

modified herein. In this regard, the comments submitted to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, Room N-1513, U.S. Department of Labor, 200 Constitution Ave. NW, Washington DC 20210.

**FOR FURTHER INFORMATION CONTACT:**

Khalif Ford of the Department, telephone (202) 693-8540 (this is not a toll-free number).

**The National Electrical Benefit Fund (the Plan) Located in Rockville, Maryland**

*[Prohibited Transaction Exemption No. 2003-37; Application No. D-11136]*

**Exemption**

The restrictions of sections 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply effective October 17, 2002 to Bank of America, N.A. (the Bank) providing a guaranty of repayment for the benefit of the bondholders in the form of an Irrevocable Direct Draw Letter of Credit No. 3051512 (Letter of Credit) and the Partnership's subsequent reimbursement to the Bank of amounts advanced by the Bank pursuant to the Letter of Credit in connection with the investment by the Plan in Colma Apartment Associates, L.P. (the Partnership). This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) The Plan's investment in the Partnership is on terms no less favorable to the Plan than those which the Plan could obtain in arm's length transactions with unrelated parties;

(b) The decisions on behalf of the Plan to invest in the Partnership and consent to the terms of the reimbursement agreement in favor of the Bank are made by fiduciaries, which are not included among, and are independent of and unaffiliated with; the Bank;

(c) The investment in the Partnership represents no more than .5% of the total assets of the Plan; and

(d) The general partners of the Partnership are independent of the Plan and of the Bank of America.

(e) The Plan shall have no obligation to fund its capital contribution unless and until (i) all conditions imposed by

the construction lender regarding disbursement to the Partnership of \$25,950,000 of the tax-exempt bond construction financing proceeds have been satisfied by the Partnership; and (ii) the Department grants the proposed exemption; and

(f) The Plan's capital contribution will be used solely for the purpose of reimbursing Bank of America for the draw on the Letter of Credit.

**EFFECTIVE DATE OF EXEMPTION:** The effective date of this exemption is October 17, 2002.

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 September 29, 2003 at 68 FR 56008.

**FOR FURTHER INFORMATION CONTACT:**

Khalif Ford of the Department, telephone (202) 693-8540 (this is not a toll-free number).

**Aetna Life Insurance Company (Aetna) and UBS Realty Investors LLC UBS Realty) Located in Hartford, Connecticut**

*[Prohibited Transaction Exemption 2003-; Exemption Application No. D-11167]*

**Exemption**

Section I—Exemption for Certain Transactions Involving the Management of Investments Shared by Two or More Accounts

The restrictions of certain sections of the Act and the sanctions resulting from the application of certain parts of section 4975 of the Code shall not apply to the following transactions if the conditions set forth in Section IV are met:

(a) *Transfers Between Accounts*—The restrictions of section 406(b)(2) of the Act shall not apply to the sale or transfer of an interest in a shared investment (including a shared partnership interest) between two or more Accounts (except the General Account), provided that each ERISA-Covered Account pays no more, or receives no less, than fair market value for its interest in a shared investment.

(b) *Joint Sales of Property*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale to a third party of the entire interest in a shared investment (including a shared partnership interest) by two or more Accounts, provided that each ERISA-Covered Account receives no less than

fair market value for its interest in the shared investment.

(c) *Additional Capital Contributions*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(b)(1)(A) through (E) of the Code, shall not apply either to the making of a proportionate equity capital contribution by one or more of the Accounts to a shared investment; or to the making of a Disproportionate [as defined in Section V(e)] equity capital contribution (or the failure to make such additional contribution) by the one or more of such Accounts which results in an adjustment in the equity ownership interests of the Accounts in the shared investment on the basis of the fair market value of such interests subsequent to such contribution, provided that each ERISA-Covered Account is given an opportunity to make a proportionate contribution.

(d) *Lending of Funds*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(a)(1)(A) through (E) of the Code, shall not apply to the lending of funds from the General Account to an ERISA-Covered Account to enable the ERISA-Covered Account to make an additional proportionate contribution, provided that such loan—

(A) Is unsecured and non-recourse plans;

(B) Bears interest at a rate not to exceed the prevailing rate on 90-day Treasury Bills;

(C) Is not callable at any time by the General Account; and

(D) Is prepayable at any time without penalty.

(e) *Shared Debt Investments*—In the case of a debt investment that is shared between two or more Accounts, including one or more of the ERISA-Covered Accounts:

(1) The restrictions of sections 406(a) and 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 to any material modification in the terms of the loan agreement resulting from a request by the borrower or any decision regarding the action to be taken, if any, on behalf of the Accounts in the event of a loan default by the borrower;

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any decision by Aetna or UBS Realty on behalf of one or more ERISA-Covered