Korea were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 5, 2007 (72 FR 36719). The hearing was held in Washington, DC, on October 18, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on December 6, 2007. The views of the Commission are contained in USITC Publication 3965 (December 2007), entitled *Coated Free Sheet Paper from China, Indonesia, and Korea: Investigation Nos. 701–TA–444–446 (Final) and 731–TA–1107–1109 (Final).*

By order of the Commission.

Issued: December 7, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–24103 Filed 12–12–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

RIN 1210–ZA13

Proposed Class Exemption for Plan Fiduciaries When Plan Service Arrangements Fail To Comply With ERISA Section 408(b)(2)

AGENCY: Employee Benefits Security Administration.

ACTION: Notice of proposed class exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed class exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act or ERISA). If granted, the proposed exemption would relieve a plan fiduciary from engaging in a transaction that constitutes a prohibited furnishing of services to an employee benefit plan. The exemption would apply to a plan fiduciary who enters into (or extends or renews) a written contract or arrangement for the provision of services to an employee benefit plan by a service provider to the plan when the resulting contract or arrangement between the plan and the service provider fails to constitute a ''reasonable contract or arrangement'' due to the service provider's failure to comply with its contractual obligation to disclose certain information as required by 29 CFR § 2550.408b–2(c)(1), as amended (''disclosure obligations''). The proposed exemption, if granted, would also affect participants and beneficiaries of employee benefit plans to the extent such plans enter into any contracts or arrangements for ''necessary services'' with entities that do not provide sufficient disclosures to the plan to enable the responsible plan fiduciary to determine that there is a ''reasonable contract or arrangement'' that complies with ERISA section 408(b)(2).

DATES: Written comments must be received by the Department on or before February 11, 2008.

ADDRESSES: To facilitate the receipt and processing of comment letters, the Employee Benefits Security Administration (EBSA) encourages interested persons to submit their comments electronically by e-mail to *e-ORI@dol.gov*, or by using the Federal eRulemaking portal at *http://www.regulations.gov* (follow instructions for submission of comments). Persons submitting comments electronically should not submit paper copies. Persons interested in submitting paper copies should send or deliver their comments to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: Plan Fiduciary Class Exemption for Section 408(b)(2) Amendment, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. All comments will be available to the public, without charge, online at *http://www.regulations.gov* or *http://www.dol.gov/ebsa* and at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Fil Williams, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8510. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This document contains a notice of pendency before the Department of a proposed class exemption from the restrictions of section 406(a)(1)(C) of the Act. The Department is proposing the class exemption on its own motion pursuant to section 408(a) of the Act, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990).

I. Executive Order 12866

Under Executive Order 12866, the U.S. Department of Labor (the Department) must determine whether a regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f) of the Executive Order, a ''significant regulatory action'' is an action that likely will result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the proposed exemption is significant under section 3(f)(1) of the executive order because it likely will materially affect a sector of the economy. Accordingly, the proposed exemption has been reviewed by OMB.

As explained in the preamble above, the proposed exemption will only be used in connection with the proposed regulation published in this same **Federal Register** entitled ''Reasonable Contract or Arrangement Under Section 408(b)(2)—Fee Disclosure.'' The Department conducted a Regulatory Impact Analysis (RIA) for the proposed regulation, published elsewhere in this issue of the **Federal Register**. The RIA discusses the costs and benefits of the proposed regulation and quantifies the costs to service providers. In considering costs to plans, the Department determined that, because fiduciaries already have a duty to evaluate the reasonableness of contracts and arrangements with service providers, the proposed regulation generally reduces the time and effort fiduciaries need to spend to obtain the necessary information. The Department acknowledges that some plans may incur increased costs from the proposed

regulation if they need to review unnecessary or increasingly detailed disclosure information. The Department concluded that any additional effort on the part of fiduciaries due to the proposed regulation would be offset by the reduced effort fiduciaries would need to spend to obtain the required information from service providers. The Department thus did not attempt to quantify these additional costs. The proposed class exemption could result in additional costs to plans due to the requirement that fiduciaries must notify the service provider and possibly the Department upon discovering an inadequate disclosure. The Department determined that these additional costs, which likely would accrue to only a small percentage of plan fiduciaries, were still within the range of what would be reasonably offset by the reduced costs for plans under the proposed regulation. The Department therefore did not attempt to quantify the costs of the proposed exemption for plan fiduciaries.

II. Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department of Labor conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, the reporting burden (time and financial resources) is minimized, and the Department can properly assess the impact of collection requirements on respondents.

The proposed exemption, if granted, will be used only by plan fiduciaries that have unknowingly entered into a contract or arrangement which is not reasonable according to the requirements of the proposed regulation (published elsewhere in this issue of the **Federal Register**). The Department has combined the paperwork burdens for the proposed regulation and the proposed class exemption under one Information Collection Request (ICR). By combining the two collections of information, the Department believes that the general public will gain a better understanding of the burden impact as it relates to different kinds of respondents. The specific burden for the proposed exemption includes labor and materials costs of fiduciaries' written requests to service providers and notifications to the Department. The hour and cost burdens for the ICR are described more fully in the preamble to the proposed regulation, ''Reasonable Contract or Arrangement Under Section 408(b)(2)—Fee Disclosure,'' under the section on the Paperwork Reduction Act.

III. Background

The Department has published in today's **Federal Register** a proposal to amend its regulations under ERISA section 408(b)(2). Specifically, the Department is proposing to amend its regulations at 29 CFR § 2550.408b–2(c) to provide that any contract or arrangement for services to an employee benefit plan by certain service providers, in order to be considered a ''reasonable contract or arrangement'' in compliance with such regulations, must require specific written disclosures regarding the service provider's compensation, fees and conflicts of interest that might affect its performance of services.

The service providers affected by the proposed regulation, as discussed therein, include those who: (i) Provide or may provide services to an employee benefit plan pursuant to a written contract or arrangement as a fiduciary, within the meaning of section 3(21) of ERISA or under the Investment Advisers Act of 1940; (ii) provide or may provide any one or more of the following services to the plan pursuant to the contract or arrangement: Banking, consulting, custodial, insurance, investment advisory (plan or participants), investment management, recordkeeping, securities or other investment brokerage, or third-party administration; or (iii) receive or may receive indirect compensation or fees, as described in proposed § 2550.408b–2(c)(1)(iii)(A)(*1*), in connection with the following services to the plan: Accounting, actuarial, appraisal, auditing, legal, or valuation.

As noted in the preamble to the proposed regulation, as published in today's **Federal Register**, when selecting service providers, a fiduciary must have enough information to make informed decisions about the services to be provided, the costs of those services, and potential conflicts of interest. The proposed regulation requires that a ''reasonable contract or arrangement'' for certain services under section 408(b)(2) must be in writing and that the terms of the contract or arrangement must require the service provider to disclose specific information. The regulation further requires that the service provider furnish the appropriate plan fiduciary with the specified information in accordance with the terms of the contract or arrangement.

As also discussed in the preamble to the proposed regulation, a failure to satisfy the conditions of the regulation will, among other things, cause the responsible plan fiduciary to violate the prohibited transaction provisions of ERISA section 406(a)(1)(C) because the transaction would not satisfy the statutory exemption under section 408(b)(2) of ERISA. A failure to comply with the regulation would also result in a prohibited transaction under section 4975(c)(1)(C) of the Internal Revenue Code (the Code) because the transaction would not satisfy the Code's parallel statutory exemption for services at 26 U.S.C. § 4975(d)(2). A prohibited transaction under section 4975 of the Code subjects the service provider as a ''disqualified person'' to excise taxes as described in section 4975(a) and (b) of the Code.

The Department recognizes that there may be circumstances when a plan fiduciary enters into a contract or arrangement that appears to meet the requirements of the regulation for relief under ERISA section 408(b)(2), but unbeknownst to the plan fiduciary, the service provider fails to disclose information consistent with the terms of the regulation and the contract or arrangement. In the absence of an exemption providing otherwise, the service provider's failure to comply will result in a prohibited transaction by both the service provider and the plan fiduciary. In an effort to address this situation, the Department proposes to adopt a class exemption that would relieve the plan fiduciary from liability for a prohibited transaction resulting from the service provider's failure to comply with the regulation. A description of the proposed class exemption follows.

IV. Description of the Proposed Class Exemption

The proposed exemption consists of three parts. Section I sets forth the general exemption and describes the transactions covered. Section II contains specific conditions applicable to transactions described in section I and requires the plan fiduciary to notify the Department under certain circumstances of the service provider's failure to comply with their disclosure obligations. Section III sets forth the timing, content and other requirements applicable to the notice required to be filed with the Department by the

responsible plan fiduciary pursuant to section II.[1]

The exemption set forth in section I would, upon adoption, provide relief from the restrictions of section 406(a)(1)(C) of ERISA to a plan fiduciary with authority to cause the plan to enter into, extend or renew a written contract or arrangement for the provision of necessary services (''the responsible plan fiduciary''), notwithstanding the service provider's initial or subsequent failure to comply with its disclosure obligations, provided that the conditions set forth in section II are met. As noted below, once the responsible plan fiduciary discovers that the service provider failed to meet its disclosure obligations, the fiduciary must, as a condition for relief under the exemption, take steps to address the failure.

Section II.A. of the proposed exemption requires that the responsible plan fiduciary, taking into account all of the information available at the time the contract or arrangement was entered into, extended or renewed, reasonably believed that the contract or arrangement met the requirements of 29 CFR § 2550.408b–2(c)(1). In addition, at the time referred to above, the responsible plan fiduciary must not know, or have reason to know, that the service provider failed, or would fail, to comply with its disclosure obligations. This condition reinforces the principle that the plan fiduciary must have entered into the contract or arrangement with a reasonable belief that the contract or arrangement met the requirements for a reasonable contract or arrangement under § 2550.408b–2(c)(1) and without knowing of the service provider's disclosure failures.

Section II.B.1 of the proposal requires that, upon discovery that the service provider failed to comply with its disclosure obligations, the responsible fiduciary shall, if it has not already received the information that the service provider failed to disclose under its disclosure obligations, request in writing that the service provider furnish the information. If the service provider fails to comply with the plan fiduciary's written request within 90 days, section II.B.2 provides that the plan fiduciary shall notify the Department. The Department believes that this condition will increase the likelihood that service providers will furnish plan fiduciaries the information they need to make informed decisions about the contract or arrangement with the service provider.[2]

Section II.C. of the proposal further provides that, after the responsible plan fiduciary discovers that the service provider failed to comply with its disclosure obligations, the fiduciary shall determine whether to terminate or continue the contract or arrangement. In this regard, it is expected that responsible plan fiduciaries would evaluate the nature of the particular disclosure failure and determine the extent of the actions necessary under the facts and circumstances. Such fiduciary should consider, among other factors, the availability, qualifications and costs of potential replacement service providers, and the responsiveness of the service provider in furnishing the missing information. Section II.C., however, does not abrogate or supersede the duties imposed upon the fiduciary by section 404(a) of ERISA, which also require the fiduciary to consider what steps to take in response to the service provider's nondisclosure.

Section III of the proposal sets forth the timing, content and other requirements applicable to notifying the Department of a service provider's failure to meet its disclosure obligations. Specifically, section III.B. provides that the responsible plan fiduciary shall file a notice with the Department not later than 30 days following the earlier of: (i) The service provider's refusal to furnish the requested information; or (ii) the date which is 90 days after the date the written request referred to in Section II.B.1 is made. In this context, a service provider's refusal to provide information to the responsible plan fiduciary, following such fiduciary's written request, shall constitute a service provider's failure to meet its disclosure obligations prior to the end of the 90-day period. The notice to the Department must contain the following information: (i) The name of the plan; (ii) the three digit plan number used for the plan's Annual Report; (iii) the plan sponsor's name, address, and EIN; (iv) the name, address and telephone number of the responsible plan fiduciary; (v) the name, address, phone number, and, if known, EIN of the service provider; (vi) a description of the services provided to the plan; (vii) a description of the information that the service provider failed to furnish; (viii) the date on which such information was requested in writing from the service provider; and (ix) a statement as to whether the service provider continues to provide services to the plan. This notice should be sent to the U.S. Department of Labor, Employee Benefits Security Administration, Office of Enforcement, 200 Constitution Ave., NW., Suite 600, Washington, DC 20210. Such notices may also be sent electronically to: *OE-DelinquentSPnotice@dol.gov*.

The Department will provide specific information for the written or electronic submission of the required notice as part of the final exemption. The Department also anticipates development of a model notice by the Department that will facilitate compliance with the notification requirement.

V. Effective Date

The Department is proposing an effective date for the proposed class exemption which is 90 days after the publication of the final exemption in the **Federal Register**. This date corresponds with the effective date for the proposed amendments to the Department's regulations at 29 CFR 2550.408b–2(c).

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 does not relieve a fiduciary or other party in interest or disqualified person from other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act. Section 404 requires, among other things, that a fiduciary discharge its duties with respect to the plan prudently and solely in the interests of the plan's participants and beneficiaries. A transaction's qualification for an exemption also does not 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, the Department must find that the exemption is administratively feasible, in the interests of the plans and their participants and beneficiaries and protective of the rights of participants and beneficiaries of such plans;

(3) If granted, the proposed exemption will apply to a transaction only if the conditions specified in the exemption are met; and

[1] As with any exemption from ERISA's prohibited transaction provisions, the party seeking to avail itself of the relief provided by the exemption has the burden of demonstrating compliance with the conditions of the exemption.

[2] The notice requirement will not relieve a plan administrator of the obligation to report a prohibited transaction in accordance with the instructions to the Annual Report Form 5500 Series, without regard to whether the service provider furnishes information in response to the fiduciary's request.

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules.

Proposed Exemption

The Department has under consideration the grant of the following class exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 Fed Reg. 32836, 32847, August 10, 1990).

Section I—Exemption for the Plan Fiduciary Entering Certain Contracts or Arrangements With a Service Provider

Effective [90 days after publication of the final exemption in the **Federal Register**], the restrictions of section 406(a)(1)(C) of the Act shall not apply to a plan fiduciary who uses its authority to cause an employee benefit plan to enter into (extend or renew) a written contract or arrangement for the provision of services (''the responsible plan fiduciary''), notwithstanding the service provider's initial or subsequent failure to comply with its contractual obligation to disclose certain information as required by 29 CFR 2550.408b–2(c)(1) (''disclosure obligations''), provided that the conditions set forth in section II below are met.

Section II—Conditions

A. The responsible plan fiduciary, taking into account all of the information available at the time the contract or arrangement was entered into, extended or renewed, reasonably believed that the contract or arrangement met the requirements of 29 CFR § 2550.408b–2(c)(1) and did not know, or have reason to know, that the service provider failed or would fail to comply with its disclosure obligations; B.1. The responsible plan fiduciary, upon discovering that the service provider failed to comply with its disclosure obligations, shall, if it has not already received the information that the service provider failed to disclose under its disclosure obligations, request in writing that the service provider furnish the information;

2. If the service provider fails to comply with the plan fiduciary's written request within 90 days of the date of that request, the responsible plan fiduciary shall, in accordance with Section III, notify the Department of Labor of the service provider's failure; and

C. The responsible plan fiduciary, following discovery that the service provider failed to comply with its disclosure obligations, shall determine whether to terminate or continue the contract or arrangement. The responsible plan fiduciary will evaluate the nature of the particular disclosure failure and determine the actions necessary under the facts and circumstances. Such fiduciary shall consider, among other factors, the availability, qualifications and costs of potential replacement service providers, and the responsiveness of the service provider in furnishing the information that the service provider should have disclosed, but did not, under its disclosure obligations.

Section III—Notice Requirements

A. The notice required by Section II.B.2 shall contain the following information: (i) The name of the plan; (ii) the three digit plan number used for the plan's Annual Report; (iii) the plan sponsor's name, address, and EIN; (iv) the name, address, and telephone number of the responsible fiduciary; (v) the name, address, phone number, and, if known, EIN of the service provider; (vi) a description of the services provided to the plan; (vii) a description of the information that the service provider failed to furnish; (viii) the date on which such information was requested in writing from the service provider; and (ix) a statement as to whether the service provider continues to provide services to the plan;

B. The notice required by Section II.B.2 shall be filed with the Department not later than 30 days following the earlier of: (i) The service provider's refusal to furnish the requested information; or (ii) the date which is 90 days after the date the written request referred to in Section II.B.1 is made; and

C. The notice required by Section II.B.2 shall be sent to the following address: U.S. Department of Labor, Employee Benefits Security Administration, Office of Enforcement, 200 Constitution Ave., NW., Suite 600, Washington, DC 20210; or may be sent electronically to *OE-DelinquentSPnotice@dol.gov*.

Signed at Washington, DC, this 7th day of December, 2007.

Bradford P. Campbell,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

[FR Doc. E7–24063 Filed 12–12–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

The Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO); Notice of Open Meeting

The Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO) was established pursuant to Title II of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 (P.L. 109–233) and Section 9 of the Federal Advisory Committee Act (FACA) (P.L. 92–462, Title 5 U.S.C. app.II). The ACVETEO's authority is codified in Title 38 U.S. Code, Section 4110.

The ACVETEO is responsible for assessing employment and training needs of veterans; determining the extent to which the programs and activities of the Department of Labor meets these needs; and assisting in carrying out outreach to employers seeking to hire veterans.

The Advisory Committee on Veterans' Employment, Training and Employer Outreach will meet on Monday, February 11th from 1 p.m. to 5 p.m. and on Tuesday, February 12th from 8 a.m. to 1:30 p.m. at the Doubletree Hotel, 3203 Quebec Street, Denver, Colorado 80207.

The committee will discuss programs assisting veterans seeking employment with special emphasis on transition assistance programs (TAP) and raising employer awareness as to the advantages of hiring veterans.

Individuals needing special accommodations should notify Bill Offutt at (202) 693–4717 by February 2, 2008.

Signed in Washington, DC, this 6th day of December 2007.

John M. McWilliam,

Deputy Assistant Secretary, Veterans Employment and Training.

[FR Doc. E7–24157 Filed 12–12–07; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–093)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive license.