to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 8th day of December 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–32586 Filed 12–20–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–66; Exemption Application No. D–10706, et al.]

Grant of Individual Exemptions; Allfirst Bank

AGENCY: Pension and Welfare Benefits 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 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are 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 exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Allfirst Bank, Located in Baltimore, Maryland

[Prohibited Transaction Exemption 2000–66; Exemption Application No. D–10706]

Exemption

Section I—Exemption for Receipt of Fees

The restrictions of section 406(a) and 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)(A) through (F) of the Code, shall not apply, as of November 13, 1998, to the receipt of fees by Allfirst from the ARK Funds, open-end investment companies registered under the Investment Company Act of 1940 (the 1940 Act), for acting as an investment adviser for such Funds, as well as for providing other services to the ARK Funds which are ''Secondary Services,'' as defined in Section III(i), in connection with the investment by plans for which Allfirst serves as a fiduciary (the Client Plans) in shares of the ARK Funds, provided that the following conditions and the general conditions of Section II are met:

(a) Each Client Plan satisfies either (but not both) of the following:

(1) The Client Plan receives a cash credit of such Plan's proportionate share of all fees charged to the Funds by Allfirst for investment advisory services, including any investment advisory fees paid by Allfirst to third party sub-advisers, no later than the same day as the receipt of such fees by Allfirst. The crediting of all such fees to the Client Plans by Allfirst is audited by an independent accounting firm on at least an annual basis to verify the proper crediting of the fees to each Plan.

(2) The Client Plan does not pay any Plan-level investment management fees, investment advisory fees, or similar fees to Allfirst with respect to any of the assets of such Plan that are invested in shares of any of the ARK Funds. This condition does not preclude the payment of investment advisory or similar fees by the ARK Funds to Allfirst under the terms of an investment management agreement adopted in accordance with section 15 of the 1940 Act, nor does it preclude the payment of fees for Secondary Services to Allfirst pursuant to a duly adopted agreement between Allfirst and the ARK Funds.

(b) The price paid or received by a Client Plan for shares in a Fund is the net asset value per share, as defined in Section III(f), at the time of the transaction and is the same price that would have been paid or received for the shares by any other investor at that time.

(c) Allfirst, including any officer or director of Allfirst, does not purchase or sell shares of the ARK Funds from or to any Client Plan.

(d) No sales commissions are paid by the Client Plans in connection with the purchase or sale of shares of the ARK Funds, and no redemption fees are paid in connection with the sale of shares by the Client Plans to the ARK Funds.

(e) For each Client Plan, the combined total of all fees received by Allfirst for the provision of services to a Client Plan, and in connection with the provision of services to the ARK Funds in which the Client Plan may invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(f) Allfirst does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions.

(g) The Client Plans are not employee benefit plans sponsored or maintained by Allfirst.

(h) The Second Fiduciary receives, in advance of any initial investment by the Client Plan in a Fund, full and detailed written disclosure of information concerning the ARK Funds, including but not limited to:

(1) A current prospectus for each Fund in which a Client Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services, any secondary services as defined in Section III(i), and all other fees to be charged to or paid by the Client Plan and by the ARK Funds, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why Allfirst may consider such investment to be appropriate for the Client Plan;

(4) A statement describing whether there are any limitations applicable to Allfirst with respect to which assets of a Client Plan may be invested in the ARK Funds, and if so, the nature of such

limitations; and (5) Upon request of the Second Fiduciary, a copy of the notice of proposed exemption and/or a copy of the final exemption, as published in the **Federal Register**.

(i) After consideration of the information described in paragraph (h) above, the Second Fiduciary authorizes in writing the investment of assets of the Client Plan in each particular Fund and the fees to be paid by such ARK Funds to Allfirst.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to Allfirst are subject to an annual reauthorization, wherein any such prior authorization referred to in paragraph (i) above shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Allfirst of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (i) above (the Termination Form) with instructions on the use of the form must be supplied to the Second Fiduciary no less than annually—provided that the Termination Form need not be supplied to the Second Fiduciary pursuant to this paragraph sooner than six months after such Termination Form is supplied pursuant to paragraph (l) below, except to the extent required by such paragraph in order to disclose an additional service or fee increase. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Allfirst of written notice from the Second Fiduciary; and

(2) Failure to return the Termination Form will result in continued authorization of Allfirst to engage in the transactions described in paragraph (i) above on behalf of the Client Plan.

(k) For each Client Plan using the fee structure described in paragraph (a)(1) above with respect to investments in a particular Fund, the Second Fiduciary of the Client Plan receives full written disclosure in a Fund prospectus or otherwise of any increases in the rates of fees charged by Allfirst to the ARK Funds for investment advisory services.

(l) (1) For each Client Plan using the fee structure described in paragraph (a)(2) above with respect to investments in a particular Fund, an increase in the rate of fees paid by the Fund to Allfirst regarding any investment management services, investment advisory services, or similar services that Allfirst provides to the Fund over an existing rate for such services that had been authorized by a Second Fiduciary in accordance with paragraph (i) above; or

(2) For any Client Plan under this exemption, an addition of a Secondary Service (as defined in Section III(i) below) provided by Allfirst to the Fund for which a fee is charged, or an increase in the rate of any fee paid by the ARK Funds to Allfirst for any Secondary Service that results either from an increase in the rate of such fee or from a decrease in the number or kind of services performed by Allfirst for such fee over an existing rate for such Secondary Service that had been authorized by the Second Fiduciary of a Client Plan in accordance with paragraph (j) above;

Allfirst will, at least 30 days in advance of the implementation of such additional service for which a fee is charged or fee increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and that explains the nature and amount of the additional service for which a fee is charged or of the increase in fees) to the Second Fiduciary of the Client Plan. Such notice shall be accompanied by a Termination Form with instructions as described in paragraph (i) above.

(m) On an annual basis, Allfirst provides the Second Fiduciary of a Client Plan investing in the ARK Funds with:

(1) A copy of the current prospectus for the ARK Funds in which the Client Plan invests and, upon such Fiduciary's request, a copy of the Statement of Additional Information for such ARK Funds that contains a description of all fees paid by the ARK Funds to Allfirst;

(2) A copy of the annual financial disclosure report prepared by Allfirst that includes information about the Fund portfolios, as well as audit findings of an independent auditor, within 60 days of the preparation of the report; and

(3) Oral or written responses to inquiries of the Second Fiduciary as they arise.

(n) With respect to each of the ARK Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with Allfirst, Allfirst will provide the Second Fiduciary of such Plan at least annually with a statement specifying:

(1) The total, expressed in dollars, of brokerage commissions of each Fund that are paid to Allfirst by such Fund;

(2) The total, expressed in dollars, of brokerage commissions of each Fund that are paid by such Fund to brokerage firms unrelated to Allfirst;

(3) The average brokerage commissions per share, expressed as cents per share, paid to Allfirst by each Fund; and

(4) The average brokerage commissions per share, expressed as cents per share, paid by each Fund to brokerage firms unrelated to Allfirst.

(o) All dealings between the Client Plans and the ARK Funds are on a basis no less favorable to the Plans than dealings with other shareholders of the ARK Funds.

Section II—General Conditions

(a) Allfirst maintains for a period of six years the records necessary to enable the persons described in paragraph (b) below to determine whether the conditions of this exemption have been met, except that—

(1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Allfirst, the records are lost or destroyed prior to the end of the six-year period; and

(2) no party in interest other than Allfirst shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b) (1) Except as provided in paragraph (b)(2) below and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (a) above 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 the Client Plans who has authority to acquire or dispose of shares of the ARK Funds owned by the Client Plans, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Client Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (b)(1)(ii) and (iii) above shall be authorized to examine trade secrets of Allfirst, or commercial or financial information that is privileged or confidential.

Section III—Definitions

For purposes of this exemption:

(a) The term ''Allfirst'' means (i) from June 28, 1999 and onward, Allfirst Bank, and any affiliate thereof (as ''affiliate'' is defined below in paragraph (c)(1) of this section), and (ii) from

November 13, 1998 to June 28, 1999, First National Bank of Maryland (First Maryland), and any affiliate thereof (as ''affiliate'' is defined below in paragraph (c)(1) of this section), the period prior to the date that First Maryland changed its name to Allfirst Bank.

(b) The term ''First Maryland'' refers to First National Bank of Maryland, and any affiliate thereof (as ''affiliate'' is defined below in paragraph (c)(1) of this section), prior to June 28, 1999.

(c) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(d) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) The term ''Fund'' or ''ARK Funds'' shall include the ARK Funds or any other diversified open-end investment company or companies registered under the 1940 Act for which Allfirst serves as an investment adviser and may also serve as a custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, Fund accountant, or provide some other ''Secondary Service'' (as defined below in paragraph (i) of this Section), which has been approved by such ARK Funds.

(f) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales, calculated by dividing the value of all securities (determined by a method as set forth in the Fund's prospectus and Statement of Additional Information) and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(g) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term ''Second Fiduciary'' means a fiduciary of a Client Plan who is independent of and unrelated to Allfirst. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Allfirst if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with Allfirst;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner or employee of Allfirst (or is a relative of such persons);

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner or employee of Allfirst (or relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (i) the choice of the Client Plan's investment adviser, (ii) the approval of any such purchase or sale between the Client Plan and the ARK Funds, and (iii) the approval of any change in fees charged to or paid by the Client Plan in connection with any of the transactions described in Section I above, then paragraph (h)(2) of this section shall not apply.

(i) The term ''Secondary Service'' means a service other than an investment management, investment advisory, or similar service, which is provided by Allfirst to the ARK Funds, including but not limited to custodial, accounting, brokerage, administrative, or any other service.

(j) The term ''Termination Form'' means the form supplied to the Second Fiduciary that expressly provides an election to the Second Fiduciary to terminate on behalf of a Client Plan the authorization described in paragraph (i) of Section I. Such Termination Form may be used at will by the Second Fiduciary to terminate an authorization without penalty to the Client Plan and to notify Allfirst in writing to effect a termination by selling the shares of the ARK Funds held by the Client Plan requesting such termination within one business day following receipt by Allfirst of the form—provided that if, due to circumstances beyond the control of Allfirst, the sale cannot be executed within one business day, Allfirst shall have one additional business day to complete such sale.

EFFECTIVE DATE: The exemption is effective as of November 13, 1998, the date that Dauphin Deposit Bank and Trust Company ceased to exist as a separate bank as a result of its acquisition by First Maryland.

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 (the Notice) published on October 22, 1999 at 64 FR 57129.

Notice to Interested Persons: The applicant was unable to notify interested persons within the time period specified in the Notice. However, the applicant stated that all interested persons, including the Second Fiduciaries of Client Plans invested in the ARK Funds, were notified in the manner and time agreed to by the Department, no later than June 1, 2000. Interested persons were informed that they had 30 days to submit any written comments or requests for a hearing regarding the Notice to the Department.

Written Comments

The Department received one written comment with respect to the Notice. The comment was submitted by the applicant. The applicant requested certain corrections and clarifications to the proposed operative language for the exemption, and to the Summary of Facts and Representations (the Summary) relating thereto (see 64 FR 57129).

1. First, the applicant requested that the tenth line in Section I(l)(2) of the Notice (64 FR at 57130, third column) be revised to read as follows: ''* * * the decrease in the number or [rather than ''of'] kind of services * * *''

2. Second, the applicant noted that the cross-reference to paragraph (i) in the last line of Section I(l)(2) of the Notice (64 FR at 57130, third column) should have been a cross-reference to paragraph (j).

3. Third, as stated in Item 1 of the Summary (64 FR at 57131), the top of page 57132, ''First National Bank of Maryland'' changed its name to ''Allfirst Bank,'' effective June 28, 1999. The applicant noted that the exemption, which has a retroactive effective date of November 13, 1998, was intended to apply to First Maryland from November 13, 1998 through June 28, 1999, and to Allfirst from June 28, 1999, onward. However, Section I of the Notice (64 FR at 57129) refers only to Allfirst, which is later defined in Section III(a) of the Notice (64 FR at 57131) as follows:

> (a) The term ''Allfirst'' means Allfirst Bank, and any affiliate thereof as defined below in paragraph (c)(1) of this section, effective as of June 28, 1999 [emphasis added], the date the First National Bank of Maryland (First Maryland) changed its name to Allfirst Bank.

Thus, the applicant expressed concern that the exemption, as proposed, has an effective date of November 13, 1998, but appears to apply, by its terms, only beginning on June 28, 1999, the date in the Allfirst definition.

To clarify this matter, the applicant suggested revising the definition of ''Allfirst'' in Section III(a) to include First Maryland for the period prior to June 28, 1999. The Department concurs in the applicant's suggestion and, accordingly, has revised the definition

of ''Allfirst'' in Section III(a) of the final exemption to read as follows:

(a) The term ''Allfirst'' means (i) from June 28, 1999 and onward, Allfirst Bank, and any affiliate thereof (as ''affiliate'' is defined below in paragraph (c)(1) of this section) and (ii) from November 13, 1998 to June 28, 1999, First National Bank of Maryland (First Maryland), and any affiliate thereof (as ''affiliate'' is defined below in paragraph (c)(1) of this section), the period prior to the date that First Maryland changed its name to Allfirst Bank.

4. Fourth, with respect to Section III(e) of the Notice (64 FR at 57131), the definition of ''Fund,'' the applicant requested that ''Inc.'' be deleted from the reference to ''ARK Funds, Inc.'' The applicant explained that this deletion is appropriate because the ARK Funds are organized as a business trust rather than as a corporation.

5. Fifth, the applicant wanted to correct Item 1 of the Summary (64 FR 57131, third column), which states at the top of page 57132 that, when ''First National Bank of Maryland'' became ''Allfirst Bank,'' effective June 28, 1999, no further name changes had occurred, as of September 21, 1999. The applicant stated that the following additional name changes have also occurred.

a. First Maryland Bancorp, the parent company, became Allfirst Financial Inc., effective September 15, 1999;

b. FMB Trust Company, N.A. became Allfirst Trust Company, N.A., effective June 28, 1999;

c. First Maryland Brokerage Corp. became Allfirst Brokerage Corporation, effective June 28, 1999; and

d. First Omni Bank, N.A. became Allfirst Financial Center, N.A., effective June 28, 1999.

6. Finally, the applicant noted that some language in the Summary appeared to incorrectly refer to a conversion of collective investment funds to mutual funds. Thus, the applicant requested the following clarifications.

a. In Item 7 of the Summary (64 FR at 57133, third column), the last full paragraph on page 57133 makes a reference to the ''change'' to the ARK Funds, as if the investments were occurring as part of a conversion transaction, which should be deleted.

b. In Item 14(a) of the Summary (64 FR at 57135, third column), the reference to ''collective investment ARK Funds'' should be deleted.

The Department acknowledges and concurs in the applicant's requested modifications to the language of the Notice. The Department received no other written comments, nor requests for a hearing, from interested persons regarding the proposed exemption. Accordingly, based upon the information contained in the entire record, the Department has determined to grant the proposed exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Butler-Johnson Corporation, Profit Sharing Plan (the Plan), Located in San Jose, California

[Prohibited Transaction Exemption No. 2000–67; Application No. D–10780]

Exemption

The restrictions of sections 406(a), 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) through (E) of the Code, shall not apply, effective as of October 25, 1996, to:

(1) the past sale on October 25, 1996, by the Plan of four residential mortgage notes (the Purchased Notes) to the Greater Bay Trust Company (the Trustee), the trustee of the Plan and, as such, a party in interest with respect to the Plan;

(2) the past sale on October 25, 1996, by the Plan of a seventy-one percent (71%) interest (the Interest) in a certain parcel of real property located in Oakland, California (the Oakland Property) to the Trustee;

(3) the ''makewhole'' payment made by the Trustee to the Plan on October 25, 1996 in connection with the Plan's investment losses with respect to certain other real property previously owned by the Plan which was sold to an unrelated party on June 28, 1996; and

(4) the proposed payment to the Plan of the accrued but unpaid interest (the Accrued Interest Payment) that was due on the Purchased Notes at the time of the past sale to the Trustee, as well as two other mortgage notes that were in default while held by the Plan (collectively, the Notes) which resulted in foreclosures on the underlying properties, and the proposed payment to the Plan of an additional interest payment for the period from October 25, 1996, until the date that the Accrued Interest Payment is made to the Plan (the Additional Interest Payment), based on the total amount of the Accrued Interest Payment; provided the following conditions are met:

(A) The sale of the Purchased Notes and the Interest by the Plan to the Trustee were one-time transactions for cash;

(B) The Plan was not required to pay any fees or commissions in connection therewith;

(C) The Plan received prices for the Purchased Notes constituting no less than the greater of either:

(i) the outstanding principal balances for each Purchased Note, or

(ii) the fair market value of each Purchased Note, as of the date of the sale transactions;

(D) The Plan received a price for the Interest which was equal to the outstanding principal balance that was due on the mortgage note which had been secured by the Oakland Property, and this price represented an amount which exceeded the fair market value of the Interest at the time of the transaction;

(E) The Accrued Interest Payment to be paid by the Trustee to the Plan represents an amount equal to the total accrued but unpaid interest that was due on the Notes on October 25, 1996;

(F) The Additional Interest Payment to be paid by the Trustee to the Plan represents a reasonable rate of interest on the amount of accrued but unpaid interest on the Notes that was due to the Plan on October 25, 1996 (i.e., the Accrued Interest Payment referred to in (E) above), as determined by an appropriate third party source (i.e., the U.S. Treasury rate for 3-month Treasury Bills);

(G) The Trustee provides the Department with documentation, within thirty (30) days of the Accrued Interest Payment and Additional Interest Payment, which verifies that the total amount of such payments have been made to the Plan;

(H) The Trustee, as the responsible fiduciary for the Plans, took appropriate actions necessary to safeguard the interests of the Plan and its participants and beneficiaries in connection with the past transactions, and will take whatever actions are necessary to continue to protect the Plan's interest with respect to the Accrued Interest Payment and the Additional Interest Payment;

(I) The Plan received a reasonable rate of return on the Purchased Notes and the Interest during the period of time that it held these assets; and

(J) Upon any sale or other disposition of any of the Purchased Notes or the Interest by the Trustee, in the event the Trustee receives proceeds in excess of the amount which the Trustee paid the Plan for such assets, the additional proceeds shall be promptly forwarded to the Plan by the Trustee.

EFFECTIVE DATE: This exemption is effective as of October 25, 1996.

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 (the Proposal) published on October 19, 2000 at 65 FR 62763.

Clarification: Condition (D) of the Proposal required that the Plan must have received a purchase price for the Interest constituting no less than seventy-one percent (71%) of the fair market value of the Oakland Property, as of the date of the sale transaction. The Department, on its own motion, has revised the language of condition (D) in the final exemption, with the applicant's concurrence, to read as follows:

''* * * (D) The Plan received a price for the Interest which was equal to the outstanding principal balance that was due on the mortgage note which had been secured by the Oakland Property, and this price represented an amount which exceeded the fair market value of the Interest at the time of the transaction.''

The Department modified the language in condition (D) in the final exemption to make the requirements of that condition more consistent with the discussion of the transaction involving the Interest that was included in the Summary of Facts and Representations contained in the Proposal.

After consideration of the entire record, the Department has determined to grant the proposed exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 219–8883 (this is not a toll-free number).

The Masters, Mates and Pilots Pension Plan (the Pension Plan) and Individual Retirement Account Plan (the IRAP; together, the Plans) Located in Linthicum Heights, Maryland

[Prohibited Transaction Exemption 2000–68; Exemption Application Nos. D–10800 and D–10801]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(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 (E) of the Code, shall not apply to: (1) The transfer and sale by the Plans of their shares of stock (the AHL Stock or the Stock) in American Heavy Lift Shipping Company (AHL) to AHL Holdings, Inc. (AHL Holdings), in exchange for a note (the Note) from AHL Holdings to the Plans; (2) the holding of the Note by the Plans; (3) the guarantee (the Guarantee) of the Note to the Plans by AHL; (4) the continued holding of the AHL Stock by the Plans for the period from January 1, 1999 until the date of the sale of the Stock by the Plans to AHL Holdings; and (5) the holding by the Plans for a period of two years of any collateral, including the Stock, received by the Plans as a result of the exercise of their rights in the event of a default under the Note or under the Guarantee, provided that: (a) The Plans' independent fiduciary, Independent Fiduciary Services, Inc. (IFS), has determined that the transactions are appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries; (b) the Plans' independent investment manager with respect to the Stock, Hellmold Associates, Inc. (HAI), negotiated the terms of the subject transactions with AHL Holdings and has made the decision for the Plans' to enter the subject transactions with AHL Holdings; (c) HAI continues to monitor the Plans' holding of the Note, determines at all times that such transaction remains in the best interests of the Plans and takes whatever actions are necessary to enforce the Plans' rights under the Note; (d) HAI has determined that the current fair market value of the Note is not less than the current fair market value of the Stock; and (e) HAI has determined that the proposed transactions have terms and conditions which are at least as favorable to the Plans as the terms and conditions which would exist in similar transactions with unrelated parties.

EFFECTIVE DATE: With respect to the Plans' holding of the AHL Stock, this exemption is effective from January 1, 1999 until the date of the sale of the Stock by the Plans to AHL Holdings; with respect to the sale of the AHL Stock by the Plans to AHL Holdings, this exemption is effective December 21, 2000.

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 (the Notice) published on September 22, 2000 at 65 FR 57390.

Written Comments

The Department received 11 written comments and one request for a hearing from interested persons in response to the Notice. Three of the commentators stated that they approved of the proposed exemption and that they desired to see the exemption granted as it was proposed.

The remaining seven comments raised the following concerns: (1) AHL is a poor company in which to invest the assets of the Plans on either a debt or equity basis, and (2) the proposed transaction will represent a new and riskier commitment of capital by the Plans in AHL. In this regard, the commentators stated that there is a real possibility that AHL will become bankrupt, its shares will have no value, and that not even the wage and work rule concessions (the Concessions) described in the Notice will make it profitable. Based on these assessments, the commentators concluded that the Plans should not invest in AHL and not assume any AHL debt. One commentator specifically stated that none of the monies in his IRAP account currently invested in the Vanguard Funds should be invested in AHL.

The applicant responded to the comments as follows. The proposed exemption would convert the Plans' current equity ownership in AHL to a more secure debt investment, and would not permit any new investment by the Plans in AHL. No part of any IRAP participant's investment in the Vanguard Funds or any other investment option under the IRAP would be liquidated to invest in AHL. None of the commentators suggests any alternative to the proposed transaction which would enhance the position of the Plans with respect to the Plans' existing investment in AHL Stock.

As has been repeatedly made clear by HAI, the Plans' independent investment manager, there are significant issues relating to the viability of AHL. The proposed transaction improves the Plans' position by giving each Plan a priority claim on AHL's cash flow and, through the Concessions, increasing the likelihood that the Plans will realize a return on their investment. The transaction is designed to reduce the Plans' investment risk and permit them to exit their current equity position in AHL.

HAI has reviewed and updated its determinations, as of November 28, 2000, that the transaction is in the interests of the Plans. Among the reasons given for this conclusion by HAI are:

(1) The transaction creates for the Plans a structurally senior position to the Plans' current equity interest in AHL, thereby reducing the risk of the investment for the Plans. The Note from AHL Holdings will be secured by a pledge of all the AHL Stock (none of which will be released until the Note is paid in full), the Guarantee, and a pledge of the cash in the escrow account established for wage increases, none of which will be released until the Note is paid in full;

(2) The transaction provides an automatic mechanism for the Plans to begin to realize a cash return on their investment after three years and a mechanism creating an incentive for

early cash prepayments due to the discounted prepayment formula under the Note;

(3) It provides a mechanism which should motivate AHL's employees, as 100% shareholders of AHL, to insure that AHL has a cost structure which is viable in the long run, including providing for the payment of interest and principal on the Note (because a default on the Note could result in AHL's bankruptcy and a total loss of the economic benefits created by the Concessions);

(4) AHL Holdings will not be permitted to incur any debt, file for bankruptcy or amend its Articles of Incorporation without the unanimous consent of its Board of Directors (the Board), and HAI will maintain a seat on the Board until the Note is fully repaid;

(5) The net present value of the Note is fair under the current circumstances;

(6) The transaction should result in lower annual administrative costs to the Plans; and

(7) The transaction satisfies the regulatory mandate that the Plans dispose of their equity interest in AHL.

In conclusion, HAI has stated that absent the transaction, the Plans' equity interest in AHL is likely worth nothing[1] With the closing of the transaction, the Plans will have a superior position in AHL since the company will have a much more attractive cost structure and better financial prospects.

In addition, the Department has received an updated letter from a representative of the AHL ESOP Committee (the Committee) confirming that as of November 23, 2000, the Committee continues to believe that the transaction would be in the best interests of participants in the employee stock ownership plan (the ESOP) which is being established by AHL, and which will hold all the shares of stock of AHL Holdings.

With respect to the request for a hearing made by one commentator, the Department has determined that a public hearing is not necessary in this case. Accordingly, based on all of the information contained in the record, including the comments submitted and the applicant's response thereto, the Department has determined to grant the exemption as proposed.

Interested persons are invited to review the complete exemption file, which is available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Gillespie Real Estate Professional Corporation Defined Benefit Plan (the Plan) Located in Phoenix, Arizona

[Prohibited Transaction Exemption No. 2000–69; Applicant No. D–10880]

Exemption

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 to the proposed cash sale (the Sale) of a certain residential lot (the Property) by the Plan [2] to Bruce and Ann Gillespie, disqualified persons with respect to the Plan, provided that the following conditions are met:

(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 obtainable in an arm's length transaction with an unrelated party;

(c) The Plan receives the greater of $450,000 or the fair market value of the Property at the time of the Sale; and

(d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale.

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 October 31, 2000 at 65 FR 65015.

FOR FURTHER INFORMATION CONTACT: Mr. Khalif Ford of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

HSBC Holdings plc, Located in London, England

[Prohibited Transaction No. 2000–70 Exemption Application No.: D–10910]

Exemption

HSBC Asset Management Americas, Inc., HSBC Asset Management Hong Kong, Ltd., HSBC Bank USA, any current affiliate of HSBC Holdings plc (HSBC) that in the future becomes eligible to serve as a qualified professional asset manager, as defined in Prohibited Transaction Class Exemption 84–14 (PTCE 84–14)(QPAM),[3] HSBC, itself, if in the future it becomes a QPAM, and any newly acquired or newly established affiliate of HSBC that is a QPAM or in the future becomes a QPAM, other than the Bangkok Metropolitan Bank PLC (BMB), shall not be precluded from functioning as a QPAM, pursuant to the terms and conditions of PTCE 84–14, for the period beginning on June 16, 2000, and ending ten (10) years from the date this exemption is published in the **Federal Register**, solely because of a failure to satisfy Section I(g) of PTCE 84–14, as a result of an affiliation with BMB; provided that:

(a) BMB has not in the past acted, nor does it now act, nor will it act as a fiduciary with respect to any employee benefit plans subject to the Act;

(b) This exemption is not applicable if HSBC and/or any successor or affiliate becomes affiliated with any person or entity convicted of any of the crimes described in Section I(g) of PTCE 84–14, other than BMB; and

(c) This exemption is not applicable if HSBC and/or any successor or affiliate is convicted of any of the crimes described in Section I(g) of PTCE 84–14, including any such crimes subsequently committed by BMB.

EFFECTIVE DATE: This exemption is effective for the period beginning on June 16, 2000, the date the application for exemption was filed with the Department, and ending ten (10) years from the date of publication of this exemption in the **Federal Register**.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested

[1] The Department wishes to note that ERISA's general standards of fiduciary conduct would apply to the acquisition and holding of the Note by the Plans and the acquisition and holding of the Stock by the ESOP, and that satisfaction of the conditions of this exemption should not be viewed as an endorsement of the investments by the Department. Section 404(a) of the Act requires, among other things, that a plan fiduciary discharge his duties with respect to a plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion. Accordingly, the plan fiduciary must act prudently with respect to the decision to enter into an investment transaction. The Department further emphasizes that it expects the plan fiduciary to fully understand the benefits and risks associated with engaging in a specific type of investment, following disclosure to such fiduciary of all relevant information. In addition, such plan fiduciary must be capable, either directly or indirectly through the use of hired professional experts, of monitoring the investment, including any changes in the value of the investment. Thus, in considering an investment, a fiduciary should take into account its ability to provide adequate oversight of the particular investment.

The Department also wishes to note that it reserves the right to investigate and take any other action with respect to the transaction which is the subject of the exemption.

[2] Because Bruce Gillespie is the sole shareholder of the Employer and he and his wife, Ann Gillespie, are the only participants in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

[3] 49 FR 9494 (March 13, 1984), *as amended*, 50 FR 41430 (October 10, 1985).

persons to submit written comments and requests for a hearing on the proposed exemption. As set forth in the Notice, interested persons consisted of the trustee or other fiduciary of each of the ERISA Plan Clients for which one or more of the applicants have discretionary investment authority. The deadline for submission of comments and requests for a hearing was within forty-five (45) days of the date of the publication of the Notice in the **Federal Register** on October 11, 2000. Accordingly, all comments and requests for a hearing were due on November 27, 2000.

The applicants informed the Department in writing that, as of October 26, 2000, all interested persons, with the exception of two (2) individuals, were mailed a copy of the Notice along with the supplemental statement (the Supplemental Statement), described at 29 CFR § 2570.43(b)(2) of the Department's regulations. The Supplemental Statement mailed on October 26, 2000, provided that such interested persons had a right to comment on the proposed exemption or request a hearing by November 27, 2000.

In a letter dated November 13, 2000, the applicants notified the Department that, as of November 9, 2000, a copy of the Notice and a copy of the Supplemental Statement was sent to the two individuals who had not received the initial mailing. In light of the fact that notification to these two interested persons was delayed until November 9, 2000, and in order to allow such interested persons the benefit of the full thirty (30) day comment period, the Department required, and the applicants agreed to, an extension of the deadline within which to comment and request a hearing on the proposed exemption. In this regard, the applicants confirmed that the Supplemental Statement mailed to these two interested persons provided that all comments and requests for a hearing on the proposed exemption were due on December 11, 2000.

During the comment period, the Department received no comments and no requests for a hearing from interested persons. Accordingly, after giving full consideration to the entire record, the Department has decided to grant the exemption. The complete application file, including all submissions received by the Department, is available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–5638, 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 October 11, 2000, at 65 FR 60466.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (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 exemptions 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) These exemptions are 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 these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th day of December, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 00–32583 Filed 12–20–00; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Notice of application period.

SUMMARY: The National Credit Union Administration (NCUA) will accept applications for participation in the Community Development Revolving Loan Program for Credit Unions throughout calendar year 2001, subject to availability of funds. Application procedures for qualified low-income credit unions are set forth in Part 705, NCUA Rules and Regulations.

ADDRESSES: Applications for participation may be obtained from and should be submitted to: NCUA, Office of Community Development Credit Unions, 1775 Duke Street, Alexandria, VA 22314–3428.

DATES: Applications may be submitted throughout calendar year 2001.

FOR FURTHER INFORMATION CONTACT: The Office of Community Development Credit Unions at the above address or telephone (703) 518–6610.

SUPPLEMENTARY INFORMATION: Part 705 of the NCUA Rules and Regulations implements the Community Development Revolving Loan Program for Credit Unions. The purpose of the Program is to assist officially designated ''low-income'' credit unions in providing basic financial services to residents in their communities that result in increased income, ownership and employment. The Program makes available low interest loans and deposits in amounts up to $300,000 in the aggregate to qualified participating ''low-income'' credit unions. Program participation is limited to existing credit unions with an official ''low-income'' designation. Student credit unions are not eligible to participate in this program.

This notice is published pursuant to Part 705.9 of the NCUA Rules and Regulations which states that NCUA will provide notice in the **Federal Register** when funds in the program are available.

By the National Credit Union Administration Board on December 14, 2000.

Sheila Albin,

Acting Secretary, NCUA Board.

[FR Doc. 00–32475 Filed 12–20–00; 8:45 am]

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