at a 5 percent discount for prepayments made prior to January 1, 2012 and at a 4 percent discount for prepayments made from January 1, 2012 until the last business day in July 2013. Under the terms of New Note B, as amended, Ford must provide 10 days' prior written notice to IFS of its intention to prepay all or a portion of New Note B.[18]

6. Fairness Opinion

The Applicant states that IFS received a fairness opinion, dated June 24, 2010, from Sutter with respect to the transactions. Pursuant to terms of the Note Agreement, under which Ford agreed to pay 50% (but not in excess of $250,000) of the fee payable to Sutter for preparation of the fairness opinion, Ford paid $200,000 of the total fee payable to Sutter of $400,000 and the VEBA Trust paid $200,000.

7. Other Written Agreements

In addition, in connection with the Note Agreement, Ford and IFS entered into an Indemnification Agreement dated as of June 25, 2010 pursuant to which Ford may be required to

[14] For a more detailed description of the exemptive relief granted for the acquisition and holding of New Note B, refer to pages 64724–64726 of the Proposed PTE and pages 14196–14197 of PTE 2010–08.

[15] As described above, but for the Note Agreement, the value formula contained in New Note B allows Ford, in a declining market for its equity, to pay its annual principal payments on New Note B at a discount if the payments are made in Payment Shares (*see* page 64722 of the Proposed PTE).

[16] The Applicant believes such purchase is covered by PTE 2010–08 provided the conditions of the exemption have been satisfied. The Department concurs. Thus, the proposed amendment described herein relates solely to New Note B.

[17] Based on information provided by the Committee to IFS, as of June 30, 2010, the fair market value of New Note B, as amended, was $3.016 billion, representing approximately 20.7% of the aggregate fair market value of the total assets of the Ford VEBA Plan, or $14.596 billion. According to the Applicant, the VEBA Trust does not have a recent annual report on which to base the fair market value of the Securities due to the fact that the assets were transferred to the VEBA Trust on behalf of the Ford VEBA Plan on December 31, 2009. As a result, the fair market value is based on the June 30, 2010 payment date under the New Notes, consistent with other references to fair market value of assets held by the VEBA Trust. Similarly, the VEBA Trust does not have a recent financial statement.

[18] As described above, prior to the amendment by the Note Agreement, New Note B, by its terms, permitted Ford, without prior notice, to prepay such note at 100 percent of the scheduled prepayment amount on each annual June 30th scheduled principal payment date.

indemnify IFS for claims arising from Ford's exercise of its prepayment right under New Note B, as amended, if an exemption with retroactive application as of the effective date of the Note Agreement (*i.e.,* June 25, 2010) is not granted. Ford, the VEBA Trust and IFS also entered into a standard Confidentiality Agreement on June 25, 2010 in order to facilitate the transaction and the exchange of certain confidential, nonpublic information related to the transactions contemplated in the Note Agreement.

8. Determinations of the Independent Fiduciary

As noted above, PTE 2010–08 provides that the Independent Fiduciary of the Ford VEBA Plan may authorize the disposition, by the Trustee, of the Securities once it determines that the transaction is feasible, in the interest of the Ford VEBA Plan, and protective of the participants and beneficiaries of the Ford VEBA Plan. In this regard, IFS, as the Independent Fiduciary, with the assistance of Sutter and Proskauer Rose, concluded that the Subject Transactions were administratively feasible, in the interest of, and protective of the Ford VEBA Plan and its participants and beneficiaries. Furthermore, IFS determined that reducing the exposure of the Ford Separate Retiree Account to Ford-specific risk through a fair transaction that would generate cash to be invested in a more diversified portfolio would be consistent with the diversification aspect of prudence set forth in section 404 of the Act.

IFS, together with Sutter, ascertained that the price paid for New Note A (*i.e.,* 98% of par) pursuant to the Note Agreement was at least equal to the net proceeds the VEBA Trust would likely have achieved through a sale of New Note A to unrelated third parties. IFS resolved that there was no way to reliably predict if or when market conditions would improve to the point of allowing the VEBA Trust to realize a better price on New Note A. According to IFS, it realized that, under its original terms, the potential value of New Note A was limited by Ford's right to prepay all or a portion of New Note A at par each June 30.

Furthermore, IFS found that it would be advantageous to the Ford VEBA Plan to secure Ford's agreement to make 100% of the scheduled June 30, 2010 principal payment on New Note B in cash. As described above, under New Note B, Ford could have made its June 30th payment with Payment Shares in an amount based on Ford Common Stock's VWAP for the 30 trading days ending June 28. IFS determined that, in light of the downward trend during the preceding 30-trading day period in Ford's common stock price, the number of shares that Ford could have delivered would have had a market value (based on the stock's closing price on June 29) significantly less than the amount otherwise due in cash. Thus, by guaranteeing that the June 30, 2010, payment on New Note B was made in cash, IFS effectively saved the VEBA Trust $79 million.[19] IFS was also cognizant of the fact that Ford's payment of cash allowed the VEBA Trust to avoid the transaction costs and market risk associated with monetizing any Payment Shares that could have been delivered in lieu of cash.

IFS also made a determination that the prepayment discount prices for New Note B payable by Ford during the three-year period ending July 31, 2013 (*i.e.,* 95% of par[20] through 2011 and 96% of par in 2012 and 2013) would likely be equal to, or greater than, the fair market value of New Note B. In this regard, IFS considered the possibility that principal payments of New Note B could be made in Payment Shares with a market value less than the scheduled principal payment if it were made in cash and the fact that, by its terms, New Note B is not transferable without the sole written consent of Ford. Moreover, it was important to IFS that any prepayment of principal would be made in cash, thus allowing the VEBA Trust to avoid the transaction costs and market risk associated with having to monetize shares of Ford Common Stock that could be delivered in payment of future principal payments.

IFS also determined that the amendment of New Note B was protective of the Ford VEBA Plan and its participants and beneficiaries in and of itself. As described above, the newly provided prepayment options for New Note B must be in cash and on designated payment dates, and Ford must give the VEBA Trust advance notice of its intent to make any such prepayments. By contrast, IFS was aware that the original terms of New Note B did not require any advance notice of Ford's intent to make a prepayment, nor did they require that any prepayment must be in cash.

Finally, IFS approved of the amendment, because under the new prepayment terms no additional prepayment opportunity could be exercised during the months of May and June, foreclosing the possibility of Ford's "gaming" the VWAP calculation feature of Payment Share calculation to deliver less value to the VEBA Trust upon a prepayment.[21] IFS explains that it did not want to modify the requirement already in New Note B that a prepayment of principal on June 30 be at 100% of the outstanding principal. Thus, IFS notes, by barring Ford from exercising a prepayment right at 95% or 96% once the VWAP calculation period started, it assured that, at that point, Ford could only pay the principal installment due on June 30 at a discount if Ford stock declined during the VWAP calculation period (the discount would be limited to the result produced by the VWAP calculation). According to IFS, this also meant that Ford could not use the 95% or 96% discount available outside the VWAP calculation period to make a discounted prepayment during the calculation period that would have the effect of reducing the principal installment due in cash at 100% on June 30.

9. Appropriateness of Exemptive Relief

Ford suggests that, if exemptive relief is denied, the VEBA Trust would lose the economic benefits relating to the prepayment of New Note B. Ford explains that, under Section 5 of the Note Agreement, if an exemption for the amendment of New Note B is not granted on or prior to December 31, 2011, or such later date as agreed to in writing by the parties, or the Department indicates that the exemption will not be granted, then the amendment of New Note B will be deemed null and void from that date. Although Ford recognizes that the parties, on behalf of the VEBA Trust, could agree in the future to specific prepayment terms, the Note Agreement and the amendment of New Note B, both of which were required in order for the VEBA Trust to receive the benefit of the other provisions of the Note Agreement, created an opportunity for Ford to prepay New Note B in cash on set dates, at a price certain that IFS has

[19] Given the VWAP for the 30 trading days ending June 28, 2010 of $11.35 per share, Ford could have made New Note B's principal installment payment of $609,950,000 with 53,740,088 shares of Ford Common Stock with a market value based on the stock's June 29, 2010 closing price of $9.88, of only $530,952,071, a difference of $79,000,000. This amount fully offsets the 2% discount on the price that Ford and Ford Credit paid for New Note A.

[20] Pursuant to the Note Agreement, "par" is calculated by discounting the "Prepayment Amount" (as defined in New Note B) payable on the then next scheduled "Payment Date" (as defined in New Note B) at a rate per annum of 9% from the then next scheduled Payment Date back to such prepayment date.

[21] If not for such prohibition, the dates on which such notice of prepayment at the end of May and June would have fallen are within the periods in which the VWAP of Ford stock is calculated for purposes of determining the number of shares Ford would have to pay on the principal installment immediately following June 30.

concluded is equal to, or greater than, the fair market value of New Note B. Thus, according to Ford, a denial of exemptive relief would decrease the likelihood that Ford would make such cash prepayments on New Note B and reduce the VEBA Trust's exposure to Ford-specific risk.

Finally, Ford notes that IFS and its advisors negotiated the Note Agreement on behalf of the VEBA Trust in an adversarial process with Ford. In doing so, IFS states in its analysis that it was able to immediately and significantly reduce the VEBA Trust's exposure to Ford-specific risk and give the VEBA Trust the opportunity to invest the cash proceeds of approximately $3.76 billion in a diversified portfolio. According to IFS, but for the Subject Transactions, the only cash the VEBA Trust was assured of receiving on June 30, 2010 was approximately $250 million (the amount of the principal payment due on New Note A), with no assurance of additional cash until June 30, 2011.

10. Description of Revisions to the Operative Language of PTE 2010–08

The proposed amendment generally modifies the operative language of PTE 2010–08 to take into account the execution of the Note Agreement and the amendment of New Note B. Section I(a) of PTE 2010–8 has been amended to add new paragraph (7) as follows: "The amendment of New Note B pursuant to the execution of the Note Agreement." Thus, the modification extends the exemptive relief provided by PTE 2010–08 to the VEBA Trust's execution of the Note Agreement in exchange for Ford's June 30, 2010 prepayment of New Note A and June 30, 2010 payment of New Note B in cash.

In the Definitions, the proposed amendment also makes a modification to the term "New Note B," in relettered Section VII(q), to include the descriptive clauses "unless prepaid," and "as amended by the Note Agreement effective June 25, 2010," in order to ensure that New Note B, as amended by the Note Agreement effective June 25, 2010, is included in the exemptive relief afforded under PTE 2010–08.

Furthermore, Section VII of PTE 2010–08, which sets forth the Definitions, has been modified by inserting new paragraph (h) which defines the term "Ford Credit" as referred to in the Note Agreement; inserting new paragraph (k) which defines the term IFS as referred to in the Note Agreement; inserting new paragraph (r) to define and describe the term "Note Agreement" to reflect changes made to the operative language of PTE 2010–08; and relettering the remaining paragraphs, accordingly.

Finally, the Effective Date in new Section VIII is modified to provide that the exemption, if granted, will be effective as of December 31, 2009, except for Section I(a)(7), which will be effective as of June 25, 2010, the effective date of the Note Agreement and the amendment of New Note B. In addition, the flush language of Section I(a), (b), (c), and (d) has been modified to omit references to the December 31, 2009 effective date of exemptive relief in order to avoid confusion.

Notice to Interested Persons

Notice of the proposed exemption will be mailed by first class mail to each member of the Class and the Covered Group, as such terms are defined in the 2009 Settlement Agreement. Such notice will be given within 21 days of the publication of the notice of pendency in the **Federal Register**. The notice will contain a copy of the notice of proposed exemption, as published in the **Federal Register**, and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Written comments and hearing requests are due within 51 days of the publication of the proposed exemption in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA does not relieve a fiduciary or other party in interest from certain other provisions of ERISA, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA, 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 ERISA;

(2) Before an exemption may be granted under section 408(a) of ERISA, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the exemption.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990), as follows:

SECTION I. Covered Transactions

(a) If the exemption is granted, the restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of ERISA shall not apply to the following transactions:

(1) The acquisition by the UAW Ford Retirees Medical Benefits Plan (the Ford VEBA Plan) and its funding vehicle, the UAW Retiree Medical Benefits Trust (the VEBA Trust) of: (i) The LLC Interests; (ii) New Note A; (iii) New Note B (together with New Note A, the New Notes); and (iv) Warrants, transferred by Ford and deposited in the Ford Employer Security Sub-Account of the Ford Separate Retiree Account of the VEBA Trust.

(2) The acquisition by the Ford VEBA Plan of shares of Ford Common Stock pursuant to Ford's right to settle its payment obligations under New Note B in shares of Ford Common Stock (*i.e.,* Payment Shares), consistent with the 2009 Settlement Agreement;

(3) The acquisition by the Ford VEBA Plan of shares of Ford Common Stock pursuant to (i) the Independent Fiduciary's exercise of all or a pro rata portion of the Warrants, consistent with the 2009 Settlement Agreement and (ii) an adjustment, substitution, conversion, or other modification of Ford Common Stock in connection with a reorganization, restructuring, recapitalization, merger, or similar corporate transaction, provided that each holder of Ford Common Stock is treated in an identical manner;

(4) The holding by the Ford VEBA Plan of the aforementioned Securities in the Ford Employer Security Sub-Account of the Ford Separate Retiree Account of the VEBA Trust, consistent with the 2009 Settlement Agreement;

(5) The deferred payment of any amounts due under New Note B by Ford pursuant to the terms thereunder;

(6) The disposition of the Securities by the Independent Fiduciary; and

(7) The amendment of New Note B pursuant to the execution of the Note Agreement.

(b) If the exemption is granted, the restrictions of sections 406(a)(1)(A), 406(b)(1), and 406(b)(2) of ERISA shall not apply to the sale of Ford Common Stock or Warrants held by the Ford VEBA Plan to Ford in accordance with the Right of First Offer or a Ford self-tender under the Securityholder and Registration Rights Agreement.

(c) If the exemption is granted, the restrictions of sections 406(a)(1)(B), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of ERISA shall not apply to:

(1) The extension of credit or transfer of assets by Ford, the Ford Retiree Health Plan, or the Ford VEBA Plan in payment of a benefit claim that was the responsibility and legal obligation, under the terms of the applicable plan documents, of one of the other parties listed in this paragraph;

(2) The reimbursement by Ford, the Ford Retiree Health Plan, or the Ford VEBA Plan, of a benefit claim that was paid by another party listed in this paragraph, which was not legally responsible for the payment of such claim, plus interest;

(3) The retention of an amount by Ford until payment to the Ford VEBA Plan resulting from an overaccrual of pre-transfer expenses attributable to the TAA or the retention of an amount by the Ford VEBA Plan until payment to Ford resulting from an underaccrual of pre-transfer expense attributable to the TAA; and

(4) The Ford VEBA Plan's payment to Ford of an amount equal to any underaccrual by Ford of pre-transfer expenses attributable to the TAA or the payment by Ford to the Ford VEBA Plan of an amount equal to any overaccrual by Ford of pre-transfer expenses attributable to the TAA.

(d) If the exemption is granted, the restrictions of sections 406(a)(1)(B), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of ERISA shall not apply to the return to Ford of assets deposited or transferred to the Ford VEBA Plan by mistake, plus interest.

SECTION II. Conditions Applicable to Section I(a) and I(b)

(a) The Committee appoints a qualified Independent Fiduciary to act on behalf of the Ford VEBA Plan for all purposes related to the transfer of the Securities to the Ford VEBA Plan for the duration of the Ford VEBA Plan's holding of the Securities. Such Independent Fiduciary will have sole discretionary responsibility relating to the holding, ongoing management and disposition of the Securities, except for the voting of the Ford Common Stock. The Independent Fiduciary has determined or will determine, before taking any actions regarding the Securities, that each such action or transaction is in the interest of the Ford VEBA Plan.

(b) In the event that the same Independent Fiduciary is appointed to represent the interests of one or more of the other plans comprising the VEBA Trust (*i.e.,* the UAW Chrysler Retiree Medical Benefits Plan and/or the UAW General Motors Company Retiree Medical Benefits Plan) with respect to employer securities deposited into the VEBA Trust, the Committee takes the following steps to identify, monitor and address any conflict of interest that may arise with respect to the Independent Fiduciary's performance of its responsibilities:

(1) The Committee appoints a "conflicts monitor" to: (i) Develop a process for identifying potential conflicts; (ii) regularly review the Independent Fiduciary reports, investment banker reports, and public information regarding the companies, to identify the presence of factors that could lead to a conflict; and (iii) further question the Independent Fiduciary when appropriate.

(2) The Committee adopts procedures to facilitate prompt replacement of the Independent Fiduciary if the Committee in its sole discretion determines such replacement is necessary due to a conflict of interest.

(3) The Committee requires the Independent Fiduciary to adopt a written policy regarding conflicts of interest. Such policy shall require that, as part of the Independent Fiduciary's periodic reporting to the Committee, the Independent Fiduciary includes a discussion of actual or potential conflicts identified by the Independent Fiduciary and options for avoiding or resolving the conflicts.

(c) The Independent Fiduciary authorizes the trustee of the Ford VEBA Plan to dispose of the Ford Common Stock (including any Payment Shares or any shares of Ford Common Stock acquired pursuant to exercise of the Warrants), the LLC Interests, the New Notes, or exercise the Warrants, only after the Independent Fiduciary determines, at the time of the transaction, that the transaction is feasible, in the interest of the Ford VEBA Plan, and protective of the participants and beneficiaries of the Ford VEBA Plan.

(d) The Independent Fiduciary negotiates and approves on behalf of the Ford VEBA Plan any transactions between the Ford VEBA Plan and any party in interest involving the Securities that may be necessary in connection with the subject transactions (including but not limited to the registration of the Securities contributed to the Ford VEBA Plan).

(e) Any contract between the Independent Fiduciary and an investment banker includes an acknowledgement by the investment banker that the investment banker's ultimate client is an ERISA plan.

(f) The Independent Fiduciary discharges its duties consistent with the terms of the Ford VEBA Plan, the Trust Agreement, the Independent Fiduciary Agreement, and any other documents governing the Securities, such as the Registration Rights Agreement.

(g) The Ford VEBA Plan incurs no fees, costs or other charges (other than described in the Trust Agreement, the 2009 Settlement Agreement, and the Securityholder and Registration Rights Agreement) as a result of the transactions exempted herein.

(h) The terms of any transaction exempted herein are no less favorable to the Ford VEBA Plan than the terms negotiated at arms' length under similar circumstances between unrelated parties.

SECTION III. Conditions Applicable to Section I(c)(1) and I(c)(2)

(a) The Committee and the Ford VEBA Plan's third party administrator will review the benefits paid during the transition period and determine the dollar amount of mispayments made, subject to the review of the Ford VEBA Plan's independent auditor. The results of this review will be made available to Ford.

(b) Ford and the applicable third party administrator of the Ford Active Health Plan will review the benefits paid during the transition period and determine the dollar amount of mispayments made, subject to the review of the plan's independent auditor. The results of this review will be made available to the Committee.

(c) Interest on any reimbursed mispayment will accrue from the date of the mispayment to the date of the reimbursement.

(d) Interest will be determined using the applicable 6 month published LIBOR rate.

(e) If there is a dispute as to the amount, timing or other feature of a reimbursement payment, the parties will enter into the Dispute Resolution Procedure found in Section 26B of the 2009 Settlement Agreement and described further in Section VII(c) herein.

SECTION IV. Conditions Applicable to Section I(c)(3) and I(c)(4)

(a) Ford and the Committee will cooperate in the calculation and review of the amounts of expense accruals related to the TAA, and the amount of any overaccrual shall be made subject to the review of an independent auditor selected by Ford and the amount of any underaccrual shall be made subject to the review of the Ford VEBA Plan's independent auditor.

(b) Ford must make a claim for any underaccrual to the Committee, and the Committee must make a claim for any overaccrual to Ford, as applicable, within the Verification Time Period, as defined in Section VII(cc).

(c) Interest on any true-up payment will accrue from the date of transfer of the assets in the TAA (or the LLC containing the TAA) for the amount in respect of the overaccrual or underaccrual, as applicable, until the date of payment of such true-up amount.

(d) Interest will be determined using the published six month LIBOR rate.

(e) If there is a dispute as to the amount, timing or other feature of a true-up payment in respect of TAA expenses, the parties will enter into the Dispute Resolution Procedure found in Section 26B of the 2009 Settlement Agreement and described further in Section VII(c) herein.

SECTION V. Conditions Applicable to Section I(d)

(a) Ford must make a claim to the Committee regarding the specific deposit or transfer made in error or made in an amount greater than that to which the Ford VEBA Plan was entitled.

(b) The claim is made within the Verification Time Period, as defined in Section VII(cc).

(c) Interest on any mistaken deposit or transfer will accrue from the date of the mistaken deposit or transfer to the date of the repayment.

(d) Interest will be determined using the published six month LIBOR rate.

(e) If there is a dispute as to the amount, timing or other feature of a mistaken payment, the parties will enter into the Dispute Resolution Procedure found in Section 26B of the 2009 Settlement Agreement and described further in Section VII(c) herein.

SECTION VI. Conditions Applicable to Section I

(a) The Committee and the Independent Fiduciary maintain for a period of six years from the date (i) the Securities are transferred to the Ford VEBA Plan, and (ii) the shares of Ford Common Stock are acquired by the Ford VEBA Plan through the exercise of the Warrants or Ford's delivery of Payment Shares in settlement of its payment obligations under New Note B, the records necessary to enable the persons described in paragraph (b) below to determine whether the conditions of this exemption have been met, provided that (i) a separate prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Committee and/or the Independent Fiduciary, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than the Committee or the Independent Fiduciary shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination as required by paragraph (b) below; and

(b) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of ERISA, the records referred to in paragraph (a) above shall be unconditionally available at their customary location during normal business hours to:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) The UAW or any duly authorized representative of the UAW;

(3) Ford or any duly authorized representative of Ford;

(4) The Independent Fiduciary or any duly authorized representative of the Independent Fiduciary;

(5) The Committee or any duly authorized representative of the Committee; and

(6) Any participant or beneficiary of the Ford VEBA Plan or any duly authorized representative of such participant or beneficiary.

(c) None of the persons described above in paragraphs (b)(2), (4)–(6) shall be authorized to examine trade secrets of Ford, or commercial or financial information which is privileged or confidential, and should Ford refuse to disclose information on the basis that such information is exempt from disclosure, Ford 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 VII. Definitions

(a) The term "affiliate" means: (1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person; (2) any officer, director, partner, or employee in any such person, or relative (as defined in section 3(15) of ERISA) of any such person; or (3) any corporation, partnership or other entity of which such person is an officer, director or partner. (For purposes of this definition, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(b) The "Committee" means the eleven individuals consisting of six independent members and five UAW appointed members who will serve as the plan administrator and named fiduciary of the Ford VEBA Plan.

(c) The term "Dispute Resolution Procedure" means the process found in Section 26B of the 2009 Settlement Agreement to effectuate the resolution of any dispute respecting the transactions described in Sections I(c)(1), (c)(2), (c)(3), (c)(4), and (d) herein, and which reads in pertinent part: (1) The aggrieved party shall provide the party alleged to have violated the 2009 Settlement Agreement (Dispute Party) with written notice of such dispute, which shall include a description of the alleged violation and identification of the Section(s) of the 2009 Settlement Agreement allegedly violated. Such notice shall be provided so that it is received by the Dispute Party no later than 180 calendar days from the date of the alleged violation or the date on which the aggrieved party knew or should have known of the facts that give rise to the alleged violation, whichever is later, but in no event longer than 3 years from the date of the alleged violation; and (2) If the Dispute Party fails to respond within 21 calendar days from its receipt of the notice, the aggrieved party may seek recourse to the District Court; provided however, that the aggrieved party waives all claims related to a particular dispute against the Dispute Party if the aggrieved party fails to bring the dispute before the District Court within 180 calendar days from the date of sending the notice. All the time periods in Section 26 of the 2009 Settlement Agreement may be extended by agreement of the parties to the particular dispute.

(d) The term "Exchange Agreement" means the Security Exchange Agreement among Ford, the subsidiary guarantors listed in Schedule I thereto and the LLC, dated as of December 11, 2009.

(e) The term "Ford" or the "Applicant" means Ford Motor Company, located in Detroit, MI, and its affiliates.

(f) The term "Ford Active Health Plan" means the medical benefits plan maintained by Ford to provide benefits to eligible active hourly employees of Ford and its participating subsidiaries.

(g) The term "Ford Common Stock" means the shares of common stock, par value $0.01 per share, issued by Ford.

(h) The term "Ford Credit" means Ford Motor Credit Company LLC, a Delaware limited liability company and an indirect, wholly owned subsidiary of Ford.

(i) The term "Ford Employer Security Sub-Account of the Ford Separate Retiree Account of the VEBA Trust" means the sub-account established in the Ford Separate Retiree Account of the VEBA Trust to hold Securities on behalf of the Ford VEBA Plan.

(j) The term "Ford Retiree Health Plan" means the retiree medical benefits plan maintained by Ford that provided benefits to, among others, those who will be covered by the Ford VEBA Plan.

(k) The term "IFS" means Independent Fiduciary Services, Inc., a Delaware corporation, appointed by the Committee to be the Independent Fiduciary.

(l) The term "Implementation Date" means December 31, 2009.

(m) The term "Independent Fiduciary" means a fiduciary that is (1) independent of and unrelated to Ford, the UAW, the Committee, and their affiliates, and (2) appointed to act on behalf of the Ford VEBA Plan with respect to the holding, management and disposition of the Securities. In this regard, the fiduciary will be deemed not to be independent of and unrelated to Ford, the UAW, the Committee, and their affiliates if (1) such fiduciary directly or indirectly controls, is controlled by, or is under common control with Ford, the UAW, the Committee or their affiliates, (2) such fiduciary directly or indirectly receives any compensation or other consideration from Ford, the UAW or any Committee member in his or her individual capacity in connection with any transaction contemplated in this exemption (except that an Independent Fiduciary may receive compensation from the Committee or the Ford VEBA Plan for services provided to the Ford VEBA Plan in connection with the transactions discussed herein if the amount or payment of such compensation is not contingent upon or in any way affected by the independent fiduciary's ultimate decision), and (3) the annual gross revenue received by the fiduciary, in any fiscal year, from Ford, the UAW or a member of the Committee in his or her individual capacity, exceeds 3% of the fiduciary's annual gross revenue from all sources (for federal income tax purposes) for its prior tax year.[22]

(n) The term "LLC" means the Ford-UAW Holdings LLC, established by Ford as a wholly-owned LLC, and subsequently renamed VEBA–F Holdings LLC, established to hold the assets in the TAA and certain other assets required to be contributed to the VEBA under the 2008 Settlement Agreement, as amended by the 2009 Settlement Agreement.

(o) The term "LLC Interests" means Ford's wholly-owned interest in the LLC.

(p) The term "New Note A" means the amortizing guaranteed secured note maturing on June 30, 2022, in the principal amount of $6,705,470,000, with payments to be made in cash, in annual installments from 2009 through 2022, issued by Ford and referred to in the Exchange Agreement.

(q) The term "New Note B" means the amortizing guaranteed secured note maturing June 30, 2022, in the principal amount of $6,511,850,000, with payments to be made in cash, Ford Common Stock, or a combination thereof, in annual installments from 2009 through 2022, unless prepaid, issued by Ford and referred to in the Exchange Agreement, and as amended by the Note Agreement, effective June 25, 2010.

(r) The term "Note Agreement" means the Agreement, dated as of June 25, 2010 by and among Ford, Ford Credit, and the VEBA Trust, acting by and through IFS, wherein the VEBA Trust will sell New Note A to Ford and Ford Credit and New Note B is amended to add provisions permitting Ford to prepay all or a portion of New Note B, in each case under the terms and conditions set forth therein.

(s) The term "Payment Shares" means any shares of Ford Common Stock issued by Ford to satisfy all or a portion of its payment obligation under New Note B, subject to the terms and conditions specified in New Note B.

(t) The term "published six month LIBOR rate" means the Official British Banker's Association Six Month London Interbank Offered Rate (LIBOR) 11:00am GMT "fixing" as reported on Bloomberg page "BBAM".[23]

(u) The term "Securities" means (1) New Note A; (2) New Note B; (3) the Warrants; (4) the LLC Interests, (5) any Payment Shares, and (6) additional shares of Ford Common Stock acquired in accordance with the transactions described in Sections I(a)(2) and (3) of this exemption.

(v) The term "Securityholder and Registration Rights Agreement" means the Securityholder and Registration Rights Agreement by and among Ford and the LLC, dated as of December 11, 2009.

(w) The term "2008 Settlement Agreement" means the settlement agreement, effective as of August 29, 2008, entered into by Ford, the UAW, and a class of retirees in the case of *Int'l Union, UAW, et al.* v. *Ford Motor Company,* Civil Action No. 07–14845, 2008 WL 4104329 (E.D. Mich. Aug. 29, 2008).

(x) The term "2009 Settlement Agreement" means the 2008 Settlement Agreement, as amended by an Amendment to such Settlement Agreement dated July 23, 2009, effective as of November 9, 2009, entered into by Ford, the UAW, and a class of retirees in the case of *Int'l Union, UAW, et al.* v. *Ford Motor Company,* Civil Action No. 07–14845, 2008 WL 4104329 (E.D. Mich. Aug. 29, 2008), *Order and Final Judgment Granted,* Civil Action No. 07–14845, Doc. #71, (E.D. Mich. Nov. 9, 2009).

(y) The term "TAA" means the temporary asset account established by Ford under the 2008 Settlement Agreement to serve as tangible evidence of the availability of Ford assets equal to Ford's obligation to the Ford VEBA Plan.

(z) The term "Trust Agreement" means the trust agreement for the VEBA Trust.

(aa) The term "UAW" means the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America.

(bb) The term "VEBA" means the Ford UAW Retirees Medical Benefits Plan

[22] The Department notes that the preceding conditions are not exclusive, and that other circumstances may develop which cause the Independent Fiduciary to be deemed not to be independent of and unrelated to Ford, the UAW, the Committee, and their affiliates.

[23] LIBOR is calculated by Thomson Reuters and published by the British Bankers' Association after 11 a.m. (and generally around 11:45 a.m.) each day (London time). It is a trimmed average of inter-bank deposit rates offered by designated contributor banks, for maturities ranging from overnight to one year. The rates are a benchmark rather than a tradable rate, the actual rate at which banks will lend to one another continues to vary throughout the day.

(the Ford VEBA Plan) and its associated UAW Retiree Medical Benefits Trust (the VEBA Trust).

(cc) The term "Verification Time Period" means: (1) With respect to each of the Securities other than the payments in respect of the New Notes, the period beginning on the date of publication of the final exemption in the **Federal Register** (or, if later, the date of the transfer of any such Security to the Ford VEBA Plan) and ending 90 calendar days thereafter; (2) with respect to each payment pursuant to the New Notes, the period beginning on the date of the payment and ending 90 calendar days thereafter; and (3) with respect to the TAA, the period beginning on the date of publication of the final exemption in the **Federal Register** (or, if later, the date of the transfer of the assets in the TAA to the Ford VEBA Plan) and ending 180 calendar days thereafter.

(dd) The term "Warrants" means warrants issued by Ford to acquire 362,391,305 shares of Ford Common Stock at a strike price of $9.20 per share, expiring on January 1, 2013. For purposes of this definition, the term "Warrants" includes additional warrants to acquire Ford Common Stock acquired in partial or complete exchange for, or adjustment to, the warrants described in the preceding sentence, at the direction of the Independent Fiduciary or pursuant to a reorganization, restructuring or recapitalization of Ford as well as a merger or similar corporate transaction involving Ford (each, a corporate transaction), provided that, in such corporate transaction, similarly situated warrantholders, if any, will be treated the same to the extent that the terms of such warrants and/or rights of such warrantholders are the same.

SECTION VIII. Effective Date

If granted, this proposed amendment to PTE 2010–08 will be effective as of December 31, 2009, except with respect to Section I(a)(7), which will be effective as of June 25, 2010.

Signed at Washington, DC, this 9th day of March 2011.

Ivan Strasfeld,

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

[FR Doc. 2011–5912 Filed 3–14–11; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions 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). This notice includes the following proposed exemptions: D–11468 & D–11469 The Krispy Kreme Doughnut Corporation Retirement Savings Plan, The Krispy Kreme Profit-Sharing Stock Ownership Plan; D–11632 Millenium Trust Co. LLC, Custodian FBO William Etherington IRA; D–11642 H–E–B Brand Savings & Retirement Plan and H.E. Butt Grocery Company; and L-11625 The International Union of Painters and Allied Trades Finishing Institute.

DATES: All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice.

ADDRESSES: Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No.____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: *moffitt.betty@dol.gov,* or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Warning: If you submit written comments or hearing requests, do not include any personally-identifiable or confidential business information that you do not want to be publicly-disclosed. All comments and hearing requests are posted on the Internet exactly as they are received, and they can be retrieved by most Internet search engines. The Department will make no deletions, modifications or redactions to the comments or hearing requests received, as they are public records.

SUPPLEMENTARY INFORMATION:

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). 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 requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.