

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 are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 9th day of February, 1999.

**Ivan Strasfeld,**

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

[FR Doc. 99-3563 Filed 2-12-99; 8:45 am]

BILLING CODE 4510-29-P

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Application No. D-10693, et al.]

### Proposed Exemptions; Standard Bank Employees Profit Sharing Plan (the Plan)

**AGENCY:** Pension and Welfare Benefits 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

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing 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 request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, N.W., Washington, D.C. 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 (43 FR 47713, October 17, 1978) 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.

### Standard Bank Employees Profit Sharing Plan (the Plan), Located in Hickory Hills, Illinois

[Application No. D-10693]

#### 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.)

#### Part I. Purchases of Residential Mortgage Notes

If the exemption is granted, 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, as of October 1, 1998, to the purchases by the Plan of certain residential mortgage notes (the Notes) from Standard Bank and Trust Company (the Employer), a party in interest with respect to the Plan; provided that the following conditions are satisfied:

- (1) An independent qualified fiduciary will decide which Notes will be purchased for the Plan;
- (2) Only first mortgage Notes will be purchased by the Plan;
- (3) The Notes which will be purchased by the Plan will have: (a) a borrower payment history with the Employer of at least three months; (b) a maximum 15 year maturity; and (c) the loan to value ratio of the collateral will be at least 150% of the principal amount of the Note;
- (4) If the mortgage loan is an original acquisition mortgage loan, the Note will not exceed two-thirds of the lower of the purchase price or of the appraised value of the collateral mortgaged by the borrower to the Employer to secure the Note;

(5) If the mortgage loan is a refinancing of the original acquisition mortgage loan, the Note will not exceed two-thirds of the appraised value of the collateral mortgaged by the borrower to the Employer to secure the Note;

(6) No more than twenty-five percent (25%) of the value of the Plan's total assets will be invested in the Notes;

(7) No more than ten percent (10%) of the value of the Plan's total assets will be invested in any one Note or Notes to any one borrower;

(8) The fees received by the independent fiduciary for serving in that capacity with respect to the Plan for the transactions described herein, combined with any other fees derived from the Employer or related parties,

will not exceed one percent (1%) of his gross annual income for each fiscal year that he continues to serve in the independent fiduciary capacity with respect to the transactions described herein; and

(9) The conditions of Prohibited Transaction Exemption (PTE) 93-71 (58 FR 51109, September 30, 1993) have been met. PTE 93-71, which expired September 30, 1998, provided prospective relief for the purchases by the Plan of certain Notes from the Employer.<sup>1</sup>

#### *Part II. Repurchases of Residential Mortgage Notes*

If the exemption is granted, 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 to the repurchases of the Notes (the Repurchases) by the Employer: (a) in the event of default; (b) if the limitations set forth in Part I (6) and/or (7) are exceeded; and (c) at other times as determined by the independent fiduciary,<sup>2</sup> provided that the Repurchases will be at a price which is equal to the greater of the outstanding principal balance of the Note plus accrued interest through the date of repurchase, or the current fair market value of the Note as determined by the independent fiduciary.

**EFFECTIVE DATE:** The proposed exemption, if granted, will be effective as of October 1, 1998.

#### *Summary of Facts and Representations*

1. The Plan is a profit sharing plan, which, as of December 31, 1997, had approximately 202 participants and beneficiaries. As of September 22, 1998, the Plan had \$4,233,826 in total assets. The Plan trustee and administrator is Standard Bank and Trust Company located at 2400 West 95th Street, Evergreen Park, Illinois. The Plan is audited on an annual basis by Deloitte & Touche, a certified public accounting firm. The Employer is a licensed Illinois State bank, and is a recognized mortgage

<sup>1</sup> The applicant represents that, as mandated by PTE 93-71, the Employer has filed Form 5330 (Return of Initial Excise Taxes for Pension and Profit Sharing Plans) and paid the applicable excise taxes for certain past purchases by the Plan of the Notes from the Employer which occurred prior to the effective date of PTE 93-71.

<sup>2</sup> The Department notes that if a violation of any of the terms and conditions of Part I occurs, the exemptive relief provided by Part I for purchases of the Notes by the Plan will no longer be available. However, the Department further notes that the loss of exemption under Part I will not affect the use of Part II to dispose of the Notes previously acquired by the Plan pursuant to the exemption.

lender. The Employer is a member of the Federal Deposit Insurance Corporation (FDIC), and is examined annually by the Illinois Commissioner of Banks and every eighteen months by the FDIC.

2. Among its banking activities, the Employer serves as a mortgage lender wherein the Employer makes loans to borrowers to purchase a residential dwelling unit (RDU) or to refinance mortgage loans on the RDU. The borrower signs or guarantees a mortgage note payable to the Employer secured with a mortgage or a trust deed and, if appropriate, an assignment of rents recorded against the RDU. In the case of a purchase or refinancing, an appraisal is obtained from a certified independent appraiser establishing the market value of the RDU being pledged as collateral for the mortgage note. A title insurance policy insuring the first and paramount lien of the mortgage on the RDU is obtained from a licensed title insurance company, and hazard insurance is also obtained naming the Employer as a mortgagee. In compiling its mortgage portfolio, the Employer reviews the following criteria:

(a) The credit record of the borrower showing that the borrower is a good credit risk and has a record of paying bills in a timely manner;

(b) A verification of the borrower's employment or source of income, indicating that the gross income is adequate to service the mortgage debt;

(c) The ratio of mortgage payments to borrower's income; and

(d) An appraisal by a certified independent appraiser establishing the market value of the RDU to be pledged as collateral for the mortgage note.

3. The Employer was granted an individual exemption by the Department in 1993 (PTE 93-71), for prospective purchases of certain residential mortgage notes (i.e., the Notes) by the Plan from the Employer, a party in interest with respect to the Plan. PTE 93-71 provided temporary relief, and remained effective for a five year period beginning on September 30, 1993, which was the date the final grant was published in the **Federal Register**. Thus, PTE 93-71 expired September 30, 1998. The applicant requests herein that this proposed exemption, if granted, be effective as of October 1, 1998, for the sake of continuity, although no new purchases of the Notes by the Plan have occurred since September 30, 1998. This proposed exemption contains conditions that are substantially similar to the conditions contained in PTE 93-71.

4. The Employer proposes to prospectively continue selling the Notes originated by the Employer to the Plan.<sup>3</sup>

William J. Duffner (Mr. Duffner), CPA, of Evergreen Park, Illinois, will serve as an independent fiduciary for the Plan with respect to the proposed transactions and will have investment discretion regarding any new purchases of the Notes by the Plan. In this regard, Mr. Duffner also served as the Plan's independent Fiduciary under PTE 93-71.

Mr. Duffner represents that he is self-employed as a Certified Public Accountant (CPA) as well as a real estate and financial consultant. Mr. Duffner and the accounting firm of Duffner & Company, P.C., provide a wide range of services including, but not limited to, investment analysis for pension and profit sharing plans, Keogh plans and individual retirement accounts (IRAs). Mr. Duffner and his firm also provide assistance to such plans and other investors in residential mortgage and land title matters. Mr. Duffner represents that he is unrelated to the Plan and the Employer<sup>4</sup> and is experienced with mortgage investments and related matters. Mr. Duffner states that by virtue of his education and experience he is qualified to serve as an independent fiduciary for the Plan for the transactions described herein.

Mr. Duffner has been advised by legal counsel as to the duties and responsibilities of an ERISA fiduciary and assumes those responsibilities for the Plan in regard to the transactions described herein. Mr. Duffner also states that the fees received by him for serving as the Plan's independent fiduciary, combined with any other fees derived from the Employer or related parties, will not exceed one percent (1%) of his annual gross income from all sources for each fiscal year that he serves as independent fiduciary.

5. As the independent fiduciary, Mr. Duffner will verify information, review documents and make computations as

<sup>3</sup> The Department notes that the decisions to acquire and hold the Notes are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not proposing relief for any violations of Part 4 which may arise as a result of the acquisition and holding of the Notes by the Plan.

Furthermore, this exemption, if granted, does not apply to any prohibited transactions which may arise as a result of the Employer receiving origination fees from the borrowers in connection with the Notes which in the future will be purchased by the Plan.

<sup>4</sup> Mr. Duffner does acknowledge that he personally maintains deposit and loan accounts with the Employer. However, such accounts represent a de minimus amount of the total accounts maintained by the Employer.

necessary for each proposed sale of a Note by the Employer to the Plan. The Notes will represent original acquisition mortgage loans or mortgage loan refinancings. The Notes will be first mortgage Notes and will be seasoned for at least three months. The Notes to be offered to the Plan will be selected by the Employer. However, Mr. Duffner will have discretion with respect to whether a purchase of the Notes will be made by the Plan. Prior to any prospective purchase by the Plan, Mr. Duffner will review alternative Plan investments. Mr. Duffner will determine whether the purchase of a specific Note would be in the best interest of the Plan as an investment for the Plan's portfolio. In this regard, Mr. Duffner will review Employer's credit and security files maintained on the specific mortgage loan evidenced by the Note and any other relevant documents to ascertain:

- (a) The borrower's employment or source of income by reference to the borrower's financial statement, loan application and tax information;
- (b) The ratio of mortgage payments to the borrower's income;
- (c) The credit worthiness and payment history of the borrower by reference to credit, employment and financial information;
- (d) That the borrower is not an employee of the Employer and is independent of the Plan and the Employer;
- (e) Any required guaranty or assignment of rents;
- (f)(1) If the mortgage loan is an original acquisition mortgage loan, that the Note does not exceed two-thirds of the lower of the purchase price or the appraised value of the RDU mortgaged by the borrower to the Employer to secure the Note; or
- (2) If the mortgage loan is a refinancing of the original acquisition mortgage loan, that the Note does not exceed two-thirds of the appraised value of the RDU mortgaged by the borrower to the Employer to secure the Note;
- (g) That the Note has been seasoned for at least three months and is secured by a first mortgage on a single-family RDU and specifies a maximum fifteen (15) year maturity with a fixed interest rate per annum on the principal balance;
- (h) That a title insurance policy has been issued to the Employer insuring the mortgage on the RDU as a first and paramount lien and designating the Employer, its successors and assigns as the named insured;

(i) That a hazard insurance policy and flood insurance policy, if applicable, have been issued insuring the Employer and its successors and assigns as

mortgagee of the RDU in an amount not less than the principal amount of the Note; and

- (j) That the Employer, as servicer of the Notes, will charge the Plan only for its direct costs in connection with such services, as permitted by section 408(b)(2) of the Act.

Mr. Duffner can also require the Employer to repurchase any Notes from the Plan to meet liquidity needs of the Plan. Such repurchases will be for the greater of the outstanding principal balance of the Note plus accrued interest through the date of repurchase, or the current fair market value of the Note. The fair market value will be determined based on computations described below.

6. On the date of any sale, Mr. Duffner will also verify that the sale price of the Note to the Plan is equal to the current fair market value of the Note. In this regard, Mr. Duffner will rely on the following method in determining the fair market value of the Note:

- (a) The average yield of comparable RDU mortgage loans will be determined based upon the interest rates offered by direct federally insured lenders in the Employer's market area. Such interest rate information will be obtained from independent published sources or the Employer's in-house survey of mortgage loan interest rates offered by other direct federally insured lenders in the Employer's market area;

(b) The fair market value of the Note will then be determined by adjusting the principal amount of the Note to a sum which will result in a yield equal to the average yield computed by reference to the published sources or the Employer's in-house survey referred to in (a) above. The current fair market value of the Note may result in a sale at a premium or a discount from the outstanding principal balance on the Note. However, differences between average market yield and the yield on the Note of less than  $\frac{1}{4}\%$  will be considered a de minimis variance and no adjustment will be made for such variance; and

(c) Once the fair market value of the Note is determined, that amount will be increased to reflect accrued interest due the Employer from the borrower through the date of the sale of the Note to the Plan, to arrive at the sale price of the Note.<sup>5</sup>

<sup>5</sup> When determining the purchase price to the Plan of a Note originated by the Employer, the independent fiduciary will consider prepaid interest in the form of origination fees or points charged to the borrower by the Employer and retained by the Employer. Origination fees or points will be considered in the comparison of the nominal yield of the Note to the average yield in the Employer's market area for comparable

The Plan will then pay the Employer the sales price in cash. Any Note being evaluated by Mr. Duffner would have been originated by the Employer for its own portfolio and not as an agent for the Plan. The Plan will pay no transfer charges or other costs in relation to these transactions. It is represented that any risks and burdens involved in the origination, closing, booking and servicing of the mortgage loans will be borne by the Employer at no cost to the Plan.

7. Mr. Duffner as the independent fiduciary will be responsible for reviewing the Plan's financial statements and the Employer's compliance with the terms of the exemption (if granted) as set forth in this document. Mr. Duffner will ensure that the Plan's aggregate investment in the Notes does not at any time exceed 25% of the Plan's total assets, and that the Plan's investment in the Notes from any one borrower does not at any time exceed 10% of the Plan's total assets. In this regard, Mr. Duffner will conduct annual reviews of the total assets of the Plan in order to determine their fair market value. These reviews will take place on each anniversary date from the date that the final grant for this proposed exemption is published in the **Federal Register**. If on those occasions, the aggregate fair market value of the Notes in the Plan's portfolio exceeds either the 25% or the 10% limitation as set forth herein, Mr. Duffner will require the Employer to repurchase any Notes as necessary to comply with the 25% and 10% limitations. Such repurchases will be completed within three (3) business days after each annual review and will be at a price equal to the greater of the outstanding principal balance of the Notes plus accrued interest through the date of repurchase, or the fair market value of the Notes on the date of review. Furthermore, Mr. Duffner will monitor the Employer's mortgage loan servicing department to assure the receipt of monthly payments of principal and interest due on each Note purchased by the Plan, and the remission of such payments to the Plan.

8. Mr. Duffner will also monitor the Plan's rights in default situations. In this regard, the Employer has agreed to repurchase any Note (i.e., a Repurchase) which is delinquent for three

residential dwelling unit mortgage loans offered by other federally insured lenders. The average yield figures from other federally insured lenders will include prepaid interest in the form of origination fees or points. By making this comparison, any prepaid interest in the form of origination fees or points retained by the Employer will be considered in the computation of the purchase price of the Note to the Plan when the purchase price of the Note is adjusted to reflect an average market yield.

consecutive monthly payments of principal and interest at a price equal to the unpaid principal balance on the Note plus accrued interest through the date of repurchase. Such Repurchase shall occur not later than the last business day of the third consecutive month of uncured principal and interest payment default. Also, the Employer will remit to the Plan any late fees assessed and collected from the borrower. Mr. Duffner represents that a Note in default always has a fair market value which is not greater than the unpaid principal balance plus accrued interest through the date of repurchase. Therefore, Mr. Duffner will not conduct any fair market value computations for the Repurchases in the event of default. However, Mr. Duffner will verify the accuracy of the sums received by the Plan.

9. Mr. Duffner has determined that the continued purchase by the Plan of the Notes is administratively feasible, protective and in the interest of the Plan. Mr. Duffner represents that, due to current interest rate levels and other market conditions, Plan assets that are invested in debt instruments and certificates of deposits are returning substantially lower yields than the Notes. Traditionally, mortgage note investments have certain inherent risks, such as the borrower's credit risk. However, under the conditions of this proposed exemption, the Plan will not be subject to those risks due to the Employer's obligation to repurchase from the Plan any Notes in default. In addition, the independent fiduciary (i.e., Mr. Duffner) can require the Employer to repurchase any Notes from the Plan in order to satisfy the Plan's liquidity needs and to maintain compliance with the 25% and 10% limitations as set forth herein. Therefore, Mr. Duffner concludes that acquisition of the Notes by the Plan will result in higher earnings for the Plan with less risks than comparable fixed income investments.

The Employer and Mr. Duffner understand that the effectiveness of the exemption, if granted, will be dependent on the compliance by the parties with the terms and conditions of the exemption as set forth herein. Furthermore, the Employer and Mr. Duffner understand that in the event that unanticipated circumstances reduce the assets of the Plan to the extent that a violation of any of the terms and conditions of the exemption results, the relief provided by the exemption will no longer be available, unless sufficient Repurchases of the Notes are made by the Employer within three (3) business days after the annual review described

in Paragraph 7 above, or within three (3) business days of the discovery by Mr. Duffner, as independent fiduciary, of the unanticipated event which gave rise to any violation of the terms and conditions of the exemption. In such instances, no additional purchases of the Notes will be made by the Plan until the conditions of the exemption can be met.

In this regard, the applicant makes a request regarding a successor independent fiduciary (the Successor). Specifically, if it becomes necessary to appoint the Successor to replace Mr. Duffner, the applicant will send a letter to the Department thirty (30) days prior to the appointment of the Successor. The letter will specify that the Successor has responsibilities, experience and independence similar to those of Mr. Duffner. If the Department does not object to the Successor, the new appointment will become effective on the 30th day after the Department receives such letter.

10. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The independent fiduciary (i.e., Mr. Duffner) will decide which Notes will be purchased for the Plan;

(b) Only first mortgage Notes will be purchased by the Plan;

(c) The Notes which will be purchased by the Plan will be seasoned for at least three months, will have maximum 15 year maturity, and the loan to value ratio of the collateral will be at least 150% of the principal amount of the Note;

(d) In the case of an original acquisition mortgage loan, the Note will not exceed two-thirds of the lower of the purchase price or the appraised value of the collateral mortgaged by the borrower to the Employer to secure the Note;

(e) In the case of a refinancing of the original acquisition mortgage loan, the Note will not exceed two-thirds of the appraised value of the collateral mortgaged by the borrower to the Employer to secure the Note;

(f) In the event of a default and/or if the limitations described in (g) and (h) below are exceeded, the independent fiduciary (i.e., Mr. Duffner) can require the Employer to repurchase any Notes sold to the Plan. Such Repurchases will be for the greater of the outstanding principal balance of the Notes plus accrued interest through the date of Repurchase, or the current fair market value of the Notes;

(g) No more than twenty-five percent (25%) of the value of the Plan's total assets will be invested in the Notes;

(h) No more than ten percent (10%) of the value of the Plan's total assets will be invested in any one Note or Notes to any one borrower;

(i) Mr. Duffner, as the Plan's independent fiduciary, states that the fees received by him for serving as an independent fiduciary to the Plan, combined with any other fees derived from the Employer or related parties, will not exceed one percent (1%) of his annual gross income from all sources for each fiscal year that he serves as the independent fiduciary;

(j) The conditions of PTE 93-71 have been met. PTE 93-71, which expired September 30, 1998, provided prospective relief for the purchases by the Plan of certain Notes from the Employer.

(k) The Employer and Mr. Duffner, as the Plan's independent fiduciary, understand that the effectiveness of the exemption, if granted, will be dependent on the compliance by the parties with the terms and conditions of the exemption as set forth herein; and

(l) The Employer and Mr. Duffner, as the Plan's independent fiduciary, understand that in the event that unanticipated circumstances reduce the assets of the Plan to the extent that a violation of any of the terms and conditions of the exemption results, the relief provided by the exemption will no longer be available unless sufficient Repurchases of the Notes are made within three (3) business days by the Employer, and no additional purchases of the Notes are made by the Plan until the conditions of the exemption can be met.

**FOR FURTHER INFORMATION CONTACT:**  
Ekaterina A. Uzlyan 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 of 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 accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 9th day of February, 1999.

**Ivan Strasfeld,**

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

[FR Doc. 99-3564 Filed 2-12-99; 8:45 am]

BILLING CODE 4510-29-P

## LEGAL SERVICES CORPORATION

### Sunshine Act Meeting of the Board of Directors' Performance Reviews Committee

**Note:** This is a republication of the notice of meeting published in the Federal Register on February 12, 1999. It contains an additional item on the meeting agenda.

**TIME AND DATE:** The Board of Directors' Performance Reviews Committee will meet on February 21, 1999. The meeting will commence at 1:00 p.m. and continue until the Committee concludes its agenda.

**LOCATION:** Eden Roc Hotel, 4525 Collins Avenue, Miami Beach, FL 33140.

**STATUS OF MEETING:** Except for approval of the meeting agenda and any miscellaneous business that may come before the committee, the meeting will be closed to the public. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(2) & (6)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR § 1622.5(a) & (e)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

#### MATTERS TO BE CONSIDERED:

##### *Open Session*

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of November 14, 1998.

##### *Closed Session*

3. Continue and complete the Committee's performance appraisal of the President of the Corporation.
4. Continue and complete the Committee's performance appraisal of the Inspector General of the Corporation.

##### *Open Session*

5. Consider and act on matters in preparation for the annual performance reviews of the President and the Inspector General for FY 1999.
6. Consider and act on other business.
7. Public comment.

#### CONTACT PERSON FOR INFORMATION:

Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336-8810.

**SPECIAL NEEDS:** Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336-8810.

Dated: February 11, 1999.

**Victor M. Fortuno,**

*General Counsel.*

[FR Doc. 99-3838 Filed 2-11-99; 3:04 pm]

BILLING CODE 7050-01-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99-031]

### NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Sun-Earth Connections Advisory Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting change.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 64 FR 4721, Notice Number 99-021, January 29, 1999.

**PREVIOUSLY ANNOUNCED DATES OF MEETING:** Monday, February 22, 1999, 8:30 a.m. to 5:00 p.m., and Tuesday, February 23, 1999, 8:30 a.m. to 5:00 p.m.

**ADDRESSES:** Radisson Resort on the Port Hotel, 8701 Astronaut Boulevard, Cape Canaveral, Florida.

**CHANGES IN THE MEETING:** Time changes will be Monday, February 22, 1999, 8:00 a.m. to 6:00 p.m., and Tuesday, February 23, 1999, 8:30 a.m. to 6:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Dr. George Withbroe, Code S, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358-2470.

Dated: February 8, 1999.

**Matthew M. Crouch,**

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

[FR Doc. 99-3582 Filed 2-12-99; 8:45 am]

BILLING CODE 7510-01-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99-032]

### NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting change.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 64 FR 4474, Notice Number 99-020, January 29, 1999.

**PREVIOUSLY ANNOUNCED DATES OF MEETING:** Monday, February 22, 1999, 8:30 a.m. to 5:00 p.m., and Tuesday, February 23, 1999, 8:30 a.m. to 5:00 p.m.

**ADDRESSES:** Radisson Resort on the Port Hotel, 8701 Astronaut Boulevard, Cape Canaveral, Florida.

**CHANGES IN THE MEETING:** Time changes will be Monday, February 22, 1999, 8:00