DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2024–04]

Exemption Application No. L–11954; Exemption From Certain Prohibited Transaction Restrictions Involving the Fedeli Group, Inc. Employee Benefits Plan Located in Cleveland, OH

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This document contains a notice of exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) issued by the Department of Labor (the Department) to the Fedeli Group Employee Benefits Plan.

DATES: *Exemption date:* This exemption will be in effect on November 26, 2024.

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

SUPPLEMENTARY INFORMATION: On November 6, 2023, the Department published a notice of proposed exemption in the **Federal Register** at 88 FR 76253. The proposed exemption involved the reinsurance of risks and the receipt of premiums by Risk Specialists Insurance Company, Inc. (Risk Specialists) in connection with insurance contracts sold by THP Insurance Company, Inc. (THP) or THP's successor to provide medical and hospital coverage to participants in the Fedeli Group Inc. Employee Benefits Plan (the Benefit Plan or the Applicant). THP, is unrelated to the Fedeli Group, Inc. and any entities related to Fedeli. (collectively, Fedeli Group). The Applicant requested an individual exemption pursuant to ERISA section 408(a) in accordance with the Department's exemption procedures set forth in 29 CFR part 2570, subpart B.[1]

Based on the record, the Department has determined to grant the proposed exemption. This exemption provides only the relief specified herein. It provides no relief from violations of any law other than the prohibited transaction provisions of ERISA, as expressly stated herein.

The Department makes the requisite findings under ERISA Section 408(a) based on the Applicant's adherence to all the conditions of the exemption. Accordingly, affected parties should be aware that the conditions incorporated in this exemption, considered individually and as a whole, are necessary for the Department to grant the relief requested by the Applicant. Absent these or similar conditions, the Department would not have granted this exemption.

Background

1. As discussed in greater detail below and in the notice of proposed exemption, Fedeli Group seeks to use its captive insurance company, Risk Specialists, to reinsure participants' benefit claims under the Benefit Plan.

Parties to the Transaction

2. *Fedeli Group:* Fedeli Group is a corporation based in Cleveland, Ohio that provides insurance products and risk management services. The Fedeli Group is 51 percent owned by The Umberto P. Fedeli Restated Revocable Trust (dated July 16, 2016) 19 percent owned by the Umberto P. Fedeli 2012 Discretionary Trust (dated November 28, 2012) and 20% owned by the Umberto P. Fedeli 2009 Discretionary Trust (dated December 23, 2009). The Fedeli Group sponsors and administers the Benefit Plan.

3. *Risk Specialists:* Risk Specialists is a property and casualty captive insurance company that is licensed and operates under applicable Tennessee law. Risk Specialists is 100 percent owned by Risk Specialists Captive Holdings, LLC, a limited liability company formed in Ohio on the same date as Risk Specialists. Risk Specialists Captive Holdings, LLC is 51 percent owned by the Fedeli Revocable Trust, 29% owned by the Fedeli 2012 Trust, and 20 percent owned by the Fedeli 2009 Trust. Risk Specialists serves as the reinsurer with respect to 13 different lines of insurance coverages provided to Fedeli Group and unrelated third parties.

4. *THP.* THP Insurance Company, Inc. is a domestic stock insurance company domiciled in West Virginia and licensed in both Ohio and West Virginia. THP is unrelated to all Fedeli Group-related entities and is currently rated ''A+'' by A.M. Best Company.

5. *The Benefit Plan.* The Benefit Plan is a self-funded employee welfare benefit plan covering medical and hospital expenses for eligible Fedeli Group employees that is sponsored and administered by the Fedeli Group.

The Transaction

6. Fedeli Group plans to use its captive insurance company, Risk Specialists, to reinsure the Benefit Plan's claims. The Plan will enter into a Master Group Policy with THP, pursuant to which THP will provide group health insurance coverage to eligible participants under the Benefit Plan. THP will enter into a reinsurance agreement (the Reinsurance Agreement) with Risk Specialists. Under this arrangement, Risk Specialists will be responsible for the Benefit Plan's insurance claims under the Master Group Policy with THP, and Risk Specialists will indirectly receive the Benefit Plan's premium payments to THP. The Reinsurance Agreement between THP and Risk Specialists will be ''indemnity only,'' which means that THP will be responsible for Benefit Plan claims under the Master Group Policy to the extent Risk Specialists does not satisfy those claims under the Reinsurance Agreement.

7. As described in the notice of proposed exemption, the Applicant represents that the only benefits Fedeli Group expects to receive from the proposed Captive Approach relative to the Plan's current self-funding arrangement are the incidental benefits that would result from more predictability and better control over its benefit funding obligations. The proposed exemption describes that the Captive Approach will result in reduced overall plan costs because benefit expenses will be paid based on actual experience, as opposed to a third-party insurance carrier (the Third-Party Approach) requiring a fixed payment at a premium charged by an insurance carrier where the premium amount does not change regardless of the amount of claims that are incurred.

ERISA Analysis

8. The reinsurance arrangement would violate certain prohibited transaction provisions of ERISA for the following reasons:

- Fedeli Group is a party in interest with respect to the Benefit Plan pursuant to ERISA section 3(14)(C), because it is an employer whose employees are covered by the Benefit Plan;
- The Trusts are parties in interest with respect to the Benefit Plan under ERISA section 3(14)(E) because they collectively own 100% of Fedeli Group, the Benefit Plan sponsor.
- Risk Specialists, the captive reinsurer, is a party in interest with respect to the Benefit Plan under ERISA section 3(14)(G) because it is 100% owned by the Trusts.

9. ERISA section 406(a) prohibits a wide range of transactions between plans and parties in interest with respect to those plans. As relevant here,

[1] 76 FR 66637, 66644, (October 27, 2011).

ERISA section 406(a)(l)(D) prohibits a plan fiduciary from engaging in a transaction if the fiduciary knows or should know the transaction constitutes a direct or indirect transfer of any plan assets for the use or benefit of a party in interest. The reinsurance arrangement would result in an indirect transfer of Benefit Plan premium payments to Risk Specialists, which is a party in interest with respect to the Benefit Plan.

10. ERISA section 406(b)(1) of ERISA prohibits a fiduciary from dealing with plan assets for the fiduciary's own interest or own account. The fiduciaries of the Benefit Plan would violate ERISA section 406(b)(1) by causing the Benefit Plan to pay premiums to THP, with the knowledge that the premiums will ultimately be directed to Risk Specialists, the captive reinsurer.

Merits of the Transaction

11. As described in further detail in the notice of proposed exemption, a qualified, independent fiduciary has concluded that the reinsurance arrangement will reduce each Benefit Plan participant's share of the Benefit Plan premium paid to THP by at least $2,023.20 per participant per year for the duration of the exemption relative to the contribution the participant would otherwise have made under a noncaptive arrangement with a competitive third party insurer receiving no more than reasonable compensation within the meaning of ERISA section 408(b)(2). Historically, Benefit Plan participants contributed approximately 25% towards the cost of the Benefit Plan. Under this exemption, all the savings from the reinsurance arrangement will be used to reduce Benefit Plan participants' share of the Benefit Plan's premiums, and Benefit Plan participants will contribute no more than 17.38% of the Benefit Plan's costs throughout the duration of the exemption.

12. Therefore, this exemption requires the Fedeli Group to use any of the savings it derives from the captive reinsurance arrangement to reduce the amount each Benefit Plan participant is required to contribute toward the premiums the Benefit Plan pays to THP or another fronting insurer. If any Fedeli Group-related entity receives a direct or indirect profit, tax benefit, investment gain or other remunerative benefit through the reinsurance arrangement, the Fedeli Group must further enhance the Benefit Plan in an amount greater than the $2,023.20 per participant per year contribution reduction in a manner consistent with the terms and conditions of this exemption.

13. On an on-going basis, the independent fiduciary is required to review all relevant financial information of Risk Specialists and any other Fedeli-related entity as is necessary to ensure that this and the other terms and conditions described in this proposal are met and to annually certify in a written report submitted to the Department that all requirements of the proposed exemption have been met. Furthermore, as described in the notice of proposed exemption, this exemption requires a number of protective conditions designed to ensure that the rights of the Plan and its participants and beneficiaries are protected.

Comments Received Regarding Proposed Exemption

In the proposed exemption, the Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the proposed exemption by December 21, 2023. The Department did not receive any written comments or requests for a public hearing.[2]

Therefore, on basis of the entirety of the public record for this exemption application and the conditions for relief included below, the Department finds that the exemption is administratively feasible for the Department, in the interests of the Benefit Plan and its participants and beneficiaries, and protective of the rights of the Benefit Plan's participants and beneficiaries.

The complete application file (L–11954) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the notice of proposed exemption published on November 6, 2023, at 88 FR 76253.

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 ERISA Section 408(a) does not relieve a fiduciary or other party in interest from certain requirements of other ERISA provisions, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA Section 404, which, among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with ERISA section 404(a)(1)(B).

(2) As required by ERISA section 408(a), the Department hereby finds that the exemption is: (a) administratively feasible for the Department; (b) in the interests of affected plans and of their participants and beneficiaries; and (c) protective of the rights of participants and beneficiaries of the Benefit Plan.

(3) This exemption is supplemental to and not in derogation of any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that the Department is granting an administrative exemption for this transaction is not dispositive to determining whether the transaction is in fact a prohibited transaction.

(4) The Department's grant of this exemption is based on the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption.

Accordingly, the Department grants the following exemption under the authority of ERISA Section 408(a)in accordance with its exemption procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011):

Exemption

Section I. Covered Transactions

The restrictions of ERISA sections 406(a)(1)(D) and 406(b)(1) will not apply to the reinsurance of risks and the receipt of premiums therefrom by Risk Specialists LLC (Risk Specialists), in connection with insurance contracts sold by THP Insurance Company, Inc. (THP) or any successor insurance company to THP, which is unrelated to the Fedeli Group, Inc. (Fedeli Group or the Applicant), including any entity related to Fedeli Group to provide medical and hospital coverage to participants in the Fedeli Group, Inc. Employee Benefits Plan (the Benefit Plan) (these covered transactions are referred to as the Captive Reinsurance Arrangement) provided that the conditions set forth in Section II are met.

Section II. Conditions

(a) All of the savings from the Captive Reinsurance Arrangement will be used to reduce the amount that each Benefit Plan participant is required to contribute toward the premium the

[2] The Department notes that it did not make any changes to the operative text of the proposed exemption in this final grant notice except for minor editorial revisions.

Benefit Plan pays to THP or another fronting insurer. The cost savings will be determined relative to the reasonable cost the Benefit Plan would otherwise have paid for comparable benefits pursuant to a non-captive arrangement with an unrelated, third-party insurer. In no year will the reduction in Benefit Plan participant contributions be less than $2,023.20 per participant per year. The premium reduction will benefit all Plan participants equally and will be verified by the Independent Fiduciary as described below.

(b) Benefit Plan participant contributions will be further reduced by an amount equal to any net benefit (the Extra Benefit) any Fedeli Group entity received that is directly or indirectly generated by the Captive Reinsurance Arrangement over each five-year period, the first of which begins on the grant date this exemption is granted. Extra Benefits include, but are not limited to, increased earned income, increased savings, a tax reduction or a profit or any benefit arising from a further diversification of Risk Specialist's risks in connection with adding Plan-related insurance risks to Risk Specialist's other risks. The reduction will be received by Benefit Plan participants on a pro rata basis in the year following the five-year period to which the Extra Benefit relates; plus an additional interest payment on the amount of the Extra Benefit at the Internal Revenue Code's federal underpayment rate established in Code section 6621(b). The interest on the Extra Benefit will be calculated for the period from the end of the Benefit Plan year the Extra Benefit was earned through the start of the Benefit Plan year in which the Extra Benefit is applied to reduce Benefit Plan participants' contributions.

(c) Benefit Plan participants will contribute no more than 17.38% of the premium paid by the Benefit Plan to THP or another fronting insurer.

(d) *Risk Specialists:*

(1) Is a party in interest with respect to the Benefit Plan by reason of a stock affiliation with Fedeli Group that is described in ERISA section 3(14)(E) or (G);

(2) Is licensed to sell insurance or conduct reinsurance operations in the state of Tennessee;

(3) Has obtained a Certificate of Authority from the insurance commissioner of the State of Tennessee to transact the business of a captive insurance company, which has neither been revoked nor suspended, and has undergone a financial examination (within the meaning of the law of its domiciliary State, Tennessee) by the Insurance Commissioner of the State of Tennessee within five years before the end of the year preceding the year in which the reinsurance transaction occurred;

(4) Has undergone and shall continue to undergo an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction covered by this exemption; and

(5) Is licensed to conduct reinsurance transactions by a state whose law requires that an actuarial review of reserves be conducted annually by an independent firm of actuaries and reported to the appropriate regulatory authority.

(e) The Benefit Plan will pay no more than adequate consideration with respect to insurance that is part of the Captive Reinsurance Arrangement.

(f) No commissions will be paid by the Benefit Plan with respect to the direct sale of such contracts or the reinsurance thereof.

(g) In the initial year of any contract involving Risk Specialists and THP or any successor insurer, the Benefit Plan's participants and beneficiaries will receive an immediate and objectively determined benefit in the form of decreased participant contributions, and such benefits will continue in all subsequent years of each contract and in every renewal of each contract.

(h) In the initial year and in subsequent years of coverage provided by THP or another fronting insurer (either, a Fronting Insurer), the formulae used by THP or a Fronting Insurer to calculate premiums will be similar to formulae used by other insurers providing comparable life insurance coverage under similar programs that are not captive reinsured. Furthermore, the premium charges calculated in accordance with the formulae will be reasonable and will be comparable to the premiums charged by the Fronting Insurer and its competitors with the same or a better financial strength rating providing the same coverage under comparable programs that are not captive reinsured.

(i) Fedeli Group will only contract with insurers with a financial strength rating of ''A'' or better from A.M. Best Company. The reinsurance arrangement between any fronting insurer and Risk Specialists will be indemnity insurance only, which means that the fronting insurer will not be relieved of any liability to the Benefit Plan should Risk Specialists be unable or unwilling to cover any liability arising from the reinsurance arrangement.

(j) Participants and beneficiaries in the Benefit Plan will receive no less than the immediate and objectively determined increased benefits the participant and beneficiary received in the initial year of each such contract involving Risk Specialists and THP in subsequent years of every contract of reinsurance involving Risk Specialists and THP.

(k) For each taxable year of Risk Specialists, the gross premiums received in that taxable year by Risk Specialists for benefit insurance provided to Fedeli Group and its employees with respect to which Risk Specialists is a party in interest by reason of the relationship to Fedeli Group as described in ERISA section 3(14)(E) or (G), will not exceed 50% of the gross premiums received for all lines of insurance (*i.e.,* benefit insurance and non-benefit insurance) in that taxable year by Risk Specialists.

(l) The Benefit Plan will retain a qualified independent fiduciary (the Independent Fiduciary) to analyze the transactions covered by the exemption and render an opinion that the terms and conditions of this exemption have been satisfied.

(m) The Independent Fiduciary will:

(1) Monitor the transactions described here on behalf of the Benefit Plan on a continuing basis to ensure such transactions remain in the interest of the Benefit Plan;

(2) Take all appropriate actions to safeguard the interests of the Benefit Plan;

(3) Enforce compliance with all conditions of this exemption and all conditions and obligations imposed on any party dealing with the Benefit Plan;

(4) Review all contracts, and any renewals of such contracts, pertaining to the Captive Reinsurance Arrangement, to determine whether the requirements of this exemption, and the terms of the increased benefits continue to be satisfied; and

(5) Provide an annual, certified report to the Department, under penalty of perjury, indicating whether the terms and conditions of the exemption continue to be satisfied. Each report will be completed within six months after the end of the twelve-month period to which it relates (the first twelve-month period begins on the first day of the implementation of the Captive Reinsurance Arrangement), and be submitted to the Department within 60 days thereafter. The relevant report will include all the objective data necessary to demonstrate that the Primary Benefit Test has been met.

(n) The Benefit Plan, Fedeli Group and its related parties have not, and will not, indemnify the Independent Fiduciary, in whole or in part, for negligence and/or for any violations of state or federal law that may be attributable to the Independent Fiduciary in performing its duties under the Captive Reinsurance Arrangement. In addition, no contract or instrument will purport to waive any liability under state or federal law for any such violations. In the event a successor Independent Fiduciary is appointed to represent the interests of the Plan with respect to the subject transaction, no time shall elapse between the resignation or termination of the former Independent Fiduciary and the appointment of the successor Independent Fiduciary.

(o) No Fedeli Group entity or related entity will use participant-related data or information generated by or derived from the proposed arrangement in a manner that benefits the Fedeli Group or related entity.

(p) No amount of THP's reserves that are attributable to the Plan participants' contributions will be transferred to Fedeli Group or a related party.

(q) Fedeli Group will not evade the conditions in this exemption by offsetting or reducing any benefits provided to Fedeli Group employees to defray the costs, expenses, or obligations of complying with this exemption.

(r) All expenses associated with the exemption and the exemption application, including any payment to the Independent Fiduciary, will be paid by Fedeli Group and not the Plan.

(s) All the material facts and representations set forth in the Summary of Facts and Representation are and will be true and accurate at all times.

Exemption date: This exemption will be in effect on November 26, 2024.

Signed at Washington, DC.

George Christopher Cosby,

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

[FR Doc. 2024–27630 Filed 11–25–24; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Characteristics of the Insured Unemployed

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before December 26, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This report is the only source of current, consistent demographic information (age, race/ethnic, sex, occupation, industry) on the Unemployment Insurance (UI) claimant population. These characteristics identify important claimant cohorts for legislative, economic and social planning purposes, and evaluation of the UI program on the Federal and State levels. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 9, 2024 (89 FR 39649).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Characteristics of the Insured Unemployed.

OMB Control Number: 1205–0009.

Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 636.

Total Estimated Annual Time Burden: 426 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–27629 Filed 11–25–24; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–24–2025; NARA–2025–009]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by January 13, 2025.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: *https://www.regulations.gov/docket/NARA-24-0025/document.* This is a direct link to the schedules posted in the docket for this notice on regulations.gov. You may