Department of Labor's List of Goods Produced by Child Labor or Forced Labor.

The Department invites public comment on whether these products (and/or other products, regardless of whether they are mentioned in this Notice) should be included on or removed from the revised List of products requiring federal contractor certification as to the use of forced or indentured child labor. To the extent possible, comments provided should address the criteria for inclusion of a product on the List contained in the Procedural Guidelines discussed above. The Department is also interested in public comments relating to whether products initially determined to be on the List are designated with appropriate specificity and whether alternative designations would better serve the purposes of EO 13126.

The bibliography providing the preliminary basis for adding hand-woven textiles from Ethiopia on the List and additional documentation on the removal of charcoal from Brazil are available on the Internet at *http://www.dol.gov/ILAB/regs/eo13126/main.htm.*

As explained, following receipt and consideration of comments on the revised List set out above, the Department of Labor, in consultation and cooperation with the Departments of State Homeland Security, will issue a final determination in the **Federal Register.** The Department of Labor intends to continue to revise the List periodically, to add and/or delete products, as justified by new information.

Signed at Washington, DC, this 8th day of December, 2010.

Sandra Polaski,

Deputy Undersecretary, Bureau of International Labor Affairs.

[FR Doc. 2010–31213 Filed 12–15–10; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; Labor Advisory Committee for Trade Negotiations and Trade Policy

ACTION: Meeting notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiation and Trade Policy.

Date, Time, Place: January 12, 2011; 10 a.m.–11:30 a.m.; U.S. Department of Labor, Secretary's Conference Room, 200 Constitution Ave., NW., Washington, DC.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

FOR FURTHER INFORMATION, CONTACT: Gregory Schoepfle, Director, Office of Trade and Labor Affairs; *Phone:* (202) 693–4887.

Signed at Washington, DC, the 10th day of December, 2010.

Sandra Polaski,

Deputy Undersecretary International Affairs.

[FR Doc. 2010–31582 Filed 12–15–10; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Prohibited Transaction Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of Individual Exemptions.

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

This notice includes the following: 2010–31, Deutsche Asset Management (UK) Limited, D–11495; 2010–32, Sherburne Tele Systems, Inc. Amended and Restored Stock Ownership Plan and Trust (the "ESOP"), D–11569; 2010–33, Citigroup Global Markets, Inc. and Its Affiliates (together, CGMI or the Applicant), D–11573; and 2010–34, Retirement Plan for Employees of the Rehabilitation Institute of Chicago (the Plan), D–11585.

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

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

Statutory Findings

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

(a) The exemption is administratively feasible;

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

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

Deutsche Asset Management (UK) Limited (the Applicant), Located in London, England, a Wholly-Owned Subsidiary of Deutsche Bank AG, Located in Frankfurt, Germany, and Throughout the World

[Prohibited Transaction Exemption 2010–31; Exemption Application Number D–11495]

Exemption

Section I—Covered Transactions

The restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1)(A), (B), (D), and (E) of the Code, shall not apply to certain foreign exchange Hedging and

Administrative Conversion transactions that occurred between November 30, 2007 and May 30, 2008, inclusive, between the DB Torus Japan Master Portfolio (the Master Fund), in which the assets of a client employee benefit plan (the Client Plan) were invested, and Deutsche Bank AG, a party in interest with respect to the Client Plan, provided that the conditions contained herein are satisfied.

Section II—General Conditions

(a) The Foreign Exchange Transactions were executed solely in connection with the Master Fund's Hedging of the Japanese yen currency risk for its share classes denominated in U.S. dollars (USD), and for Administrative Conversions;

(b) At the time that the Foreign Exchange Transactions were entered into, the terms of such transactions were not less favorable to the Master Fund than the terms generally available in comparable arm's length Foreign Exchange Transactions between unrelated parties;

(c) Any Foreign Exchange Transactions authorized by Deutsche Asset Management (UK) Ltd. and executed by Deutsche Bank AG were not part of any agreement, arrangement, or understanding, written or otherwise, designed to benefit the foregoing entities or their Affiliates (collectively, Deutsche Bank), or any other party in interest;

(d) Prior to investing in DB Torus Japan Fund Ltd. (hereinafter the Feeder Fund, the vehicle through which investments in the Master Fund are effected), the fiduciary of the Client Plan received the offering memorandum for the Feeder Fund;

(e) The exchange rate used for a particular Foreign Exchange Transaction did not deviate by more than three percent (above or below) the interbank bid and asked rate for such currency at the time of such transaction, as displayed on an independent, nationally-recognized service that reports rates of exchange in the foreign currency market for such currency;

(f) Prior to the granting of this exemption concerning the subject Foreign Exchange Transactions, Deutsche Asset Management (UK) Ltd. reimbursed the Client Plan for its pro-rata share of: (1) The Spread on each Foreign Exchange Transaction subject to this exemption; and (2) Any fees charged by Deutsche Bank AG for executing the subject Foreign Exchange Transaction(s), plus interest at the applicable Internal Revenue Service (the Service) underpayment penalty rate up to the date of reimbursement;

(g) Within 30 days after taking the corrective action described in Section II(f) above, Deutsche Asset Management (UK) Ltd. provided the independent fiduciary of the Client Plan whose assets were involved in the Foreign Exchange Transactions with: (1) Written information, formulas, and/or other documentation sufficient to enable such fiduciaries to independently verify that the Plans have been reimbursed in accordance with the requirements of Section II(f) above; and (2) a copy of the Notice of Proposed Exemption (the Notice);

(h) Within 30 days after taking the corrective action described in Section II(f) above, Deutsche Asset Management (UK) Ltd. provided the Department with written documentation demonstrating that the foregoing reimbursements to the Client Plan were correctly computed and paid;

(i) Effective May 31, 2008, Deutsche Asset Management (UK) Ltd., in conjunction with the administrator of both the Master Fund and the Feeder Fund (together, the Funds), continuously monitors the percentage of total assets invested by benefit plan investors in the Funds so that, as of each acquisition or redemption of equity interests, Deutsche Asset Management (UK) Ltd. and the administrator of the Funds are able to verify whether equity participation in the Funds by benefit plan investors is not significant pursuant to section 3(42) of the Act and 29 CFR 2510.3–101;

(j) Deutsche Asset Management (UK) Ltd. maintains, or causes to be maintained, for a period of six years from the date of the transactions that are the subject of this exemption, the following records, as well as any other records necessary to enable the persons described in Section II(l) of this exemption, to determine whether the conditions of this exemption have been met:

(1) The account name;

(2) The trade and settlement dates of the subject foreign exchange Hedging and Administrative Conversion transactions;

(3) The USD/Japanese yen currency exchange rates for each covered transaction;

(4) The interbank bid and asked currency rates for USD/Japanese yen exchanges on Bloomberg or a similar independent service at the time of the transaction;

(5) The identification of the type of currency trade undertaken (whether spot or forward or other contractual trade);

(6) The amount of Japanese yen sold or purchased in the Hedging and Administrative Conversion transactions; and

(7) The amount of U.S. dollars exchanged for Japanese yen in the Hedging and Administrative Conversion transactions.

(k) The following are exceptions to the requirements of Section II(j):

(1) A separate prohibited transaction shall not be considered to have occurred solely because, due to circumstances beyond the control of Deutsche Asset Management (UK) Ltd. or its Affiliates, the records necessary to enable the persons described in Section II(l) to determine whether the conditions of the exemption have been met are lost or destroyed prior to the end of the six-year period; and

(2) No party in interest, other than Deutsche Asset Management (UK) Ltd. and its Affiliates, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the excise taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained for examination as required by Section II(l) below.

(l)(1) Except as provided in paragraph (2) of this Section II(l) and notwithstanding the provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to above in Section II(j) are unconditionally available for examination during normal business hours at their customary location to the following persons or an authorized representative thereof:

(i) Any duly authorized employee or representative of the Department or the Service;

(ii) The independent fiduciary of the Client Plan (or a duly authorized employee or representative of such fiduciary), or

(iii) Any participant or beneficiary of the Client Plan or any duly authorized employee of representative of a participant or beneficiary in such Client Plan.

(2) None of the persons described above in paragraphs (ii) and (iii) of Section II(l)(1) shall be authorized to examine trade secrets of Deutsche Bank or its Affiliates, or any commercial or financial information which is privileged or confidential.

(3) Should Deutsche Asset Management (UK) Ltd. refuse to disclose information to the persons described above in paragraphs (ii) and (iii) of Section II(l)(1) on the basis that such information is exempt from disclosure, Deutsche Asset Management (UK) shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the

Department may request such information.

Section III—Definitions

For purposes of this exemption:

(a) An "Affiliate" of Deutsche Asset Management (UK) Ltd. means:

(1) Any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such person or entity; (2) Any officer, director, partner, employee, or relative (as defined in section 3(15) of the Act) of such other person or entity; and (3) Any corporation or partnership of which such other person or entity is an officer, director, partner, or employee.

(b) The term "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "Client Plan" means an employee benefit plan, other than a plan sponsored by Deutsche Bank and its affiliates, as described in section 3(3) of the Act or section 4975(e)(1) of the Code that invested directly or indirectly in the Master Fund, and for which Deutsche Asset Management (UK) Ltd. or its affiliate served as an investment advisor.

(d) The term "Foreign Exchange Transaction" means the exchange of the currency of one nation for the currency of another nation, or a contract for such an exchange. The term foreign exchange transaction includes options contracts on such transactions.

(e) The term "Hedging" means a strategy used to offset the investment risk of future gains or losses resulting from anticipated fluctuations in the value of currency, such as an investor's decision to exchange foreign currency in anticipation of upward or downward movement in the value of that currency.

(f) The term "Administrative Conversions" means, with respect to foreign exchange transactions, those transactions necessary to effect (1) subscriptions, (2) redemptions, or (3) the payment of fees and expenses identified below:

(i) December 27, 2007 spot conversions in the total amount of $552,650 for management fees, incentive fees, administration fees and expenses, legal fees, the Funds' Board of Directors fees, the Funds' Conflict Advisory Board fees, translation services, and bank charges; and

(ii) January 30, 2008 spot conversions in the total amount of $554,637 for management fees, incentive fees, administration fees and expenses, legal fees, the Funds' Board of Directors fees, the Funds' Conflicts Advisory Board fees, translation services, and bank charges.

(g) The term "Spread" means the difference between (i) the rate at which the transaction occurred and (ii) the reported market price (*i.e.,* the interbank bid or asked price depending on the direction of the trade) at the time of the transaction as reflected by a "screen shot" taken from an independent pricing service.

Written Comments

1. The Notice of Proposed Exemption (the Notice), published in the January 19, 2010 issue of the **Federal Register** beginning at page 3067, invited all interested persons to submit written comments and requests for a hearing to the Department within forty-five (45) days of the date of its publication. In response, the Department received an extensive written comment from the Applicant regarding the content of the Notice. This comment, which was the only one received by the Department in connection with the Notice, suggested a number of clarifications and editorial adjustments to the operative language of Section I ("Covered Transactions"), Section II ("General Conditions"), and Section III ("Definitions") of the Notice, which are detailed below; those modifications suggested by the Applicant which the Department has determined to adopt are reflected in the text of this final grant (the Grant) of exemption. The Applicant's comment also requested certain clarifications to the text of the "Summary of Facts and Representations" section of the Notice, which are also generally described below. The Department notes that it did not receive any requests for a hearing from the Applicant or from any other person during the aforementioned 45-day comment period.

2. In its written comment, the Applicant expressed its view that the scope of exemptive relief proposed in Section I of the Notice for "foreign exchange hedging transactions" could be construed as limiting such relief to those spot and forward transactions directly related to the purpose of hedging currencies, while potentially excluding certain "administrative conversion" activities. The Applicant's comment explained that the term "administrative conversions" is intended to encompass those transactions necessary to effect: (i) Subscriptions (through the conversion of U.S. dollars (USD) to the Japanese yen, the Funds' base currency, as required by the terms of Class A of the Feeder Fund); (ii) redemptions out of the Funds' base currency and back into the currency required to be paid to investors (through the conversion of yen to USD as required by the terms of Class A of the Feeder Fund); or (iii) the payment of assorted fees and expenses (through the spot conversion of such expenses from yen to USD). Accordingly, the Applicant's comment requested that the Department insert the words "and administrative conversion" after the words "foreign exchange hedging" and before the word "transactions" in Section I of the Grant in order to clarify that exemptive relief extends to the administrative conversion activities necessary for the completion of the foreign exchange transactions. After due consideration of the Applicant's request, the Department agrees to the insertion of this clarifying language in this Grant.

The Applicant's comment further requested that a definition for the term "administrative conversions" in Section III(f) be made consistent with the various activities described in the previous paragraph; this revised definition would also reference the specific categories of fees and expenses incurred by the Funds with respect to certain spot conversions that occurred during the period of exemptive relief. In addition, the Applicant has requested that conforming adjustments to the text be made to Sections II(j)(2), II(j)(6), and II(j)(7) of the Grant by adding the term "administrative conversions" to each of these general conditions for relief, and that a reference to the administrative conversion activities described in Section III(f) be added at the conclusion of Section II(a). The Department agrees that each of these suggested insertions and adjustments would provide additional clarity and consistency to the text, and has, therefore, decided to incorporate each of the foregoing modifications. In this connection, the Department notes that the adoption of these adjustments should not be construed to mean that the Department is expressing an opinion herein as to whether the assessment of the various fees and expenses charged to the Funds in connection with the administrative conversion transactions were consistent with, or in violation of, the fiduciary requirements of Part 4 of Title I of the Act.

3. In its comment, the Applicant also requested that a number of references made in the text of the Notice to Deutsche Bank AG and/or its affiliates be adjusted and clarified in the final Grant. In this connection, the Applicant requested that the initial reference to "Deutsche Bank Asset Management (UK) Ltd. or its affiliates (collectively, Deutsche Bank)" in Section I of the Notice be deleted, and that the words

"Deutsche Bank AG" be substituted in lieu thereof. Concomitantly, the Applicant requested that the language of the general condition at Section II(c) should be amended to read: "Any foreign exchange transactions authorized by Deutsche Asset Management (UK) Ltd. and executed by Deutsche Bank AG were not part of any agreement, arrangement, or understanding, written or otherwise, designed to benefit Deutsche Bank, its affiliates, or any other party in interest." The Applicant further requested that all references to "Deutsche Bank" made in the Notice at Sections II(f), II(g), II(h), II(i), II(j), and II(k) of the Notice be deleted, and that the term "Deutsche Asset Management (UK) Ltd." be substituted in lieu thereof in each instance. After reviewing these suggested clarifications concerning references to Deutsche Bank entities, the Department has agreed to adopt each of these modifications in the text of the final Grant.

4. In its comment, the Applicant stated that a definition for the term "spread" be added to the text of Section III of the final Grant. According to the Applicant, "spread" means the difference between (i) the rate at which the transaction occurred and (ii) the reported market price (*i.e.,* the bid or asked price depending on the direction of the trade) at the time of the transaction as reflected by a "screen shot" taken from an independent pricing service. The Applicant commented that the screen shot provides an accurate reflection of the market price since the prices quoted on the screen shot depict the prices at the time a trade occurred. The Department concurs that the inclusion of such a definition would improve the clarity of the exemption, and accordingly has modified the definition at Section III(g) of the Grant.

5. In addition, the Applicant requested in its comment that the definition of "foreign exchange transaction" appearing at Section III(d) of the Notice be modified by adding similar language found in the definition of the same term that appears in the text of an administrative class exemption, PTE 94–20 (59 FR 51216, February 10, 1994). Section IV(a) of PTE 94–20 states that "a 'foreign exchange transaction' means the exchange of the currency of one nation for the currency of another nation, or a contract for such an exchange. The term foreign exchange transaction includes options contracts on foreign exchange transactions." The Applicant's comment further requested that the clause "including a synthetic contract" be added to this definition after the word "contract". In its comment, the Applicant equated the term "synthetic contract" with a "swap," which, according to the Applicant, is the economic equivalent of continuous currency forwards selling the yen for the USD, settling differences in cash and then putting the same trade on immediately at the close of each forward trade."

After due consideration of this request, the Department has determined to substitute, in Section III(d) of the Grant, the exact language defining a "foreign exchange transaction" found in Section IV(a) of PTE 94–20 in lieu of the definitional language contained in Section III(d) of the Notice; however, the Department declines to insert an additional "synthetic contracts" clause to the foregoing definition. In this regard, the Department is of the view that the exemptive relief provided in this Grant encompasses the various foreign exchange transactions activities described by the Applicant in its application, and that there is insufficient information on the record for the Department to determine the scope of the term "synthetic contracts" as they relate to foreign exchange transactions.

6. The Applicant's comment also suggested several additional modifications to the text of Section II(j) of the Notice. At Section II(j)(3), the Applicant requested that the words "on the trade and settlement dates" be deleted, and that the words "for each covered transaction" be substituted in lieu thereof in the final Grant. After due consideration, the Department agrees to this change. At Section II(j)(4), the Applicant also requested the deletion of the words "The high and low currency prices on Bloomberg or similar independent service on the dates of the subject transactions" and the substitution of language in the text of the Grant that would require the utilization of the interbank bid and asked currency rates for Japanese yen/USD exchanges on Bloomberg or a similar independent service at the time of the transaction. As described above in Item 4, the Applicant explained that it desires this modification because it believes that the currency rates at the time of the transaction are "a better indicator of market prices than the high and low for the day." The Department concurs, and adopts this substitution in Section II(j)(4) of the Grant. At Section II(j)(5), the Applicant requested the insertion of the words "or other contractual trade" after the word "forward" in the text of the final Grant. The Applicant explains in its comment that these "other contractual trades" represent "continuous currency forwards" in which yen are sold in exchange for the USD. After due consideration, the Department agrees to the Applicant's suggested modification at Section II(j)(5).

7. In its comment, the Applicant requested that the language contained in Section II(l)(1)(iii) of the Notice, which permits "[A]ny participant of beneficiary of such Client Plans or any duly authorized employee or representative of a participant or beneficiary in such Client Plans" to inspect the records required to be maintained by Deutsche Asset Management (UK) Ltd. pursuant to Section II(j) of the Grant, be deleted in its entirety from the text of the final Grant. In requesting this change, the Applicant's comment stated that the class of individuals comprising these participants and beneficiaries "could exceed tens of thousands of individuals, which could cause an extraordinary burden to the Applicant." The Applicant further stated that "[b]ecause any plan invested in the [Feeder] Fund was a defined benefit plan, we request that only plan fiduciaries (and the Department and Service) have access to the Applicant's records." After due consideration of this comment, the Department has determined not to adopt the Applicant's suggested modification. The Department is of the view that providing participants and beneficiaries with a right of inspection of records that are otherwise required to be maintained promotes transparency and is not onerous or burdensome. In this connection, the Department, on its own motion, has also determined to add a new Section II(l)(3) to the text of the final Grant which would require Deutsche Asst Management (UK) Ltd., in instances where it refuses to disclose the foregoing information to an independent plan fiduciary, participant, and/or beneficiary on the basis that such information is exempt from disclosure, to provide to such persons with a written notice advising them of the reasons for the refusal.

8. The Applicant's comment included additional recommendations for technical and clarifying changes. In this regard, the Applicant requested that the first reference to "Master Fund" made in Section II(d) of the Notice be deleted, and the words "Feeder Fund (and indirectly in the Master Fund through the Feeder Fund)" be substituted in lieu thereof. In response to the Applicant's suggestion, the Department has determined to clarify and reformulate the text of Section II(d) in the Grant by stating that, "[p]rior to investing in DB Torus Japan Fund Ltd. (hereinafter the Feeder Fund, the vehicle through which investments in the Master Fund are

effected), the fiduciary of each Client Plan received the offering memorandum for the Feeder Fund."

The Applicant also requested that the reference to "Applicant", found in Section III(a) of the Notice (which defines "affiliate") be deleted, and that the word "Deutsche Asset Management (UK) Ltd." be substituted in lieu thereof in the final Grant. In addition, the Applicant requested that the first reference to the "Applicant" in Section III(c) of the Notice (which defines the term "Client Plan") be deleted and the words "Deutsche Bank" be substituted in lieu thereof in the text of the Grant; similarly, the Applicant requested that the second reference to the "Applicant" in Section III(c) of the Notice be deleted, and the words "Deutsche Asset Management (UK) Ltd." be substituted in lieu thereof in the final Grant. Also, the Applicant requests that the text of Section III(c) of the Notice be further amended in the Grant by inserting the words "directly or indirectly" after the word "invested," and by deleting the words "and the Feeder Fund" after the words "Master Fund." After consideration of these clarifying modifications suggested by the Applicant, the Department has determined to adopt each of them in the text of the final Grant.

9. In its comment, the Applicant also requested several technical clarifications to the text of the Summary of Facts and Representations section of the Notice. The majority of these adjustments involved the systematic substitution in the text of the names of various Deutsche Bank entities in the same manner as the substitutions described in Items 3 and 8 above; other systematic modifications suggested by the Applicant involved the multiple additions of the term "administrative conversion" after each use of the words "foreign exchange hedging transaction" when referencing the scope of relief covered by the exemption. Accordingly, the Department herewith adopts the foregoing systemic, clarifying modifications suggested by the Applicant to the text of the Facts and Representations section of the Notice.

In addition, the Applicant requests that the Department amend the language contained in the penultimate sentence of the second paragraph of Representation 7 of the Notice by inserting the words "may have" before the phrase "caused a breach of the 25% limitation until approximately April 15, 2008." The Department has determined to adopt this suggested modification in order to maintain the internal consistency of the text of the Facts and Representations contained in the Notice.

The Department has also determined to make the following additional technical clarifications to the text of the Facts and Representations section of the Notice that were requested by the Applicant in its comment: Deleting the word "is" in line 8 of the first paragraph of Representation 1 and inserting in lieu thereof the words "until June 19, 2009 was"; inserting the word "indirectly" before the words "wholly-owned" in line 11 of the second paragraph of Representation 1; inserting the words "and that its subscription will be converted to yen, its redemptions will be converted to USD, and fees and expenses will be converted to the appropriate currency for the recipient" at the conclusion of the third sentence of Representation 4; inserting the words "in advance" before the words "the execution of currency trades" in the final sentence of Representation 4; inserting the words "bid or asked" before the phrase "rate available on these trades based on the aforementioned Bloomberg screen prints" in the final sentence of the first paragraph of Representation 8; substituting the word "subscriptions" in lieu of the word "investments" at the beginning of item (ii) at line 17 of Representation 9; inserting the words "any class of shares in" before the word "either" in item (v) of Representation 9; inserting the words "any class of shares" at the end of the final sentence of Representation 9; and inserting the words "at the same time" after the words "unrelated third party" in the second sentence of Representation 10.

10. The Department notes that, subsequent to the submission of the exemption application, the Applicant determined that only a single Client Plan was affected by the foreign exchange and administrative conversions covered by this exemption.[1] The Applicant also made a subsequent representation to the Department that no fees were charged by the Applicant's affiliates or other financial institutions for executing the exemption transactions; accordingly, there were no fees to add to the principal amount (i.e., the Spread on each Foreign Exchange Transaction subject to the exemption) in determining the interest component of the reimbursement owed to the Client Plan pursuant to Section II(f) of the exemption. In computing this interest component, the Applicant confirms that it utilized the Department's online Voluntary Fiduciary Correction Program (VFCP) calculator to arrive at the applicable Internal Revenue Service underpayment rate described in Section 5(b)(5) of the VFCP at 71 FR 20271 (April 19, 2006). The Applicant represents that, pursuant to Section II(g) of the exemption, a copy of the Notice was furnished to the independent fiduciary for the affected Client Plan on February 3, 2010. The Applicant further represents that, on September 9, 2010, in accordance with Section II(f) of the exemption, Deutsche Asset Management (UK) Ltd. paid the affected Client Plan $6,396.16, which amount included $741.20 in interest.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the text of the Notice at 75 FR 3067 (January 19, 2010).

FOR FURTHER INFORMATION CONTACT: Mr. Mark Judge of the Department, telephone (202) 693–8550. (This is not a toll-free number.)

Sherburne Tele Systems, Inc. 2008 Amended and Restated Employee Stock Ownership Plan and Trust (the "ESOP") Located in Big Lake, Minnesota

[Prohibited Transaction Exemption 2010–32; Exemption Application No. D–11569]

Exemption

The restrictions of sections 406(a)(1)(A) and (D) and 406(b)(1) and 406(b)(2) of the Act and the sanctions imposed under section 4975 of the Code, by reason of sections 4975(c)(1)(A), (D), and (E) of the Code, shall not apply to the sale by the ESOP of all its shares of common stock (the "ESOP Shares") in Sherburne Tele Systems, Inc. (the "Company") to the Company, a party in interest with respect to the ESOP, provided that the following conditions are satisfied:[2]

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

(b) The terms and conditions of the sale are at least as favorable to the ESOP as those that the ESOP could obtain in an arm's length transaction with an unrelated third party;

(c) The sales price is the greater of (i) $5.01 per share, or (ii) the fair market value of the ESOP Shares as of the date

[1] Section 404(a) of the Act requires, among other things, that the fiduciary of a plan act prudently, solely in the interests of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries when making investment decisions on behalf of a plan. In granting this exemption, the Department is expressing no opinion herein as to whether the fiduciary provisions of Part 4 of Title I of the Act have been satisfied.

[2] For purposes of this exemption, references to provisions of Title I in the Act, unless otherwise specified, should be read to refer also to the corresponding provisions of the Code.

of the sale, as determined by a qualified, independent appraiser (the appraiser);

(d) The sales proceeds received by the ESOP pursuant to the transaction are valued at a share price that is greater than the share price received by the non-ESOP shareholders;

(e) The benefits received by the members of the board of directors and officers of the Company pursuant to the board of directors awards program, the Company's phantom stock plan and retention plans, which were paid, coincident with the closing of the asset sale of the Company to Iowa Telecommunications Services, Inc. were reasonable;

(f) A qualified, independent fiduciary (the "Independent Fiduciary") for the ESOP was and is responsible for (i) reviewing the terms of the sale of the Company's assets; (ii) engaging the appraiser to value the ESOP Shares; (iii) reviewing and, if appropriate, approving the methodology used by the appraiser, to ensure that such methodology is properly applied in determining the fair market value of the ESOP Shares, to be updated as of the date of the sale; (iv) negotiating the terms of the sale of the ESOP Shares to the Company to ensure that the ESOP participants receive at least the fair market value of the ESOP Shares; (v) determining, and documenting in writing, whether the terms of the sale are fair and reasonable to the ESOP and whether it is prudent to proceed with the transaction; (vi) approving the transaction; and (vii) determining whether the transaction satisfies the criteria set forth in section 404 and section 408(a) of the Act;

(g) The ESOP pays no fees, commissions, or other expenses in connection with the sale (including the fees paid to the appraiser and the Independent Fiduciary), other than a one-time $500.00 escrow fee (as described in the notice of proposed exemption's Summary of Facts and Representations #10); and

(h) The proceeds from the sale are promptly forwarded to the ESOP's trust simultaneously with the transfer of the ESOP Shares to the Company.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 6, 2010 at 75 FR 47639.

Written Comments

No written comments were received by the Department with respect to the notice of proposed exemption.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 693–8557. (This is not a toll-free number.)

Citigroup Global Markets, Inc. and Its Affiliates (together, CGMI or the Applicant), Located in New York, New York

[Prohibited Transaction Exemption 2010–33; Exemption Application No. D–11573]

Exemption

Section I. Covered Transactions

A. The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective May 31, 2009, to the purchase or redemption of shares by an employee benefit plan, an individual retirement account (an IRA), a retirement plan for self-employed individuals (a Keogh Plan), or an individual account pension plan that is subject to the provisions of Title I of the Act and established under section 403(b) of the Code (the Section 403(b) Plan) (collectively, the Plans) in the Trust for Consulting Group Capital Markets Funds (the Trust), sponsored by MSSB in connection with such Plans' participation in the TRAK Personalized Investment Advisory Service (the TRAK Program).

B. The restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) and (F) of the Code, shall not apply, effective May 31, 2009, with respect to the provision of (i) investment advisory services by the Adviser or (ii) an automatic reallocation option as described below (the Automatic Reallocation Option) to an independent fiduciary of a participating Plan (the Independent Plan Fiduciary), which may result in such fiduciary's selection of a portfolio (the Portfolio) [3] in the TRAK Program for the investment of Plan assets.

This exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

(a) The participation of Plans in the TRAK Program is approved by an Independent Plan Fiduciary. For purposes of this requirement, an employee, officer or director of the Adviser and/or its affiliates covered by an IRA not subject to Title I of the Act will be considered an Independent Plan Fiduciary with respect to such IRA.

(b) The total fees paid to the Adviser and its affiliates will constitute no more than reasonable compensation.

(c) No Plan pays a fee or commission by reason of the acquisition or redemption of shares in the Trust.

(d) The terms of each purchase or redemption of Trust shares remain at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

(e) The Adviser provides written documentation to an Independent Plan Fiduciary of its recommendations or evaluations based upon objective criteria.

(f) Any recommendation or evaluation made by the Adviser to an Independent Plan Fiduciary is implemented only at the express direction of such Independent Plan Fiduciary, provided, however, that —

(1) If such Independent Plan Fiduciary elects in writing (the Election), on a form designated by the Adviser from time to time for such purpose, to participate in the Automatic Reallocation Option under the TRAK Program, the affected Plan or participant account is automatically reallocated whenever the Adviser modifies the particular asset allocation recommendation which the Independent Plan Fiduciary has chosen. Such Election continues in effect until revoked or terminated by the Independent Plan Fiduciary in writing.

(2) Except as set forth below in paragraph II(f)(3), at the time of a change in the Adviser's asset allocation recommendation, each account based upon the asset allocation model (the Allocation Model) affected by such change is adjusted on the business day of the release of the new Allocation Model by the Adviser, except to the extent that market conditions, and order purchase and redemption procedures, may delay such processing through a series of purchase and redemption transactions to shift assets among the affected Portfolios.

(3) If the change in the Adviser's asset allocation recommendation exceeds an increase or decrease of more than 10 percent in the absolute percentage allocated to any one investment medium (*e.g.,* a suggested increase in a 15 percent allocation to greater than 25 percent, or a decrease of such 15 percent allocation to less than 5 percent), the Adviser sends out a written notice (the Notice) to all Independent Plan Fiduciaries whose current investment allocation may be affected, describing the proposed reallocation and the date on which such allocation is to be

[3] For the avoidance of doubt, unless the context suggests otherwise, the term "Portfolio" includes the Stable Value Investments Fund, a collective trust fund established and maintained by First State Trust Company, formerly a wholly-owned subsidiary of Citigroup.

instituted (the Effective Date). If the Independent Plan Fiduciary notifies the Adviser, in writing, at any time within the period of 30 calendar days prior to the proposed Effective Date that such fiduciary does not wish to follow such revised asset allocation recommendation, the Allocation Model remains at the current level, or at such other level as the Independent Plan Fiduciary then expressly designated, in writing. If the Independent Plan Fiduciary does not affirmative 'opt out' of the new Adviser recommendation, in writing, prior to the proposed Effective Date, such new recommendation is automatically effected by a dollar-for-dollar liquidation and purchase of the required amounts in the respective account.

(4) An Independent Plan Fiduciary will receive a trade confirmation of each reallocation transaction. In this regard, for all Plan investors other than Section 404(c) Plan accounts (i.e., 401(k) Plan accounts), CGMI or MSSB, as applicable, mails trade confirmations on the next business day after the reallocation trades are executed. In the case of Section 404(c) Plan participants, notification depends upon the notification provisions agreed to by the Plan recordkeeper.

(g) The Adviser generally gives investment advice in writing to an Independent Plan Fiduciary with respect to all available Portfolios. However, in the case of a Plan providing for participant-directed investments (the Section 404(c) Plan), the Adviser provides investment advice that is limited to the Portfolios made available under the Plan.

(h) Any sub-adviser (the Sub-Adviser) that acts for the Trust to exercise investment discretion over a Portfolio is independent of Morgan Stanley, Inc. (Morgan Stanley), CGMI, MSSB and their respective affiliates (collectively, the Affiliated Entities).

(i) Immediately following the acquisition by a Portfolio of any securities that are issued by any Affiliated Entity, such as Citigroup or Morgan Stanley common stock (the Adviser Common Stock), the percentage of that Portfolio's net assets invested in such securities will not exceed one percent. However, this percentage limitation may be exceeded if—

(1) The amount held by a Sub-Adviser in managing a Portfolio is held in order to replicate an established third-party index (the Index).

(2) The Index represents the investment performance of a specific segment of the public market for equity securities in the United States and/or foreign countries. The organization creating the Index is:

(i) Engaged in the business of providing financial information;

(ii) A publisher of financial news information; or

(iii) A public stock exchange or association of securities dealers.

The Index is created and maintained by an organization independent of the Affiliated Entities and is a generally-accepted standardized Index of securities which is not specifically tailored for use by the Affiliated Entities.

(3) The acquisition or disposition of Adviser Common Stock does not include any agreement, arrangement or understanding regarding the design or operation of the Portfolio acquiring such Adviser Common Stock, which is intended to benefit the Affiliated Entities or any party in which any of the Affiliated Entities may have an interest.

(4) The Independent Plan Fiduciary authorizes the investment of a Plan's assets in an Index Fund which purchases and/or holds the Adviser Common Stock and the Sub-Adviser is responsible for voting any shares of Adviser Common Stock that are held by an Index Fund on any matter in which shareholders of Adviser Common Stock are required or permitted to vote.

(j) The quarterly investment advisory fee that is paid by a Plan to the Adviser for investment advisory services rendered to such Plan is offset by any amount in excess of 20 basis points that MSSB retains from any Portfolio (with the exception of the Money Market Investments Portfolio and the Stable Value Investments Portfolio for which neither MSSB nor the Trust will retain any investment management fee) which contains investments attributable to the Plan investor.

(k) With respect to its participation in the TRAK Program prior to purchasing Trust shares,

(1) Each Plan receives the following written or oral disclosures from the Adviser:

(A) A copy of the Prospectus for the Trust discussing the investment objectives of the Portfolios comprising the Trust, the policies employed to achieve these objectives, the corporate affiliation existing among the Adviser and its affiliates, and the compensation paid to such entities.[4]

(B) Upon written or oral request to the Adviser, a Statement of Additional Information supplementing the Prospectus which describes the types of securities and other instruments in which the Portfolios may invest, the investment policies and strategies that the Portfolios may utilize and certain risks attendant to those investments, policies and strategies.

(C) A copy of the investment advisory agreement between the Adviser and such Plan which relates to participation in the TRAK Program and describes the Automatic Reallocation Option.

(D) Upon written request of the Adviser, a copy of the respective investment advisory agreement between MSSB and

(E) the Sub-Advisers.

(F) In the case of a Section 404(c) Plan, if required by the arrangement negotiated between the Adviser and the Plan, an explanation by an Adviser representative (the Financial Advisor) to eligible participants in such Plan, of the services offered under the TRAK Program and the operation and objectives of the Portfolios.

(G) A copy of the proposed exemption and the final exemption pertaining to the exemptive relief described herein.

(2) If accepted as an investor in the TRAK Program, an Independent Plan Fiduciary of an IRA or Keogh Plan is required to acknowledge, in writing, prior to purchasing Trust shares that such fiduciary has received copies of the documents described above in subparagraph (k)(1) of this section.

(3) With respect to a Section 404(c) Plan, written acknowledgement of the receipt of such documents is provided by the Independent Plan Fiduciary (*i.e.,* the Plan administrator, trustee or named fiduciary, as the recordholder of Trust shares). Such Independent Plan Fiduciary is required to represent in writing to the Adviser that such fiduciary is (a) independent of the Affiliated Entities and (b) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(4) With respect to a Plan that is covered under Title I of the Act, where investment decisions are made by a trustee, investment manager or a named fiduciary, such Independent Plan Fiduciary is required to acknowledge, in writing, receipt of such documents and represent to the Adviser that such fiduciary is (a) independent of the Affiliated Entities, (b) capable of making

[4] The fact that certain transactions and fee arrangements are the subject of an administrative exemption does not relieve the Independent Plan Fiduciary from the general fiduciary responsibility provisions of section 404 of the Act. In this regard, the Department expects the Independent Plan Fiduciary to consider carefully the totality of the fees and expenses to be paid by the Plan, including any fees paid directly to MSSB, CGMI or to other third parties.

an independent decision regarding the investment of Plan assets and (c) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(l) Subsequent to its participation in the TRAK Program, each Plan receives the following written or oral disclosures with respect to its ongoing participation in the TRAK Program:

(1) The Trust's semi-annual and annual report including a financial statement for the Trust and investment management fees paid by each Portfolio.

(2) A written quarterly monitoring statement containing an analysis and an evaluation of a Plan investor's account to ascertain whether the Plan's investment objectives have been met and recommending, if required, changes in Portfolio allocations.

(3) If required by the arrangement negotiated between the Adviser and a Section 404(c) Plan, a quarterly, detailed investment performance monitoring report, in writing, provided to an Independent Plan Fiduciary of such Plan showing Plan level asset allocations, Plan cash flow analysis and annualized risk adjusted rates of return for Plan investments. In addition, if required by such arrangement, Financial Advisors meet periodically with Independent Plan Fiduciaries of Section 404(c) Plans to discuss the report as well as with eligible participants to review their accounts' performance.

(4) If required by the arrangement negotiated between the Adviser and a Section 404(c) Plan, a quarterly participant performance monitoring report provided to a Plan participant which accompanies the participant's benefit statement and describes the investment performance of the Portfolios, the investment performance of the participant's individual investment in the TRAK Program, and gives market commentary and toll-free numbers that enable the participant to obtain more information about the TRAK Program or to amend his or her investment allocations.

(5) On a quarterly and annual basis, written disclosures to all Plans of (a) the percentage of each Portfolio's brokerage commissions that are paid to the Affiliated Entities and (b) the average brokerage commission per share paid by each Portfolio to the Affiliated Entities, as compared to the average brokerage commission per share paid by the Trust to brokers other than the Affiliated Entities, both expressed as cents per share.

(m) The Adviser maintains or causes to be maintained, for a period of (6) six years, the records necessary to enable the persons described in paragraph (m)(1) of this section to determine whether the applicable conditions of this exemption have been met. Such records are readily available to assure accessibility by the persons identified in paragraph (1) of this section.

(1) Notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in the first paragraph of this section are unconditionally available at their customary location for examination during normal business hours by—

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

(ii) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(iii) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(iv) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(2) A prohibited transaction is not deemed to have occurred if, due to circumstances beyond the control of the Adviser, the records are lost or destroyed prior to the end of the six-year period, and no party in interest other than the Adviser is subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by sections 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (1) of this section.

(3) None of the persons described in subparagraphs (ii)–(iv) of section (m)(1) is authorized to examine the trade secrets of the Adviser or commercial or financial information which is privileged or confidential.

(4) Should the Adviser refuse to disclose information on the basis that such information is exempt from disclosure, the Adviser shall, by the close of the thirtieth (30th) day following the request, provide written notice advising that person of the reason for the refusal and that the Department may request such information.

Section III. Definitions

For purposes of this exemption:

(a) The term "*Adviser*" means CGMI or MSSB as investment adviser to Plans.

(b) The term "*Affiliated Entities*" means Morgan Stanley, CGMI, MSSB and their respective affiliates.

(c) The term "*CGMI*" means Citigroup Global Markets Inc. and any affiliate of Citigroup Global Markets Inc.

(d) An "*affiliate*" of any of the Affiliated Entities includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the Affiliated Entity. (For purposes of this subparagraph, the term "*control*" means the power to exercise a controlling influence over the management or policies of a person other than an individual);

(2) Any individual who is an officer (as defined in Section III(g) hereof), director or partner in the Affiliated Entity or a person described in subparagraph (d)(1);

(3) Any corporation or partnership of which the Affiliated Entity, or an affiliate described in subparagraph (d)(1), is a 10 percent or more partner or owner; and

(4) Any corporation or partnership of which any individual which is an officer or director of the Affiliated Entity is a 10 percent or more partner or owner.

(e) An "*Independent Plan Fiduciary*" is a Plan fiduciary which is independent of the Affiliated Entities and is either:

(1) A Plan administrator, sponsor, trustee or named fiduciary, as the recordholder of Trust shares under a Section 404(c) Plan;

(2) A participant in a Keogh Plan;

(3) An individual covered under (i) a self-directed IRA or (ii) a Section 403(b) Plan, which invests in Trust shares;

(4) A trustee, investment manager or named fiduciary responsible for investment decisions in the case of a Title I Plan that does not permit individual direction as contemplated by Section 404(c) of the Act; or

(5) A participant in a Plan, such as a Section 404(c) Plan, who is permitted under the terms of such Plan to direct, and who elects to direct, the investment of assets of his or her account in such Plan.

(f) The term "*MSSB*" means Morgan Stanley Smith Barney Holdings LLC, together with its subsidiaries.

(g) The term "*officer*" means a president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), or any other officer who performs a policymaking function for the entity.

Section IV. Effective date

This exemption is effective as of May 31, 2009 with respect to the Covered Transactions, the General Conditions and the Definitions that are described in Sections I, II and III.

Written Comments

The Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of proposed exemption on or before August 25, 2010. During the comment period, the Department received 13 telephone calls and 2 comment letters from participants or beneficiaries in Plans with investments in the TRAK Program, which concerned the commenters' difficulty in understanding the notice of proposed exemption or the effect of the exemption on the commenters' benefits. The Department also received one written comment from the Applicant, which concerned the correction of a publication error appearing in the operative language of Section II of the proposed exemption and the correction of a typographical error appearing in Representation 15 of the Summary of Facts and Representations (the Summary). The Department received no hearing requests during the comment period.

With respect to the operative language, the Applicant notes that the first two paragraphs of Section II, General Conditions read:

(a) The participation of Plans in the TRAK Program is

(b) Approved by an Independent Plan Fiduciary. For purposes of this requirement, an employee, officer or director of the Adviser and/or its affiliates covered by an IRA not subject to Title I of the Act will be considered an Independent Plan Fiduciary with respect to such IRA.

Accordingly, the Applicant requests that parenthetical "(b)" be deleted and the sentence fragments reproduced above be combined into a single paragraph following the parenthetical "(a)", and that the ensuing paragraphs in Section II be re-lettered for consistency. The Department concurs with the Applicant's requested correction of this publication error and it has revised Section II of the final exemption.

With respect to the Summary, the Applicant notes that, at the end of Representation 15, which describes revisions to the operative language of PTE 2009–12, the proposed exemption states that "a new definition of MSSB is added in Section III(f) to mean Morgan Stanley Smith Barney Holdings LLC, together with its affiliates." However, the Applicant points out that the definition of MSSB in Section III(f) of the proposed exemption includes the term "subsidiaries," rather than "affiliates." Accordingly, the Applicant requests that, at the end of Representation 15, the word "affiliates" be replaced with the word "subsidiaries," in order to be consistent with Section III(f) of the Definitions. The Department concurs and takes note of the foregoing revision to Representation 15 of the Summary.

After giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption, as described above. The complete application file is made available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, Room N–1513, 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 refer to the proposed exemption published in the **Federal Register** on June 11, 2010 at 75 FR 33344.

FOR FURTHER INFORMATION CONTACT: Warren Blinder of the Department, telephone (202) 693–8553. (This is not a toll-free number.)

Retirement Plan for Employees of the Rehabilitation Institute of Chicago (the Plan), Located in Chicago, Illinois

[Prohibited Transaction Exemption 2010–34; Application No. D–11585]

Exemption

Section I: Transactions

The restrictions of sections 406(a)(1)(B), 406(a)(1)(D), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(B) and 4975(c)(1)(D) of the Code,[5] shall not apply:

(1) To a series of interest-free Advances in the aggregate amount of $701,117 (the Advances or individually, an Advance), made to Hewitt Associates, LLC (Hewitt), the Pension Benefit Guaranty Corporation (PBGC), the Internal Revenue Service (the IRS), and Deloitte and Touche, LLP (Deloitte),[6] during the period from September 28, 2006, through June 2, 2009, by the Rehabilitation Institute of Chicago (RIC), for the purpose of paying ordinary operating expenses incurred on behalf of the Plan; and

(2) To the reimbursement to RIC by the Plan of such Advances made during the period from September 28, 2006, through June 2, 2009, in an aggregate amount not to exceed $701,117, where each such reimbursement occurred at least sixty (60) days but no more than 365 days after the date of each such Advance; provided that the conditions as set forth in section II of this exemption were satisfied.

Section II: Conditions

(1) During the period from September 28, 2006, through June 2, 2009, when RIC made each of the Advances and during the period at least sixty (60) days but no more than 365 days after the date of each such Advance, when the Plan reimbursed each such Advance, all of the requirements of Prohibited Transaction Exemption 80–26 (PTE 80–26), as amended, effective December 15, 2004,[7] were satisfied, except for the requirement in Section IV(f)(1) of PTE 80–26 that loans made on or after April 7, 2006, with a term of sixty (60) days or longer be made pursuant to a written loan agreement that contains all of the material terms of such loan;

(2) With regard to any reimbursement covered by this exemption, an independent, qualified auditor certifies that such reimbursement matches each of the Advances, during the period from September 28, 2006, through June 2, 2009, made by RIC to the Service Providers on behalf of the Plan; and such reimbursements were made by the Plan to RIC during the period at least sixty (60) days but no more than 365 days after the date of each such Advance;

(3) The Advances made by RIC to the Service Providers, during the period from September 28, 2006, through June 2, 2009, were for the payment of ordinary operating expenses of the Plan which were properly incurred on behalf of the Plan;

(4) Within ninety (90) days of the publication in the **Federal Register** of the final exemption for the transactions which are the subject of this exemption, RIC must refund to the Plan an amount equal to $74,555 (the Refund Amount), plus earning and interest. Such Refund Amount represents the total for certain reimbursements to RIC by the Plan in connection with payments by RIC to Monticello Associates Inc. (Monticello), Deloitte, the IRS, and the Department in the amounts, respectively of $55,500, $18,530, $375, and $150. Furthermore, RIC must refund to the Plan an additional amount attributable to lost earnings experienced by the Plan on the Refund Amount, and interest on such lost earnings, for the period from April 7, 2006, to the date upon which RIC has returned to the Plan the entire Refund Amount, the lost earnings on such Refund Amount, plus interest on such

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

[6] Hewitt, PBGC, IRS, and Deloitte are collectively referred to, herein, as the Service Providers.

[7] 71 FR 17917, April 7, 2006.

lost earnings. For the purpose of calculating the lost earnings on the Refund Amount due to the Plan, plus interest, on such lost earnings, RIC must use the Online Calculator for the Voluntary Fiduciary Correction Program [8] that appears on the Web site of the Employee Benefits Security Administration; and

(5) Within ninety (90) days of the publication in the **Federal Register** of the final exemption for the transactions which are the subject of this exemption, RIC must file a Form 5330 with the IRS and pay to the IRS all applicable excise taxes, and any interest on such excise taxes deemed to be due and owing with respect to the Refund Amount.

Effective Date: This exemption is effective, for each Advance to the Service Providers made by RIC from September 28, 2006, through June 2, 2009, and for reimbursements to RIC by the Plan of such Advances covered by this exemption.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within forty-four (44) days of the date of the publication of the Notice in the **Federal Register** on September 16, 2010. All comments and requests for a hearing were due by October 30, 2010.

During the comment period, the Department received three letters from the same commentator requesting a hearing. In addition, the Department received comment letters, and e-mails from seven (7) commentators. The concerns expressed by the commentators are summarized in the paragraph below.

Generally, the comments from commentators have been classified into the following categories: (1) Comments from individuals who misunderstood the subject transactions or requested an explanation of the subject transactions or requested confirmation that the subject transactions do not affect benefits under the Plan; and (2) a request for clarification from a commentator; and (3) a request for hearing from a commentator.

Comments Requesting Explanation

With respect to the first category of comments, it is represented that the applicant mailed to all interested persons copies of (1) the Notice, and (2) the supplemental statement required pursuant to the Department's Regulation section 29 CFR § 2570.43 which explained the facts and circumstances surrounding the subject transactions in a summary form. Based on the foregoing, the Department maintains that the applicant has provided a clear explanation and adequate notice regarding the subject transactions and should not be required to respond further to comment letters, and e-mails from commentators requesting further explanation.

Clarification From an Individual

With respect to the second category of comments, during the comment period, the Department did receive an e-mail dated October 6, 2010, from Wayne M. Lerner, DPH, FACHE, the President and CEO of Holy Cross Hospital in Chicago, Illinois. Mr. Lerner requests a clarification of the language, as set forth in the Summary of Facts and Representations on page 56572, column 2, lines 47–49 in the Notice. In this regard, the second and third sentences of representation no. 2 in the Notice read, as follows:

As of March 13, 2006, and at the start of the relevant period for which relief is requested in this proposed exemption, the members of the Committee, were: (a) Wayne M. Lerner, President and Chief Executive Officer of RIC; (b) Edward B. Case (Mr. Case), Executive Vice President and Chief Financial Officer of RIC; (c) Susan H. Cerletty, Executive Vice President, Clinical, of RIC and (d) Nancy Paridy, Esq. (Ms. Paridy), Senior Vice President of RIC and General Counsel to RIC. The following individuals have been members of the Committee, since December 1, 2007: (a) Joanne C. Smith, M.D., President and Chief Executive Officer of RIC, (b) Mr. Case, and (c) Ms. Paridy.

In Mr. Lerner's view it can be inferred from these two sentences that appeared in the Notice that the committee membership, as of March 13, 2006, was in place until a new committee was formed on December 1, 2007. Mr. Lerner points out that in fact, he resigned as President and CEO of the RIC on June 7, 2006, and that Ms. Cerletty left RIC in August of that same year. The Department concurs with Mr. Lerner's requested clarification.

Requests for Hearing

With regard to the third category of comments, the Department received three (3) letters from the same commentator requesting a hearing. In none of the comment letters did the commentator give a reason why a hearing should be held. As no material issues relating to the subject transaction were raised by the commentator during the comment period which would require the convening of a hearing, the Department has determined not to delay consideration of the final exemption by holding a hearing on application D–11585.

After giving full consideration to the entire record, including the written comments from the commentators, the Department has decided to grant the exemption, as described above. The complete application file, including the written comments from the commentators, is made available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, Room N–1513, 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 refer to the Notice published on September 16, 2010, at 75 FR 56568.

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

General Information

The attention of interested persons is directed to the following:

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

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

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the

[8] 70 FR 17516, April 6, 2005.

transaction which is the subject of the exemption.

Signed at Washington, DC, this 13th day of December 2010.

Ivan Strasfeld,

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

[FR Doc. 2010–31571 Filed 12–15–10; 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–11592, TD Ameritrade, Inc. (TD Ameritrade or the Applicant); and D–11638, Owens & Minor, Inc.; *et al.*

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.

TD Ameritrade, Inc. (TD Ameritrade or the Applicant) Located in Omaha, NE.

[Application No. D–11592]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[1]

SECTION I. SALES OF AUCTION RATE SECURITIES FROM PLANS TO TD AMERITRADE: UNRELATED TO A SETTLEMENT AGREEMENT

If the proposed exemption is granted, the restrictions of section 406(a)(1)(A) and (D) and section 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (D), and (E) of the Code, shall not apply, effective July 20, 2009, to the sale by a Plan (as defined in Section V(e)) of an Auction Rate Security (as defined in Section V(c)) to TD Ameritrade, where such sale (an Unrelated Sale) is unrelated to, is not made in connection with, and is entered into after the finalization of, a Settlement Agreement (as defined in Section V(f)), provided that the conditions set forth in Section II have been met.

SECTION II. CONDITIONS APPLICABLE TO TRANSACTIONS DESCRIBED IN SECTION I

(a) The Plan acquired the Auction Rate Security in connection with brokerage services provided by TD Ameritrade to the Plan;

(b) The last auction for the Auction Rate Security was unsuccessful;

(c) The Unrelated Sale is made pursuant to a written offer by TD Ameritrade (the Unrelated Offer) containing all of the material terms of the Unrelated Sale, including, but not limited to: (1) The identity and par value of the Auction Rate Security; (2) the interest or dividend amounts that are due with respect to the Auction Rate Security; and (3) the most recent information for the Auction Rate Security (if reliable information is available).

(d) The Unrelated Sale is for no consideration other than cash payment against prompt delivery of the Auction Rate Security;

(e) The sales price for the Auction Rate Security is equal to the par value of the Auction Rate Security, plus any

[1] For purposes of this proposed exemption, references to section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.