

DEPARTMENT OF LABOR**Employee Benefits Security Administration**

[Application No. D-11004, et al.]

Proposed Exemptions; Deutsche Bank AG (DB)**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 (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-5649, 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.

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.

Deutsche Bank AG (DB), located in Germany, with affiliates in New York, New York and other locations; and JPMorgan Chase Bank, located in New York, New York; (collectively, with their Affiliates, the Applicants). (Application Nos. D-11004 and D-11106).

Proposed Exemption

Under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990), the Department is considering amending the following individual prohibited transaction exemptions (PTEs) and authorization made pursuant to PTE 96-62 (61 FR 39988, July 31, 1996—referred to herein as "EXPRO"): PTE 2000-25 (65 FR 35129, June 1, 2000), issued to Morgan Guaranty Trust Company of New York and J.P. Morgan Investment Management, Inc., and PTE 2000-27, issued to the Chase Manhattan Bank (65 FR 35129, June 1, 2000), and Final

Authorization Number (FAN) 2001-19E, issued to DB and its Affiliates (June 23, 2001).¹

Section I—Transactions

If the proposed exemption is granted, the restrictions of section 406 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the purchase of any securities by the Asset Manager on behalf of employee benefit plans (Client Plans), including Client Plans investing in a pooled fund (Pooled Fund), for which the Asset Manager acts as a fiduciary, from any person other than the Asset Manager or an affiliate thereof, during the existence of an underwriting or selling syndicate with respect to such securities, where the Affiliated Broker-Dealer is a manager or member of such syndicate (an "affiliated underwriter transaction" (AUT)), and/or where an Affiliated Trustee serves as trustee of a trust that issued the securities (whether or not debt securities) or serves as indenture trustee of securities that are debt securities (an "affiliated trustee transaction" (ATT)), provided that the following conditions are satisfied:

(a) The securities to be purchased are—

(1) Either:
(i) Part of an issue registered under the Securities Act of 1933 (the 1933 Act) (15 U.S.C. 77a *et. seq.*) or, if exempt from such registration requirement, are (A) issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States, (B) issued by a bank, (C) exempt from such registration requirement pursuant to a Federal statute other than the 1933 Act, or (D) are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and the issuer of which has been subject to the reporting requirements of section 13 of that Act (15 U.S.C. 78m) for a period of at least 90 days immediately preceding the sale of securities and has filed all

¹ See also PTE 2000-26 (65 FR 35129, June 1, 2000), issued to Goldman, Sachs & Co., and its Affiliates; PTE 2000-29 (65 FR 35129, June 1, 2000), issued to Morgan Stanley Dean Witter & Co. and its Affiliates; FAN 2001-24E (October 6, 2001), issued to Barclays Global Investors N.A., Barclays Capital, Inc. and their Affiliates; and FAN 2002-09E (September 14, 2002), issued to The TCW Group, Inc., and its Affiliates. The Department will separately consider similar amendments to those exemptions and authorizations upon the receipt of applications or submissions relating thereto from such entities.