

**§ 2570.33**

- (1) A power of attorney; or
- (2) A written certification from the applicant that the representation is authorized.
- (c) If the authorized representative of an applicant submits an application for an exemption to the Department together with proof of his authority to file the application as required by paragraph (b) of this section, the Department will direct all correspondence and inquiries concerning the application to the representative unless requested to do otherwise by the applicant.

**§ 2570.33 Applications the Department will not ordinarily consider.**

- (a) The Department will not ordinarily consider:
  - (1) An application that fails to include all the information required by §§ 2570.34 and 2570.35 or otherwise fails to conform to the requirements of these procedures; or
  - (2) An application for exemption involving a transaction or transactions which are the subject of an investigation for possible violations of part 1 or 4 of subtitle B of title I of ERISA or section 8477 or 8478 of FERSA or an application for an exemption involving a party in interest who is the subject of such an investigation or who is a defendant in an action by the Department or the Internal Revenue Service to enforce the above-mentioned provisions of ERISA or FERSA.
- (b) If for any reason the Department decides not to consider an exemption application, it will inform the applicant of that decision in writing and of the reasons therefor.
- (c) An application for an individual exemption relating to a specific transaction or transactions will ordinarily not be considered separately if the Department is considering a class exemption relating to the same type of transaction or transactions.

**§ 2570.34 Information to be included in every exemption application.**

- (a) All applications for exemptions must contain the following information:
  - (1) The name(s) of the applicant(s);
  - (2) A detailed description of the exemption transaction and the parties in

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- interest for whom an exemption is requested, including a description of any larger integrated transaction of which the exemption transaction is a part;
- (3) Whether the affected plan(s) and any parties in interest will be represented by the same person with regard to the exemption application;
- (4) Reasons a plan would have for entering into the exemption transaction;
- (5) The prohibited transaction provisions from which exemptive relief is requested and the reason why the transaction would violate each such provision;
- (6) Whether the exemption transaction is customary for the industry or class involved;
- (7) Whether the exemption transaction is or has been the subject of an investigation or enforcement action by the Department or by the Internal Revenue Service; and
- (8) The hardship or economic loss, if any, which would result to the person or persons on behalf of whom the exemption is sought, to affected plans, and to their participants and beneficiaries from denial of the exemption.
- (b) All applications for exemption must also contain the following:
  - (1) A statement explaining why the requested exemption would be—
    - (i) Administratively feasible;
    - (ii) In the interests of affected plans and their participants and beneficiaries; and
    - (iii) Protective of the rights of participants and beneficiaries of affected plans.
  - (2) With respect to the notification of interested persons required by § 2570.43:
    - (i) A description of the interested persons to whom the applicant intends to provide notice;
    - (ii) The manner in which the applicant will provide such notice; and
    - (iii) An estimate of the time the applicant will need to furnish notice to all interested persons following publication of a notice of the proposed exemption in the FEDERAL REGISTER.
  - (3) If an advisory opinion has been requested with respect to any issue relating to the exemption transaction—
    - (i) A copy of the letter concluding the Department's action on the advisory opinion request; or