(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 that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 30th day of January, 2002.

Ivan Strasfeld,

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

[FR Doc. 02–2640 Filed 2–4–02; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2002–09; Exemption Application No. D–10984]

Grant of Individual Exemptions; Prudential Insurance Company of America (Prudential Insurance)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This document contains an exemption issued by the Department of Labor (the Department) 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).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, 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 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 exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

The Prudential Insurance Company of America (Prudential Insurance), Located in Newark, NJ

[Prohibited Transaction Exemption 2002–09; Exemption Application No. D–10984]

Exemption

Section I. Covered Transactions

The restrictions of section 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,[1] shall not apply, effective September 27, 2001, to (1) the receipt of shares of common stock (Common Stock) issued by Prudential Financial, Inc. (Prudential Financial or the Holding Company) or (2) the receipt of cash (Cash) or policy credits (Policy Credits) by any eligible policyholder (the Eligible Policyholder) of Prudential Insurance, which is an employee benefit plan (the Plan), including Plans sponsored by Prudential Insurance and/or its affiliates for the benefit of their own employees (collectively, the Prudential Insurance Plans),[2] in exchange for such Eligible Policyholder's mutual membership interest in Prudential Insurance, pursuant to a plan of conversion (the Plan of Reorganization) adopted by Prudential Insurance and implemented in accordance with section 17:17C–2 of the New Jersey Insurance Law.

In addition, the restrictions of section 406(a)(1)(E) and (a)(2) and section 407(a)(2) of the Act shall not apply, effective September 27, 2001, to the receipt and holding, by the Prudential Welfare Plan, of Common Stock, whose fair market value exceeds 10 percent of the value of the total assets held by such Plan.

This exemption is subject to the general conditions set forth below in Section II.

Section II. General Conditions

(a) The Plan of Reorganization is implemented in accordance with procedural and substantive safeguards that are imposed under New Jersey Insurance Law and is subject to review and supervision by the New Jersey Commissioner of Banking and Insurance (the Commissioner).

(b) The Commissioner reviews the terms of any options that are provided to Eligible Policyholders of Prudential Insurance as part of such Commissioner's review of the Plan of Reorganization, and the Commissioner only approves the Plan of Reorganization following a determination that the Plan of Reorganization is fair and equitable to all Eligible Policyholders.

(c) Except as provided below, each Eligible Policyholder has an opportunity to comment on and vote to approve the Plan of Reorganization after full written disclosure of the terms of the Plan of Reorganization is given to such policyholder by Prudential Insurance. As provided under the Plan of Reorganization and approved by the Commissioner,

(1) Eligible Policyholders of policies issued by designated subsidiaries (the Designated Subsidiaries) of Prudential Insurance will not have the opportunity to comment and vote on the Plan of Reorganization, and

(2) Prudential Insurance will be precluded from voting on the Plan of Reorganization where a group policy is issued to Prudential Insurance as trustee for a multiple employer, or similar, trust (the MET).

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

[2] Unless otherwise noted, references to the term ''Plan'' are meant to include ''outside'' Plan policyholders of Prudential Insurance as well as the Prudential Welfare Benefits Plan (the Prudential Welfare Plan).

(d) Any election by an Eligible Policyholder which is a Plan to receive Common Stock pursuant to the terms of the Plan of Reorganization, or any decision by such Eligible Policyholder to participate in the commission-free purchase and sale program (the Program), is made by one or more fiduciaries of such Plan that are independent of Prudential Insurance and neither Prudential Insurance nor any of its affiliates exercises any discretion or provides ''investment advice,'' within the meaning of 29 CFR 2510.3–21(c) with respect to such election or decision-making.

(e) In the case of the Prudential Insurance Plans, the independent fiduciary—

(1) Conducts a due diligence review of the subject transactions; and

(2) Votes whether to approve or disapprove the Plan of Reorganization, on behalf of such Plan.

(f) In the case of the Prudential Welfare Plan, the independent fiduciary—

(1) Votes shares of Common Stock that are held by such Plan, which exceed the limitation of section 407(a) of the Act;

(2) Disposes of Common Stock in excess of the limitation set forth under section 407(a)(2) of the Act as soon as reasonably practicable, but in no event later than six months after the effective date of the Plan of Reorganization;

(3) Provides the Department with a complete and detailed final report as it relates to such Plan prior to the effective date of the Plan of Reorganization; and

(4) Takes all actions that are necessary and appropriate to safeguard the interests of such Plan.

(g) After each Eligible Policyholder entitled to receive Common Stock is allocated at least 8 shares (or the equivalent value of 10 shares of Common Stock for Eligible Policyholders receiving Cash or Policy Credits), additional consideration is allocated to Eligible Policyholders who own eligible policies based on a methodology that takes into account each eligible policy's contribution to Prudential Insurance's surplus, which methodology has been reviewed by the Commissioner.

(h) All Eligible Policyholders that are Plans participate in the transactions on the same basis within their class groupings as other Eligible Policyholders that are not Plans.

(i) No Eligible Policyholder pays any brokerage commissions or fees in connection with the receipt of Common Stock or in connection with the implementation of the Program.

(j) All of Prudential Insurance's policyholder obligations remain in force and are not affected by the Plan of Reorganization.

(k) The terms of the transactions are at least as favorable to the Plans as an arm's length transaction with an unrelated party.

Section III. Definitions

For purposes of this exemption:

(a) The term ''Prudential Insurance'' means The Prudential Insurance Company of America and any affiliate of Prudential Insurance as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of Prudential Insurance includes —

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Prudential Insurance. (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.); and

(2) Any officer, director or partner in such person.

(c) The term ''Eligible Policyholder'' means a policyholder who is eligible to receive compensation under Prudential Insurance's Plan of Reorganization. Eligible Policyholders are policyholders of Prudential Insurance on the day the Plan of Reorganization is adopted by the Board of Directors of Prudential Insurance.

(d) The term ''Designated Subsidiary'' means stock life insurance company subsidiaries of Prudential Insurance whose policyholders, pursuant to section 17:17C–1 of New Jersey Insurance Law, have been deemed eligible under the Plan of Reorganization to receive compensation, but which are not qualified to vote on the Plan of Reorganization.

(e) The term ''Holding Company'' refers to a New Jersey stock business corporation which will be named ''Prudential Financial, Inc.'' Under the Plan of Reorganization, Prudential Insurance will become an indirect, wholly owned stock life insurance company subsidiary of the Holding Company.

(f) The term ''Policy Credit'' means a dividend accumulation, an additional dividend, an increase in the policy's account value, an extension of the policy's expiration date, or an additional payment under an annuity contract.

(g) The term ''Plan'' refers to employee benefit plans covered by ERISA or section 4975(e) of the Code.

(h) The term ''demutualization'' refers to the process of an insurance company's reorganizing or converting from a mutual life insurance company to a stock life insurance company. As used herein, ''reorganization'' and ''conversion'' also refer to a demutualization.

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 27, 2001 at 66 FR 49408.

Effective Date: This exemption is effective as of September 27, 2001.

Written Comments

The Department received two written comments with respect to the proposed exemption. One comment was submitted by a Plan policyholder of Prudential Insurance who expressed concerns about the demutualization. The other comment was submitted by Prudential Insurance and requested minor clarifications and updates to the proposed exemption.

Discussed below are the comments submitted by the policyholder and Prudential Insurance, as well as responses to such comments made by either Prudential Insurance or the Department.

Plan Policyholder's Comment

Although characterized as a comment, the Plan policyholder objects to the proposed exemption but offers no comments on the covered transactions, their terms, or the conditions of the proposal. Instead, the policyholder expresses general opposition to Prudential Insurance's Plan of Reorganization. In this regard, the Plan policyholder believes that Prudential Insurance's demutualization will impair the security of his insurance policy and is of the view that the Policyholder Information Booklet (the PIB), describing such Plan of Reorganization, is ''biased and inadequate.''

In response, Prudential Insurance indicates that the Plan policyholder's comment is unfounded and notes that the concerns expressed therein have been considered by the Commissioner and independent experts as part of their review of the PIB and the Plan of Reorganization. In addition, Prudential Insurance states that a very small number of policyholders, who submitted objections to the Commissioner, expressed concerns similar to those articulated by the Plan policyholder. Prudential Insurance notes further that the Commissioner, in determining that the Plan of Reorganization is fair and equitable to

Prudential Insurance policyholders and consistent with New Jersey Insurance Law, rejected such comments. Accordingly, Prudential Insurance finds nothing in the Plan policyholder's comment letter to prevent the Department from granting the requested exemption.

Prudential Insurance's Comment

1. *Voting by Prudential Insurance.* Section II(c)(2) of the proposal provides that ''Prudential Insurance will be precluded from voting on the Plan of Reorganization where a group policy is issued to Prudential as trustee for a multiple employer, or similar, trust (the MET) which is not a plan described in section 3(3) of the Act or section 4975(e)(1) of the Code.'' (Emphasis added.) Prudential Insurance states that it did not include the italicized language in the exemption application or in the draft operative language it provided because it could not know whether any particular MET or similar arrangement would qualify as a plan for ERISA purposes, or whether the employers participating in such arrangement would be deemed to have established their own ERISA-covered plans in connection with the arrangement. Therefore, Prudential Insurance recommends deleting the italicized language from Section II(c)(2) of the final exemption.

The Department concurs with this comment and has made the requested deletion in the operative language of the final exemption.

2. *Source of Prudential Insurance's Voting Authority.* In Representation 10 of the proposed exemption, Footnote 23 states that New Jersey Insurance Law precludes Prudential Insurance as a trustee of a MET from voting on the Plan of Reorganization. Prudential Insurance states that the terms of the Plan of Reorganization actually preclude Prudential Insurance from voting in this situation rather than New Jersey Insurance Law. Accordingly, the Department notes this change to Footnote 23 of the proposed exemption.

3. *Status of the Demutualization.* Prudential Insurance explains that its Plan of Reorganization was given final approval by the Commissioner on October 15, 2001. In addition, Prudential Insurance states that on December 13, 2001, it completed its initial public offering and that the stock of Prudential Financial is currently being traded on the New York Stock Exchange.

In response to this comment, the Department has noted these recent developments in Prudential Insurance's demutualization.

Accordingly, after giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption subject to the modifications and clarifications described above. For further information regarding the comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10984) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 693–8556. (This is not a toll-free number.)

The Rollover Individual Retirement Account for Brenda A. Moran (the IRA), Located in Hobbs, New Mexico

[Prohibited Transaction Exemption No. 2002–10; Application No. D–11015]

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 cash sale (the Sale) of common stock (the Stock) of Bravo Energy Inc. (Bravo) by the IRA [3] to Bravo, a disqualified person with respect to the IRA, provided that the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are at least as favorable to the IRA as those obtainable in an arm's length transaction with an unrelated party;

(c) The IRA receives the greater of $14.24 per share of Stock or the fair market value of the Stock at the time of the Sale; and

(d) The IRA is not required to pay any commissions, costs or other expenses in connection with the Sale.

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 December 13, 2001 at 66 FR 64478.

[3] Because Brenda A. Moran (the Applicant) is the only participant in the IRA, 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 under section 4975 of the Code.

FOR FURTHER INFORMATION CONTACT: Mr. Khalif Ford of the Department, telephone (202) 693–8560. (This is not a toll-free number.)

Individual Retirement Account of Howard E. Adkins (the IRA), Located in Boise, Idaho

[Prohibited Transaction Exemption 2002–11; Exemption Application No. D–11025]

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 IRA of an interest (the Interest) in certain real property (the Property) to Moccasin, LLC, a disqualified person with respect to the IRA, [4] provided that the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the IRA pays no commissions nor other expenses relating to the sale; and (3) the sales price received by the IRA equals the Interest's fair market value, as of the date of the sale, as established by a qualified, independent appraiser.

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 (the Notice) published on December 13, 2001 at 66 FR 64478.

Written Comments

The applicant, Howard E. Adkins, M.D., has provided the Department with the following updated information regarding a change in the value of the IRA's Interest. On November 26, 2001, Dr. Adkins received from the IRA an additional two percent undivided interest in the West Tract of the Property as the minimum required distribution (MRD) for the year 2001. Dr. Adkins had previously received a nine percent undivided interest in the West Tract as the MRD for the year 2000, as described in Item 3 of the Summary of Facts and Representations (the Summary) contained in the Notice. An independent appraisal valued the Property as a whole at $685,700, and the West Tract at $385,320, as of September 18, 2001 (see Item 4 of the Summary). Subtracting the 11 percent minority interest in the West Tract ($385,320 × .11 = $42,385), which is owned individually by Dr. Adkins, the value of the IRA's Interest is thus reduced to

[4] Pursuant to 29 CFR 2510.3–2(d), the IRA is not an employee benefit plan within the jurisdiction of title I of the Act. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the Code.

$643,315. The appraisal will be updated at the time of the sale transaction.

Based upon the information contained in the entire record, the Department has determined to grant the proposed exemption.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng 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 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) This exemption is 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 this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 30th day of January, 2002.

Ivan Strasfeld,

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

[FR Doc. 02–2639 Filed 2–4–02; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement for the Management and Administration of the Coming Up Taller Awards.

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to one (1) award of a Cooperative Agreement for the management and administration of the Coming Up Taller Awards. The Coming Up Taller Awards annually honor and bring public attention to approximately ten excellent programs that provide education and practical experience in the arts and humanities for at-risk children and youth. The organizations that receive Coming Up Taller Awards receive a grant award from the National Endowment for the Arts. The responsibilities of the successful recipient of the Cooperative Agreement will include assisting in various aspects of the award selection process, design and production of an award ceremony and related events, development and implementation of a media and public information strategy, and maintenance of a web site. Those interested in receiving the Solicitation package should reference Program Solicitation PS 02–01 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored. The Program Solicitation will also be posted on the Endowment's Web site at *http://www.arts.gov.*

DATES: Program Solicitation PS 02–01 is scheduled for release approximately February 19, 2002 with proposals due on March 21, 2002.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Grants & Contracts Office, Room 618, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William Hummel, Grants & Contracts Office, National Endowment for the Arts, Room 618, 1100 Pennsylvania Ave., NW., Washington, DC 20506 (202/682–5482).

William I. Hummel,

Coordinator, Cooperative Agreements.

[FR Doc. 02–2651 Filed 2–4–02; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

National Science Board

Nominations for Membership

The National Science Board (NSB) is the policymaking body of the National Science Foundation (NSF). The Board consists of 24 members appointed by the President, with the advice and consent of the Senate, for six-year terms, in addition to the NSF Director *ex officio.* Section 4(c) of the National Science Foundation Act of 1950, as amended, states that: ''The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affairs; (2) shall be selected solely on the basis of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific and engineering leaders in all areas of the Nation.''

The Board and the NSF Director solicit and evaluate nominations for submission to the President. Nominations accompanied by biological information may be forwarded to the Chairman, National Science Board, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, no later than March 29, 2002. Any questions should be directed to Mrs. Susan E. Fannoney, Staff Assistant, National Science Board Office (703/292–8096).

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–2645 Filed 2–4–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it