

exemption, a fiduciary of a plan will be deemed to be unrelated to, and independent of the Asset Manager and the Affiliated Broker-Dealer, if such fiduciary represents in writing that neither such fiduciary, nor any individual responsible for the decision to authorize or terminate authorization for the transactions described above, in Section I of this exemption, is an officer, director, or highly compensated employee (within the meaning of Code section 4975(e)(2)(H)) of the Asset Manager and the Affiliated Broker-Dealer, and represents that such fiduciary shall advise the Asset Manager within a reasonable period of time after any change in such facts occur.

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

(i) If such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Asset Manager or the Affiliated Broker Dealer;

(ii) If such fiduciary directly or indirectly receives any compensation or other consideration from the Asset Manager, or the Affiliated Broker-Dealer for his or her own personal account in connection with any transaction described in this exemption;

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

(3) The term, "officer," means a president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), or any other officer who performs a policy-making function for Columbia or any affiliate thereof.

(i) The term, "Securities," shall have the same meaning as defined in section 2(36) of the Investment Company Act of 1940 (the 1940 Act), as amended (15 U.S.C. 80a-2(36)(2001)). For purposes of this exemption, mortgage-backed or other asset-backed securities rated by

one of the Rating Organizations, as defined, below, in Section III(l), will be treated as debt securities.

(j) The term, "Eligible Rule 144A Offering," shall have the same meaning as defined in SEC Rule 10f-3(a)(4) (17 CFR 270.10f-3(a)(4)) under the 1940 Act).

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

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

(m) The term, "In-House Plan(s)," means an employee benefit plan(s) that is subject to the Act and/or the Code, and that is sponsored by the Applicant as defined, above, in Section III(a), or its affiliate, as defined in Section III(c), for its own employees.

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 December 22, 2009 at 74 FR 68110.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 693-8546. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

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

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

statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

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

Signed at Washington, DC, this 9th day of March 2010.

Ivan Strasfel,

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

[FR Doc. 2010-5535 Filed 3-12-10; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Application Nos. and Proposed Exemptions; D-11500, Carle Foundation Hospital & Affiliates Pension Plan; and Barclays California Corporation (Barcal); et al.

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).

Written Comments and Hearing Requests

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. 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.

ADDRESSES: 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.

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).

SUPPLEMENTARY INFORMATION: 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.

Carle Foundation Hospital & Affiliates Pension Plan; Located in Urbana, Illinois

[Application No. D-11500]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570 subpart B (55 FR 32836, 32847, August 10, 1990).

If the proposed exemption is granted, the restrictions in section 406(a)(1)(A) and (D) and section 406(b)(1) and (b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (D), and (E) of the Code, shall not apply to the sale of a certain limited partnership interest (the LPI) by the Carle Foundation Hospital & Affiliates Pension Plan (the Plan) to Carle Foundation Hospital (the Employer), a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(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 Plan as those that the Plan could obtain in an arm's length transaction with an unrelated third party;

(c) The sales price is the greater of: (1) The fair market value of the LPI as of the date of the sale, as determined by a qualified, independent appraiser, or (2) the Plan's total capital contributions as of the date of the sale, plus imputed earnings (calculated based upon the applicable one-month Treasury bill rates) from the date of the Plan's acquisition of the LPI to the date of the sale;

(d) The Plan pays no commissions, fees, or other expenses in connection with the sale; and

(e) The Plan fiduciaries review and approve the methodology used by the qualified, independent appraiser, ensure that such methodology is properly applied in determining the fair market value of the LPI, and also determine whether it is prudent to go forward with the proposed transaction.

Summary of Facts and Representations

1. The Carle Foundation Hospital & Affiliates Pension Plan (the Plan) is a money purchase pension plan sponsored by Carle Foundation Hospital

(the Employer), who is located in Urbana, Illinois. The Plan had approximately 2,361 participants and beneficiaries, as of November 13, 2009, and total net assets of approximately \$54,499,485, as of the same date. First Busey Trust & Investment Co. is the Plan's directed trustee.

The Plan historically did not allow participant-directed investments. Since the Plan's initial investment in the subject limited partnership interest (LPI), the Employer determined that it would be appropriate and in the best interests of the participants and beneficiaries to make the Plan a participant-directed plan under section 404(c) of the Act. Thus, the Plan was restructured to permit participant direction, effective March 1, 2008. In order to finalize this conversion to a participant-directed plan, the Plan must liquidate the LPI.

2. The LPI is an interest in the Pantheon USA Fund VII, L.P. (the Fund). The Fund is a limited partnership that invests in private equity funds (*i.e.*, a "fund of funds"). The Fund's objective is to generate superior, risk-adjusted returns for its investors through a diversified portfolio of leveraged buyout, venture capital, and special situation funds. According to the applicant, the Plan made a \$1,500,000 commitment to the Fund in December 2006.¹ As of September 14, 2009, the Plan's capital contributions to the Fund totaled \$457,500.²

Pantheon Ventures, Inc. (Pantheon) is the Fund's investment adviser. It is represented that the fees charged by the Fund are based on a percentage of the capital commitment made by investors to the Fund; the Plan is currently paying a fee of 0.75%. The terms of the Fund provide that the Fund will continue for thirteen years from the date of its first investment, which was made in May 2006, and may be extended for up to three additional years. Furthermore, the Plan may not sell or otherwise transfer its LPI to another investor without the written consent of Pantheon (acting as

¹ The Department expresses no opinion herein as to whether the acquisition and holding of the LPI by the Plan meets the requirements of Part 4 in Title I of the Act.

² According to the applicant, the Employer has made a \$15,000,000 commitment to the Fund, with capital contributions to the Fund totaling \$4,575,000, as of September 14, 2009. It is represented that the decision to purchase an interest in the Fund on behalf of the Plan was a decision made independently of the Employer's decision to purchase its own interest in the Fund; thus, according to the applicant, there was no agreement, arrangement, or understanding that the Plan's investment would be a means of enabling the Employer or any other Plan fiduciary to invest in the Fund or otherwise use the Plan's assets in a manner designed to benefit such fiduciary.

manager of the Fund's General Partner, PUSA VII GP, LLC).

The Plan's investment adviser, Summit Strategies Group (Summit), consulted with Pantheon, and communicated information regarding the limited secondary market for the LPI to the Employer. Therefore, the Employer proposes to purchase the LPI from the Plan.³ However, the Carle Pension Plan Administrative Committee (the Plan Committee) will make the ultimate determination whether or not to sell the Plan's LPI to the Employer; the Plan Committee is a named fiduciary of the Plan, along with the Employer's Board of Directors, which monitors the Plan Committee.

3. The LPI was appraised for the Plan Committee by Andrew S. Ward, Managing Director, and Mark F. Fournier, Director, of Stout Risius Ross, Inc. (SRR), consistent with the standards of Financial Accounting Standard (FAS) 157, Fair Value Measurements, which is effective for financial statements issued for fiscal years beginning after November 15, 2007.⁴ The applicant represents that SRR is a qualified, independent appraiser located in Chicago, Illinois. SRR is a financial advisory firm that specializes in investment banking, valuation and financial opinions, and dispute advisory and forensic services. SRR represents that it has considerable experience providing valuation opinions of private equity funds, hedge funds, and similar private companies. It is represented that SRR is not related to, and has no interest in, the Employer or an affiliate thereof and that less than 1% of SRR's gross annual income is derived from the Employer or an affiliate thereof.

SRR's valuation report of September 11, 2009 states that the principal sources of information used to estimate the fair market value of the LPI included, but were not limited to:

- The Fund's Limited Partnership Agreement, dated April 28, 2006;

³ Because the Fund was closed to new investors as of June 29, 2007, Pantheon would need to grant a special waiver of the required \$10 million commitment to any unrelated purchaser who is not already invested in the Fund. Pantheon has expressed a strong preference that the purchaser of the Plan's LPI be an investor already invested in the Fund. Summit has not identified any investors, other than the Employer, whose stated investment goals would be consistent with purchasing the Plan's LPI without a discount. The Department notes that no relief is being provided in this proposed exemption beyond the Plan's sale of the LPI to the Employer for any additional prohibited transactions, if any, that may have occurred as a result of co-investing in the same Fund by the Plan and the Employer.

⁴ FAS 157 provides guidance for measuring the fair value of assets and liabilities, including hard-to-value alternative investments.

- The Fund's financial statements for the year ended December 31, 2008, audited by PriceWaterhouseCoopers;

- The Fund's Investment Adviser's Report for the quarter ending March 31, 2009;

- The Fund's Private Placement Memorandum, dated March 2006;

- Discussions with Pantheon representatives concerning the assets and liabilities held by the Partnership; and

- Public information regarding market evidence of lack of control and lack of marketability discounts.

Regarding SRR's valuation methodology, the report states that several valuation approaches were considered, including a Market Approach, an Income Approach, and an Asset Approach. SRR relied primarily on a Market Approach, a valuation technique whereby the value of the subject company is calculated based on the prices of actual transactions for similar companies. These observations make it possible to determine the value of shares that have no active market. This can be accomplished via either the Guideline Public Company Method or the Merger and Acquisition Method. SRR used the Guideline Public Company Method, a valuation technique whereby the value of a company is estimated by comparing it to similar public companies. SRR states that if the Fund were publicly traded, a Marketable, Non-controlling Interest Value of Equity in the Fund as a whole was estimated to be \$440,000,000. They then calculated the Plan's 0.07% interest in the Fund ($\$440,000,000 \times 0.0007 = \$308,000$) and subtracted a 20% discount for lack of marketability ($\$308,000 \times 0.20 = \$62,000$) to arrive at a fair market value of \$246,000 for the LPI ($\$308,000 - \$62,000 = \$246,000$), as of August 31, 2009.

4. The Employer proposes to pay the Plan the greater of: (1) The fair market value of the LPI as of the date of the sale, as determined by SRR, or (2) the Plan's total capital contributions, as of the date of the sale, plus imputed earnings (based upon the applicable one-month Treasury bill rates) from the date of the Plan's acquisition of the LPI to the date of the sale. As of September 14, 2009, the Plan's capital contributions totaled \$457,500 and imputed earnings were calculated to be \$9,241. These amounts will be updated to reflect any additional capital contributions made to the Fund and earnings through the date of the actual sale.

The applicant represents that the sale of the Plan's LPI to the Employer is in the best interests of the Plan because it

will enable the Plan to recoup its investment in the LPI, as well as realize a reasonable gain on investment. In addition, the continued holding of the LPI by the Plan following its conversion to a participant-directed Plan imposes a significant recordkeeping burden on the Plan.

The sale of the LPI will be a one-time transaction for cash, and the Plan will incur no fees, commissions, or other expenses in connection with the sale. The Plan Committee will review and approve the methodology used by SRR and ensure that such methodology is properly applied in determining the fair market value of the LPI. The Plan Committee will also make the decision whether or not to proceed with the proposed sale of the LPI to the Employer; if the Plan Committee decides to proceed, it will have SRR update its valuation of the LPI as of the date of the sale.

The Employer is bearing the costs of the exemption application, the appraisal of the LPI, and notification of interested persons.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (a) The sale will be a one-time transaction for cash; (b) the terms and conditions of the sale will be at least as favorable to the Plan as those that the Plan could obtain in an arm's length transaction with an unrelated third party; (c) the sales price will be the greater of: (1) The fair market value of the LPI as of the date of the sale, as determined by a qualified, independent appraiser, or (2) the Plan's total capital contributions as of the date of the sale, plus imputed earnings (calculated based upon the applicable one-month Treasury bill rates) from the date of the Plan's acquisition of the LPI to the date of the sale; (d) the Plan will pay no commissions, fees, or other expenses in connection with the sale; and (e) the Plan Committee will review and approve the methodology used by SRR, ensure that such methodology is properly applied in determining the fair market value of the LPI, and also determine whether it is prudent to go forward with the proposed transaction.

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

**Barclays California Corporation
(Barcal); Located in San Francisco,
California**

Exemption Application Number D-11527

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 Internal Revenue Code of 1986, as amended (the Code), and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).⁵

If the proposed exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act, section 8477(c)(2) of the Federal Employees' Retirement System Act of 1986, as amended (FERSA), and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective September 4, 2008, to the cash sales (the Sales) by the Barclays Global Investors "Money Market Fund" and "Cash Equivalent Fund II," which are short-term collective investment funds (STIFs) managed or maintained by Barclays Global Investors, N.A. (BGI), of certain short-term debt instruments (the Notes) to Barcal, provided that the following conditions are met:

(a) The Sales were one-time transactions for cash payment made on a delivery versus payment (*i.e.*, same day) basis in the amount described in paragraph (b);

(b) The STIFs received an amount equal to the greater of:

(1) The amortized cost (including accrued and unpaid interest) of the Notes, determined as of the dates of the Sales, or

(2) The fair market value (including accrued and unpaid interest) of the Notes, determined by an independent third party source;

(c) The STIFs did not bear any commissions, transaction costs or other expenses in connection with the Sales;

(d) The terms and conditions of the Sales were at least as favorable to the STIFs as those available in an arm's-length transaction with an unrelated party.

(e) BGI, as fiduciary of the STIFs, determined that the Sales were in the best interest of the STIFs and any

employee benefit plans (the Plans) invested in the STIFs as of the dates of the Sales.

(f) BGI took all appropriate actions necessary to safeguard the interests of the STIFs and any Plans invested in the STIFs in connection with the Sales.

(g) If the exercise of any of Barcal's rights, claims, or causes of action in connection with its ownership of the Notes results in Barcal recovering from the issuer of the Notes, or from any third party, an aggregate amount that is more than the sum of:

(1) The purchase price paid for such Notes by Barcal; and

(2) The interest due on the notes from and after the date Barcal purchased the Notes from the STIFs,

Barcal will refund such excess amount promptly to the STIFs (after deducting all reasonable expenses incurred in connection with the recovery).

(h) BGI maintains, or causes to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the persons described below in paragraph (i)(1), to determine whether the conditions of this exemption have been met, except that—

(1) No party in interest with respect to a Plan which engages in the covered transactions, other than BGI and its affiliates, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by paragraph (i)(1);

(2) A separate prohibited transaction shall not be considered to have occurred solely because due to circumstances beyond the control of BGI, such records are lost or destroyed prior to the end of the six-year period.

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

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission; or

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

(C) Any employer of participants and beneficiaries and any employee organization whose members are covered by a Plan that engages in the

covered transactions, or any authorized employee or representative of these entities; or

(D) Any participant or beneficiary of a Plan that engages in a covered transaction, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in paragraph (i)(1)(B)–(D) shall be authorized to examine trade secrets of BGI, or commercial or financial information which is privileged or confidential; and

(3) Should BGI refuse to disclose information on the basis that such information is exempt from disclosure, BGI 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.

Effective Date: This proposed exemption, if granted, will be effective September 4, 2008.

Summary of Facts and Representations

1. BGI is a national banking association headquartered in San Francisco, California. BGI serves as fiduciary investment manager for employee benefit plans invested in separately managed accounts and pooled funds. BGI also manages certain assets for the Federal Thrift Savings Plan established pursuant to the provisions of FERSA. As of June 2008, BGI and its worldwide investment advisory affiliates had over \$1.9 trillion in assets under management. BGI is a wholly owned subsidiary of Barcal, and an indirect majority-owned subsidiary of Barclays Bank PLC, a British bank.⁶

2. The pooled funds managed or maintained by BGI include short-term collective investment funds (STIFs). The STIFs generally invest in short-term investments of high quality and low risk, with the goal of protecting capital while securing a return better than a relevant benchmark, such as three-month LIBOR. STIF investments include cash, as well as bank notes, corporate notes, government bills and other relatively safe short-term debt instruments. Employee benefit plans, including the Federal Thrift Savings Plan (collectively, the Plans), may invest in the STIFs.

3. STIFs managed or maintained by BGI purchased notes issued by a structured investment vehicle (SIV) called Whistlejacket Capital Ltd. (Whistlejacket).⁷ SIVs are off-balance-

⁵ 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.

⁶ As of December 1, 2009, BGI became a wholly-owned subsidiary of BlackRock, Inc.

⁷ In June 2007, Whistlejacket Capital, LLC, White Pine Corp. Ltd., and White Pine Finance, LLC

sheet vehicles that issue short and medium-term debt to finance their purchase of longer-term assets, including collateralized debt obligations. Many SIVs, including Whistlejacket, have lost significant value in the current credit crisis because the value of their underlying assets has dropped and investors who have bought their short-term debt have left the market. Whistlejacket is not managed or sponsored by or affiliated with Barcal or BGI or any of their affiliates (collectively, the Applicant).

4. In February 2008, the market value of Whistlejacket's assets less its senior liabilities fell to less than half the amount of its capital, which triggered the appointment of a receiver on February 11, 2008. On February 12, 2008, two nationally-recognized statistical rating organizations downgraded short-term senior debt instruments issued by Whistlejacket (the Notes). On February 21, 2008, Whistlejacket began defaulting on the Notes. The Notes have dropped significantly in value.

5. In September 2008, Barcal purchased the Notes from the STIFs to eliminate the negative impact of the Notes on the STIFs' net asset value. As consideration for the Notes, Barcal paid the greater of: (a) The amortized cost (including accrued and unpaid interest) of the Notes, as of the dates of the Sales, or (b) the fair market value (including accrued and unpaid interest) of the Notes, as of the dates of the Sales, determined by an independent third party source. The Sales were on a "delivery versus payment" (*i.e.*, same day) basis in immediately available United States dollars. The STIFs incurred no commission or transaction costs in connection with the Sales. BGI represents that it determined that the Sales were in the best interest of the STIFs and any employee benefit plans (the Plans) invested in the STIFs, and that it took all appropriate actions necessary to safeguard the interests of the STIFs and the Plans. BGI represents that it will maintain all the records necessary to explain the transactions described herein for at least six years, and will make those records available to the Department and to the named fiduciary of each affected Plan.

6. The Applicant represents that there were three Notes purchased by Barcal from two different STIFs. On September 19, 2008, Barcal purchased \$15,000,000 of White Pine Finance LLC debt, CUSIP

merged into Whistlejacket. The applicant requests that the exemption proposed herein apply to the purchase by Barcal of securities issued by Whistlejacket or any of the merged entities or their predecessors.

96432XKD4 from the Money Market Fund, with an acquisition price of 99.99961824. The maturity date on the Note was September 26, 2008. There were no bids in the market for these securities, and the Applicant's internal committee which prices those assets which cannot otherwise be priced estimated a fair market value for the Note of 93.0539. The Receiver for the Issuer of the Note, which is unrelated to Barcal, valued the Note at 95.1225.

The second STIF that was involved was Cash Equivalent Fund II (CEFII). On September 4, 2008, Barcal purchased \$40,000,000 of Whistlejacket Capital, LLC debt, CUSIP 96335WFT5, from CEFII, with an acquisition price of 99.9997822. The maturity date on the Note was September 8, 2008. There were no bids in the market for these securities, and the Applicant's internal committee which prices those assets which cannot otherwise be priced estimated a fair market value for the Note of 93.5312. The Receiver for the Issuer of the Note, which is unrelated to Barcal, valued the Note at 96.2597.

On September 19, 2008, Barcal purchased \$135,000,000 of White Pine Finance LLC debt, CUSIP 96432XKD4, from CEFII, with an acquisition price of 99.99961824. The maturity date on the Note was September 26, 2008. There were no bids in the market for these securities, and the Applicant's internal committee which prices those assets which cannot otherwise be priced estimated a fair market value for the Note of 93.0539. The Receiver for the Issuer of the Note, which is unrelated to Barcal, valued the Note at 95.1225.

With respect to all three purchases, the Applicant represents that the price paid by Barcal was the amortized cost of the Note plus accrued interest. The Applicant represents that all three Sales took place within a week of the maturity date of the Notes because, within the judgment of BGI, the timing of the Sales maximized the value for the STIFs and did not result in the STIFs holding a defaulted Note.

7. The Applicant represents that if the exercise of any of Barcal's rights, claims, or causes of action in connection with its ownership of the Notes results in Barcal recovering from the issuer of the Notes, or from any third party, an aggregate amount that is more than the sum of:

(1) The purchase price paid for such Notes by Barcal; and

(2) The interest due on the Notes from and after the date Barcal purchased the Notes from the STIFs,

Barcal will refund such excess amount promptly to the STIFs (after deducting

all reasonable expenses incurred in connection with the recovery).

8. In summary, the Applicant represents that the transactions satisfied the statutory criteria of section 408(a) of the Act, section 4975(c)(2) of the Code and section 8477(c)(3) of FERSA because: (a) Each Sale was a one-time transaction for cash; (b) with respect to all three Sales, the price paid by Barcal was the amortized cost of the Note plus accrued interest, which was greater than the fair market value of the Note as determined by the Receiver for the issuer of the Note; (c) no STIF paid any commissions or other transaction expenses with respect to the Sales; (d) BGI took all appropriate actions necessary to safeguard the interests of the STIFs and any Plans invested in the STIFs in connection with the Sales; (e) the terms and conditions of the Sales were at least as favorable to the STIFs as those available in an arm's-length transaction with an unrelated party; (f) BGI determined that the Sales were in the best interest of the STIFs and any Plans invested in the STIFs as of the dates of the Sales; (g) BGI will maintain all the records necessary to explain the transactions described herein for at least six years, and will make those records available to the Department and to the named fiduciary of each affected Plan; and (h) Barcal will promptly refund to the STIFs any amount recovered from the issuer of the Notes or any third party in connection with the exercise of any rights, claims or causes of action resulting from its ownership of the Notes, if such amounts are in excess of:

(1) The purchase price paid for such Notes by Barcal; and

(2) The interest due on the Notes from and after the date Barcal purchased the Notes from the STIFs.

Notice to Interested Persons

The Applicant represents that because one of the STIFs was a sweep vehicle in which investing Plans changed over time, hundreds of Plans would need to be notified, at great additional expense to the Applicant, despite the fact that all the details of the Sales were disclosed in the STIFs' financial statements which were made available to all Plan clients at the end of the year of the transactions. Therefore, the only practical means of notifying participants and beneficiaries of such Plans of this proposed exemption is by the publication of this notice in the **Federal Register**.

Comments and requests for a hearing must be received by the Department not later than 30 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 693-8546. (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 of the Act and/or the Code, including any prohibited transaction 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

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

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

Signed at Washington, DC, this 9th day of March 2010.

Ivan Strasfeld,

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

[FR Doc. 2010-5536 Filed 3-12-10; 8:45 am]

BILLING CODE 4510-29-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10-026)]

NASA Advisory Council; Science Committee; Planetary Science Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Thursday, April 8, 2010, 8 a.m. to 5 p.m., and Friday, April 9, 2010, 8 a.m. to 3 p.m. EDT.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358-4452, fax (202) 358-4118, or mnorris@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

- Planetary Science Division Update
- Mars Exploration Program Update
- Reports From Program Analysis Groups
- Assessment of the Planetary Science Division Research and Analysis/ Supporting Research and Technology Activities
- Update on NRC Decadal Survey in Planetary Science
- Science Mission Directorate Science Plan

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 10 working days prior to

the meeting: Full name; gender; date/ place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Marian Norris via e-mail at mnorris@nasa.gov or by telephone at (202) 358-4452.

Dated: March 8, 2010.

P. Diane Rausch,

*Advisory Committee Management Officer,
National Aeronautics and Space
Administration.*

[FR Doc. 2010-5502 Filed 3-12-10; 8:45 am]

BILLING CODE P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10 a.m., Thursday, March 18, 2010.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Rule—Parts 701, 723 and 742 of NCUA's Rules and Regulations, Regulatory Flexibility Program.
2. Proposed Rule—Parts 701, 708a and 708b of NCUA's Rules and Regulations, Fiduciary Duties at Federal Credit Unions; Mergers and Conversions of Insured Credit Unions.
3. NCUA Strategic Plan 2010-2015 for 60-day Public Comment.
4. Insurance Fund Report.

RECESS: 11 a.m.

TIME AND DATE: 11:15 a.m., Thursday, March 18, 2010.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Creditor Claim Appeal. Closed pursuant to Exemption (6).
2. Consideration of Supervisory Activities (2). Closed pursuant to Exemptions (8), (9)(A)(ii) and 9(B).
3. Personnel. Closed pursuant to Exemption (6).