

4 of 1978 (43 FR 47713, October 17, 1978) 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.

#### Individual Retirement Accounts (the IRAs) for Roark Young, Russell Rice, Mary J. Rice, Bruce Lamchick, Steven McKean and David McKean, and Burton Young (collectively, the Participants) Located in Miami, Florida

[Prohibited Transaction Exemption 98-38; Exemption Application Numbers D-10558-10561, 10565-10566, 10568]

#### 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 cash sales (the Sales) of certain stock (the Stock) by the IRAs<sup>1</sup> to the Participants, disqualified persons with respect to the IRAs, provided that the following conditions were met:

- (a) The terms and conditions of the Sales were at least as favorable to each IRA as those obtainable in an arm's length transaction with an unrelated party;
- (b) The Sale of Stock by each IRA was a one-time transaction for cash;
- (c) Each IRA received the fair market value of the Stock as established by a qualified, independent appraiser; and
- (d) Each IRA was not required to pay any commissions, costs or other expenses in connection with each Sale.

**EFFECTIVE DATE:** These exemptions will be effective as of March 30, 1998.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of the proposed exemption published on Friday, June 19, 1998 at 63 FR 33725.

<sup>1</sup> Because each IRA has only one Participant, there is no jurisdiction under 29 CFR § 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Scott Frazier of the Department, telephone (202) 219-8881. (This is not a toll-free number).

#### William M. Hitchcock SERP (DB) (the Plan) Located in Houston, Texas

[Prohibited Transaction Exemption 98-39; Exemption Application No. D-10605]

#### 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 sale by the Plan of 67,466 shares of stock (the Stock) in Thoratec Laboratories, Inc. to William M. Hitchcock (Mr. Hitchcock), a disqualified person with respect to the Plan, provided the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) the Plan pays no sales commissions or other expenses in connection with the transaction; (c) the Plan receives the fair market value of the Stock, as determined by reference to its most current listed price on the National Association of Securities Dealers Automated Quotation National Market System (NASDAQ) at the time of the transaction; and (d) Mr. Hitchcock is the only Plan participant to be affected by the transaction, and he desires that the transaction be consummated.<sup>2</sup>

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 June 29, 1998 at 63 FR 35290.

#### Tax Consequences of the Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan, and therefore must be examined under the applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

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

<sup>2</sup> Since Mr. Hitchcock is the sole owner of the Plan sponsor and the only participant 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 pursuant to section 4975 of the Code.

#### 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, D.C., this 31st day of July, 1998.

**Ivan Strasfeld,**

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

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#### NATIONAL CREDIT UNION ADMINISTRATION

##### Agency Information Collection Activities: Submission to OMB for Review; Comment Request

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for comment.

**SUMMARY:** The NCUA has submitted the following information collection forms for reinstatement with no changes to the Office of Management and Budget (OMB) for review and clearance under

the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. It was published as proposed forms on May 29, 1998. No comments relating to the information collection were received within the 60 day comment period.

**DATES:** Comments will be accepted until September 8, 1998.

**ADDRESSES:** Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

*Clearance Officer:* Mr. James L. Baylen (703) 518-6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-518-6433, E-mail: jbaylen@ncua.gov.

*OMB Reviewer:* Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518-6411.

**SUPPLEMENTARY INFORMATION:** Proposal for the following collection of information:

*OMB Number:* 3133-0061.

*Form Number:* CLF-8703.

*Type of Review:* Extension of a currently approved collection.

*Title:* Central Liquidity Facility (CLF) Repayment Agreement, Regular Member.

*Description:* The form is used by CLF regular members borrowing from the CLF.

*Respondents:* Credit Unions which are CLF regular members who borrow from the CLF.

*Estimated No. of Respondents/Recordkeepers:* 25.

*Estimated Burden Hours Per Response:* 1 hour.

*Frequency of Response:* Other. As the need for borrowing arises.

*Estimated Total Annual Burden Hours:* 25.

*Estimated Total Annual Cost:* N/A.

*OMB Number:* 3133-0063.

*Form Number:* CLF-8702.

*Type of Review:* Extension of a currently approved collection.

*Title:* Central Liquidity Facility (CLF) Membership Application.

*Description:* This is a one-time form used to request membership in the CLF.

*Respondents:* Credit Unions seeking membership in the CLF.

*Estimated No. of Respondents/Recordkeepers:* 25.

*Estimated Burden Hours Per Response:* 12.5 hours.

*Frequency of Response:* Other. As credit unions request membership in the CLF.

*Estimated Total Annual Burden Hours:* 18.5.

*Estimated Total Annual Cost:* N/A.

*OMB Number:* 3133-0064.

*Form Number:* CLF-7000, 7001, 7002, 7003, & 7004.

*Type of Review:* Extension of a currently approved collection.

*Title:* Forms and instructions for Central Liquidity Facility (CLF) loans.

*Description:* Forms used by each borrower from the CLF.

*Respondents:* Credit Unions which borrow from the CLF.

*Estimated No. of Respondents/Recordkeepers:* 25.

*Estimated Burden Hours Per Response:* 1 hour.

*Frequency of Response:* Other. As the need for borrowing arises.

*Estimated Total Annual Burden Hours:* 25.

*Estimated Total Annual Cost:* N/A.

*OMB Number:* 3133-0136.

*Form Number:* CLF-8704.

*Type of Review:* Extension of a currently approved collection.

*Title:* Central Liquidity Facility (CLF) Repayment Agreement, Agent Member.

*Description:* This form is used by CLF agent members borrowing from the CLF.

*Respondents:* Credit Unions which are CLF agent members who borrow from the CLF.

*Estimated No. of Respondents/Recordkeepers:* 15.

*Estimated Burden Hours Per Response:* 6 hours.

*Frequency of Response:* Other. As the need for borrowing arises.

*Estimated Total Annual Burden Hours:* 90.

*Estimated Total Annual Cost:* N/A.

**Becky Baker,**

*Secretary of the Board.*

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## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities: Submission to OMB for Review; Comment Request

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for comment.

**SUMMARY:** The NCUA has submitted the following information collections without changes to the Office of Management and Budget (OMB) for

review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). These information collections are published to obtain comments from the public. These collections were published as proposed on June 5, 1998. No comments relating to the information collections were received within the 60 day comment period.

**DATES:** Comments will be accepted until September 8, 1998.

**ADDRESSES:** Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

*Clearance Officer:* Mr. James L. Baylen (703) 518-6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-518-6433, E-mail: jbaylen@ncua.gov.

*OMB Reviewer:* Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518-6411.

**SUPPLEMENTARY INFORMATION:** Proposal for the following collection of information:

*OMB Number:* 3133-0114.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Title:* Payment on Shares by Public Units and Nonmembers.

*Description:* 5 CFR 701.32 limits nonmember and public unit deposits in federally insured credit unions to 20 percent of their shares or \$1.5 million, whichever is greater.

The collection of information requirement is for those credit unions seeking an exemption from the aforementioned limit.

*Respondents:* Credit Unions seeking an exemption from the limits set by 5 CFR 701.32 on share deposits by public unit and nonmember accounts.

*Estimated No. of Respondents/Recordkeepers:* 20.

*Estimated Burden Hours Per Response:* 2 hours.

*Frequency of Response:* Other. As exemption is requested.

*Estimated Total Annual Burden Hours:* 40.

*Estimated Total Annual Cost:* N/A.

*OMB Number:* 3133-0116.

*Form Number:* NCUA 9600, NCUA 4401, NCUA 4221, NCUA 4505, NCUA 4506.