

investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: July 16, 2009.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E9-17536 Filed 7-22-09; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

F.C.S.C. Meeting Notice No. 4-09

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Tuesday, July 28, 2009, at 11 a.m.

Subject Matter: Issuance of Proposed Decisions in claims against Albania and Libya.

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579.

Telephone: (202) 616-6975.

Dated at Washington, DC.

Mauricio J. Tamargo,

Chairman.

[FR Doc. E9-17443 Filed 7-22-09; 8:45 am]

BILLING CODE 4410-01-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. and Proposed Exemption Involving: Bank of New York Mellon Corporation, D-11553]

Notice of Proposed Exemption

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of

the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or 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 exemption, 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. D-11553. 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 application 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 exemption 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 exemption was requested in an application 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, this notice of proposed exemption is issued solely by the Department.

The application contains representations with regard to the proposed exemption which is summarized below. Interested persons are referred to the application on file with the Department for a complete statement of the facts and representations.

Bank of New York Mellon Corporation

Located in Pittsburgh, PA
[Application No. D-11553]

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).

If the proposed exemption is granted, the restrictions of sections 406(a)(1)(A) through (D), 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,¹ shall not apply, effective November 25, 2008, to the cash sale of certain securities (the Securities) issued by Lehman Brothers Holdings Inc. or its affiliates (Lehman) for an aggregate purchase price of approximately \$5,512,395 by the EB SMAM Securities Lending Temporary Investment Fund (the Cash Collateral Fund) to the Bank of New York Mellon Corporation (BNYMC), a party in interest with respect to the employee benefit plans (the Plan(s)) invested, directly or indirectly, in the Cash Collateral Fund; provided that the following conditions are met:

(a) The sale of the Securities was a one-time transaction for cash;

(b) The Cash Collateral Fund received an amount for the sale of the Securities which was equal to the sum of:

(1) the amortized cost of the Securities, and (2) the accrued but

¹ For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

unpaid interest on each of the Securities, determined as of the earlier of: (A) the date of the sale of the Securities, or (B) the maturity date of each of the Securities;

(c) The amount received by the Cash Collateral Fund for the sale of the Securities was greater than the aggregate market value of the Securities at the time of the sale, as determined based on information regarding the then prevailing trading prices for the Securities obtained from two independent broker-dealers;

(d) The Cash Collateral Fund did not bear any commissions, fees, transactions costs, or other expenses in connection with the sale of the Securities;

(e) The Bank of New York Mellon (BNY Mellon), as trustee of the Cash Collateral Fund, determined that the sale of the Securities was appropriate for and in the best interest of the Cash Collateral Fund, and the Plans invested, directly or indirectly, in the Cash Collateral Fund, at the time of the transaction;

(f) BNY Mellon took all appropriate actions necessary to safeguard the interests of the Cash Collateral Fund, and the Plans invested, directly or indirectly, in the Cash Collateral Fund, in connection with the transaction, given that Lehman had filed for bankruptcy and that the value of the Securities had declined substantially;

(g) If the exercise of any of BNYMC's rights, claims, or causes of action in connection with its ownership of the Securities results in BNYMC recovering from Lehman, the issuer of the Securities, or from any third party, an aggregate amount that is more than the sum of:

(1) The purchase price paid for such Securities by BNYMC; and

(2) The interest due on the Securities from and after the date BNYMC purchased the Securities from the Cash Collateral Fund, determined at the last-published interest rate on the Securities preceding Lehman's bankruptcy filing. BNYMC will refund such excess amount promptly to the Cash Collateral Fund (after deducting all reasonable expenses incurred in connection with the recovery);

(h) BNY Mellon and its affiliates, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of the transaction such records as are necessary to enable the persons described, below, in paragraph (i)(1), to determine whether the conditions of this exemption have been met, except that—

(1) No party in interest with respect to a Plan which engages in the transaction, other than BNY Mellon and

its affiliates, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by paragraph (i)(1); and

(2) A separate prohibited transaction shall not be considered to have occurred solely because, due to circumstances beyond the control of BNY Mellon and its affiliates, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(i)(1) Except as provided, below, in paragraph (i)(2), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in paragraph (h) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission; or

(B) Any fiduciary of a Plan that engages in the transaction, or any duly authorized employee or representative of such fiduciary; or

(C) Any employer of participants and beneficiaries and any employee organization whose members are covered by a Plan that engages in the transaction, or any authorized employee or representative of these entities; or

(D) Any participant or beneficiary of a Plan that engages in the transaction, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in paragraph (i)(1)(B)–(D) shall be authorized to examine trade secrets of BNY Mellon and its affiliates, as applicable, or commercial or financial information which is privileged or confidential; and

(3) Should BNY Mellon and its affiliates, as applicable, refuse to disclose information on the basis that such information is exempt from disclosure, BNY Mellon and its affiliates, as applicable, shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Effective Date: This proposed exemption, if granted will be effective, as of November 25, 2008.

Summary of Facts and Representations

1. BNY Mellon is a state bank subject to regulation by the state of New York. As of December 31, 2008, BNY Mellon

managed assets in excess of \$210 billion, a substantial portion of which consisted of assets of plans subject to the Act. BNY Mellon is a subsidiary of BNYMC.

2. BNYMC is the parent of BNY Mellon by reason of its 100 percent (100%) ownership of BNY Mellon. BNYMC has numerous other subsidiaries and affiliates. BNYMC is a Delaware financial services company that provides a wide range of banking and fiduciary services to a broad array of clients, including plans subject to the Act and plans subject to section 4975 of the Code.

3. The Cash Collateral Fund is a collective investment fund managed by BNY Mellon. The Cash Collateral Fund is a group trust that is exempt from federal income tax, pursuant to Rev. Rul. 81–100. BNY Mellon serves as a discretionary trustee for the Cash Collateral Fund. As of November 25, 2008, the value of the portfolio of the Cash Collateral Fund was approximately \$486,303,272.

4. The Cash Collateral Fund was established to hold collateral received in connection with the securities lending activities of three collective investment funds: (a) The EB SMAM 1–3 Year Government Bond Index Fund, (b) the EB SMAM 3–10 Year Government Bond Index Fund, and (c) the EB SMAM Long Government Bond Index Fund (collectively, the Lending Funds and together with the Cash Collateral Fund (the Funds)). As of November 25, 2008, the effective date of this proposed exemption, the Lending Funds were the only investors in the Cash Collateral Fund.

5. Each of the Lending Funds is a group trust that is exempt from federal income tax, pursuant to Rev. Rul. 81–100. BNY Mellon serves as a discretionary trustee for the Lending Funds. As of November 25, 2008, the value of the aggregate portfolios of the Lending Funds was approximately, \$686,048,723.

6. Because the requested exemption involves a transaction with a collective investment fund in which a large number of Plans have a direct or indirect interest, the applicant, BNYMC, has not specifically identified any of the Plans involved in the subject transaction. No plans maintained by BNYMC or any of its affiliates had an interest, directly or indirectly, in any of the Funds at the time of the transaction.

7. BNY Mellon is a fiduciary, pursuant to section 3(14)(A) of the Act, as the discretionary trustee of the Funds in which the Plans invest. BNY Mellon is also a party in interest, pursuant to section 3(14)(B) of the Act, as a services

provider with respect to the Plans invested, directly or indirectly, in the Funds. Pursuant to section 3(14)(H) of the Act, BNYMC is a party in interest with respect to the Plans invested, directly or indirectly, in the Funds, as the 100 percent (100%) owner of BNY Mellon, a service provider to the Funds.

8. As of November 25, 2008, there were five direct investors in the Lending Funds, including: (a) Two other collective investment funds maintained by BNY Mellon (the BNY Mellon Funds), (b) one collective investment fund maintained by an entity unrelated to BNY Mellon, and (c) two Plans subject to the Act. In addition, thirty-eight (38) other Plans subject to the Act were indirect investors in the Lending Funds by reason of such Plans' interests, directly or indirectly, in the BNY Mellon Funds. It is represented that none of these Plans owns, directly or indirectly, greater than 20 percent (20%) of the interests in the Cash Collateral Fund.

9. The Securities which are the subject of this proposed exemption are floating rate securities issued by Lehman. Three Securities were acquired and held by the Cash Collateral Fund, prior to November 25, 2008. At the time the Securities were acquired, the Securities were rated "A1" by Moody's and "A+" by S&P rating agencies. These three Securities are identified as: (a) LEHMAN BROTHERS HLDG-LEH (purchased 12/19/06; maturity date 12/23/08); (b) LEHMAN BROTHERS HLDG-LEH (purchased 3/21/07; maturity date 3/23/09); and (c) LEHMAN BROTHERS HLDG-LEH (purchased 3/22/07; maturity date 10/22/08).

The Cash Collateral Fund purchased two of the Securities involved in the subject transaction from Lehman at par (*i.e.*, \$100) in connection with the initial issuance of such Securities by Lehman. As a result, there was no premium to amortize and no discount to accrete with respect to these two Securities. The third of the Securities involved in the subject transaction was purchased by the Cash Collateral Fund from Morgan Stanley at a slight premium to par (\$100.0528). The premium reflects the fact that this security was purchased on the secondary market after its initial issuance. In this regard, it is represented that the purchase occurred at a time when interest rates had fallen slightly subsequent to the most recent reset date, thereby causing the value of this security at the time of purchase to be slightly higher than its par value.

10. The decision for the Cash Collateral Fund to invest in the Securities was made by BNY Mellon.

Prior to the investment by the Cash Collateral Fund in the Securities, BNY Mellon conducted an investigation of the potential investment, examining and considering the economic and other terms of the Securities. BNY Mellon represents that the investment in the Securities was consistent with the applicable investment policies and objectives of the Cash Collateral Fund.²

11. On September 15, 2008, Lehman filed for Chapter 11 bankruptcy protection. BNY Mellon represents that following the date of Lehman's bankruptcy filing, the market value of the Securities decreased substantially, the Securities became relatively illiquid, and the Securities traded, if at all, at prices substantially below amortized cost.

12. It is represented that because the first two Securities were purchased in connection with the initial issuance of such Securities by Lehman there was no premium to amortize and no discount with respect to these two Securities, such that the amortized cost of these two Securities was at all times equal to their par value (*i.e.*, \$100). Accordingly, the amortized cost for each of these two Securities is represented as

² The Department is expressing no opinion in this proposed exemption regarding whether the acquisition and holding of the Securities by the Cash Collateral Fund violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act. In this regard, the Department notes that section 404(a) of the Act requires, among other things, that a fiduciary of a plan act prudently, solely in the interest of such plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries when making investment decisions on behalf of such plan. Section 404(a) of the Act also states that the fiduciary of a plan should diversify the investments of such plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

In this regard, the Department is not providing an opinion as to whether a particular category of investments or an investment strategy would be considered prudent or in the best interests of a plan as required by section 404 of the Act. The determination of the prudence of a particular investment or investment course of action must be made by a plan fiduciary after appropriate consideration of those facts and circumstances that given the scope of such fiduciary's investment duties, the fiduciary knows or should know are relevant to the particular investment or investment course of action involved, including a plan's potential exposure to losses and the role of the investment or investment course of action plays in that portion of the plan's portfolio with respect to which the fiduciary has investment duties (see 29 CFR 2550.404a-1). The Department also notes that in order to act prudently in making investment decisions, a plan fiduciary must consider, among other factors, the availability, risks and potential return of alternative investments for the plan. Thus, a particular investment by a plan, which is selected in preference to other alternative investments, would generally not be prudent if such investment involves a greater risk to the security of a plan's assets than other comparable investments offering a similar return or result.

approximately \$1,703,424, and \$3,407,847, respectively.

However, the premium (*i.e.*, \$.0528 per \$100) on the third security, consistent with standard accounting and valuation practice, would have been amortized on a straight-line, daily basis from the date of purchase (3/22/07) of this security through its maturity date (10/28/08). When Lehman filed for bankruptcy on September 15, 2008, the amortization was discontinued with the result that a tiny portion of the premium (approximately \$12 on the aggregate holding) remained. As a result, the amortized cost of this security was slightly above par when it was purchased by BNYMC on November 25, 2008. Accordingly, the par value and the amortized cost for this security are represented as approximately \$354,744 and \$354,756, respectively.

13. BNY Mellon further represents that on or about November 25, 2008, it obtained information from two independent broker-dealers—UBS and Bank of America Securities—that the market for the Securities was in extreme distress, with prices for actual trades being substantially lower than the sum of the amortized cost for the Securities, plus accrued and unpaid interest thereon. In particular, BNYMC was informed by each of these broker-dealers that the prevailing prices for the Securities were in the range of \$8.50 to \$9.00 per \$100 of par value (*i.e.*, a discount of approximately 90 percent (90%)) from the price paid by BNYMC.

14. In view of the substantial decrease in the value of the Securities, BNY Mellon has submitted an application for an individual exemption requesting relief from sections 406(a)(1)(A) through (D), for the cash sale of the Securities by the Cash Collateral Fund for a lump sum payment in the aggregate amount of approximately \$5,512,395 by BNYMC, given that BNYMC is a party in interest by reason of its 100 percent (100%) ownership of BNY Mellon, a service provider to each of the Plans invested, directly or indirectly, in the Cash Collateral Fund.

In addition, BNY Mellon has requested relief from 406(b)(1) and 406(b)(2) of the Act for the purchase by BNYMC of the Securities from the Cash Collateral fund, because BNYMC (an affiliate of BNY Mellon, the discretionary trustee) would be purchasing the Securities for its own account.

15. On November 25, 2008, BNYMC purchased the Securities from the Cash Collateral Fund. In this regard, shortly before the consummation of the transaction, BNY Mellon sent a written notice to the designated representative

of each of the investors having a direct interest in the Lending Funds of BNY Mellon. The notice informed such investors of BNY Mellon's intent to cause the Cash Collateral Fund to sell the Securities to BNYMC. Accordingly, BNYMC, the applicant, has requested that the exemption provide retroactive relief, effective November 25, 2008.

16. As of November 25, 2008, the effective date of this proposed exemption, the amortized cost for each of the Securities were represented as approximately \$1,703,424, \$3,407,847, and \$354,756, respectively. The Securities had a total amortized cost of approximately \$5,466,027. The accrued but unpaid interest for each of the Securities is represented as approximately \$11,217, \$32,568, and \$2,583, respectively. The total accrued but unpaid interest on the Securities was approximately \$46,368. BNYMC purchased the Securities from the Cash Collateral Fund for a lump sum payment of approximately \$5,512,395, which sum represented the aggregate amortized cost of the Securities (*i.e.*, \$5,466,027), plus the aggregate accrued but unpaid interest on such Securities (*i.e.*, \$46,368) through the earlier of November 25, 2008, or the maturity date of the Securities. BNY Mellon notes that, in determining the amount of accrued interest subsequent to the date preceding Lehman's bankruptcy filing, the last published interest rate on the Securities prior to the bankruptcy filing was utilized. With regard to the three (3) Securities which are the subject of this exemption, the last published interest rates were, respectively 2.52188 percent (2.52188%); and 3.66 percent (3.66%), and 2.88063 percent (2.88063%).

17. BNY Mellon represents that the requested exemption is administratively feasible, because the transaction was a one-time sale for cash. Further, the exemption involves an easily identifiable transaction which does not require on-going monitoring by the Department.

18. BNY Mellon, as trustee of the Funds, believes that the sale of the Securities to BNYMC was in the best interest of the Funds, and the Plans invested, directly, or indirectly, in the Funds, at the time of the transaction. In this regard, the aggregate value of the assets of the Funds increased, as a result of the subject transaction, and each Plan's *pro rata* share, directly or indirectly, of such value increased as well.

BNY Mellon states that any sale of the Securities on the open market would have produced significant losses for the Funds and for the investors, including the Plans, participating in the Funds,

given Lehman's bankruptcy filing, the resulting distressed market for the Securities, and the general disruption in the debt markets. In this regard, BNY Mellon represents that the sale of the Securities by the Cash Collateral Fund to BNYMC benefited the investors in the Funds, because the purchase price paid by BNYMC for the Securities substantially exceeded the aggregate fair market value of the Securities, as determined based on information regarding the then prevailing trading prices for the Securities obtained from two (2) independent broker-dealers. It is represented that the purchase of the Securities by BNYMC placed the Cash Collateral Fund in substantially the same position, as would have been the case had Lehman, the issuer of the Securities, not become insolvent. Further, in connection with the proposed transaction, the Funds did not bear any brokerage commissions, fees, transactions costs, or other expenses.

19. It is represented that BNY Mellon determined that the purchase price of approximately \$5,512,395 paid by BNYMC to the Cash Collateral would be appropriate and in the best interest of the Funds, as such price would protect the Funds and the investors having an interest in the Funds, including the Plans, from investment losses with respect to the Securities. BNY Mellon also determined that the purchase price of the Securities paid by BNYMC would be permissible under applicable banking law.

20. BNY Mellon represents that it took all appropriate actions necessary to safeguard the interests of the Funds and their participating investors in connection with the sale of the Securities, given that Lehman had filed for bankruptcy and that the value of the Securities had declined substantially. In this regard, it is represented that the exemption is protective of the rights of the participants and beneficiaries of the Plans, because the requested exemption contains safeguards that are similar to two (2) other exemptions previously granted by the Department and are equally protective as those other exemptions.³ In particular, the sale of the Securities by the Cash Collateral Fund to BNYMC resulted in an assignment of all of the Cash Collateral Fund's rights, claims, and causes of action against Lehman or any third party arising in connection with or out of the issuance of the Securities or the purchase of the Securities by the Cash

Collateral Fund. Further, the exemption would require that if the exercise of any of the foregoing rights, claims, or causes of action results in BNYMC recovering from Lehman or from any third party an aggregate amount that is more than the sum of: (a) The purchase price paid for the Securities by BNYMC; and (b) the interest due on the Securities from and after the date BNYMC purchased the Securities from the Cash Collateral Fund, determined at the last published rate on the Securities preceding the Lehman's bankruptcy filings, then BNYMC will refund such excess amount promptly to the Cash Collateral Fund (after deducting all reasonable expenses incurred in connection with the recovery).

21. In summary, BNY Mellon, the applicant, represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975 of the Code because:

(a) The sale of the Securities was a one-time transaction for cash;

(b) The Cash Collateral Fund received an amount for the sale of the Securities which was equal to the sum of:

(1) the amortized cost of the Securities, and

(2) the accrued but unpaid interest on each of the Securities, determined as of the earlier of: (A) the date of the sale of the Securities, or (B) the maturity date of the each of the Securities;

(c) The amount paid for the Securities was substantially greater than the aggregate market value of the Securities at the time of the sale, as determined based on information regarding the then prevailing trading prices for the Securities obtained from two (2) independent broker-dealers;

(d) The Cash Collateral Fund did not bear any commissions, fees, transactions costs, or other expenses in connection with the sale of the Securities;

(e) BNY Mellon, as trustee of the Cash Collateral Fund, determined that the sale of the Securities was appropriate for and in the best interest of the Cash Collateral Fund, and the Plans invested, directly or indirectly, in the Cash Collateral Fund, at the time of the transaction;

(f) BNY Mellon took all appropriate actions necessary to safeguard the interests of the Cash Collateral Fund, and the Plans invested, directly or indirectly, in the Cash Collateral Fund, in connection with the transaction, given that Lehman had filed for bankruptcy and that the value of the Securities had declined substantially;

(g) BNYMC will promptly refund to the Cash Collateral Fund any amount recovered from Lehman or any third party in connection with the exercise of

³ Prohibited Transaction Exemption 2008-12, Mellon Bank N.A. (73 FR 55540, September 25, 2008) and Prohibited Transaction Exemption 95-98, Boston Safe Deposit and Trust Company (60 FR 53811, October 17, 1995).

any rights, claims, or causes of action in connection as a result of BNYMC's ownership of the Securities, if such amounts are in excess of the sum of:

(1) The purchase price paid for the Securities by BNYMC; and

(2) The interest due on the Securities from and after the date BNYMC purchased the Securities from the Cash Collateral Fund, determined at the last-published interest rate on the Securities preceding Lehman's bankruptcy filing (after deducting all reasonable expenses incurred in connection with the recovery);

(h) BNY Mellon and its affiliates, as applicable, will maintain, or cause to be maintained, for a period of six (6) years from the date of any of covered transaction such records as are necessary to determine whether the conditions of this exemption have been met.

Notice to Interested Persons

The persons who may be interested in the publication in the **Federal Register** of the Notice of Proposed Exemption (the Notice) include each of the investors with a direct interest in the Cash Collateral Fund.

It is represented that each of these interested persons will be notified of the publication of the Notice by personal or express delivery, within fifteen (15) calendar days of publication of the Notice in the **Federal Register**. Such mailing will contain a copy of the Notice, as it appears in the **Federal Register** on the date of publication, plus a copy of the Supplemental Statement, as required, pursuant to 29 CFR 2570.43(b)(2), which will advise all interested persons of their right to comment and to request a hearing.

Any written comments and/or requests for a hearing must be received by the Department from interested persons within 45 days of the publication of this proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 693-8540. (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 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 exemption, 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 exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 16th day of July 2009.

Ivan Strasfeld,

*Director of Exemption Determinations,
Employee Benefits Security Administration,
U.S. Department of Labor.*

[FR Doc. E9-17467 Filed 7-22-09; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Brookwood-Sago Mine Safety Grants

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice, change in the grant application deadline.

SUMMARY: On June 29, 2009, the U.S. Department of Labor, Mine Safety and Health Administration (MSHA), announced it was making \$500,000 available in grant funds for educational and training programs to help identify,

avoid, and prevent unsafe working conditions in and around mines. 74 FR 31049-31051. This notice advised that the solicitation for grant applications would be available June 30, 2009, on the *Grants.gov* Web site. The closing date for receipt of the grant applications was July 31, 2009. Because of administrative limitations associated with the *Grants.gov* Web site, MSHA is extending the deadline for receipt of grant applications for the Brookwood-Sago Mine Safety Grants to August 1, 2009.

DATES: The closing date for submitting grant applications will be August 1, 2009 (no later than 11:59 p.m. EDST). MSHA will award grants on or before September 30, 2009.

ADDRESSES: Applications for grants submitted under this competition must be submitted electronically using the Government-wide site at <http://www.grants.gov>. If applying online poses a hardship to any applicant, the MSHA Directorate of Educational Policy and Development will provide assistance to ensure that applications can be submitted online by the closing date. MSHA's Web page at <http://www.msha.gov> is a valuable source of background information on Brookwood-Sago Safety Grants.

FOR FURTHER INFORMATION CONTACT: Any questions regarding this solicitation for grant applications (SGA 09-3BS) should be directed to Robert Glatter at glatter.robert@dol.gov or at 202-693-9570 (this is not a toll-free number) or the Grant Officer, Darrell A. Cooper at cooper.darrell@dol.gov or at 202-693-9831 (this is not a toll-free number).

Authority: 30 U.S.C. 965.

Michael A. Davis,

*Deputy Assistant Secretary for Operations,
Mine Safety and Health.*

[FR Doc. E9-17487 Filed 7-22-09; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Grant Applications; National Farmworker Jobs Program for Program Year 2009

AGENCY: U.S. Department of Labor (Department or DOL), Employment and Training Administration (ETA).

ACTION: Announcement of a Program Year (PY) 2009 grant competition for the Arkansas, Hawaii, Indiana, Maine, and Nebraska service delivery areas for operating the National Farmworker Jobs Program (NFJP) under section 167 of the Workforce Investment Act of 1998