

(i) The term "secondary service" means a service provided by a Bank or Plan Adviser to a Fund other than investment management, investment advisory or similar services.

(j) The term "fixed-income security" means any interest-bearing or discounted government or corporate security with a face amount of \$1,000 or more that obligates the issuer to pay the holder a specified sum of money, at specific intervals, and to repay the principal amount of the loan at maturity.

(k) The term "Client Plan" means a pension plan described in 29 CFR 2510.3-2, a welfare benefit plan described in 29 CFR 2510.3-1, and a plan described in section 4975(e)(1) of the Code, but does not include an employee benefit plan established or maintained by the Bank or a Plan Adviser for its own employees.

(l) The term "security" shall have the same meaning as defined in section 2(36) of the 1940 Act, as amended, 15 U.S.C. 80a-2(36) (1996).

(m) The term "Plan Adviser" means an investment adviser registered under the Investment Advisers Act of 1940, and any "affiliate" thereof [as defined above in paragraph (b)(1)].

(n) The term "business day" means a banking day as defined by federal or state banking regulations.

(o) The term "unrelated employers" means persons which are not, directly or indirectly, affiliates, as defined above in paragraph (b)(1).

(p) The term "personal delivery" means delivery of the information described in sections I(g) and II(g) above to an individual or individuals designated by the Client Plan to act on behalf of the Independent Fiduciary.

Signed at Washington, D.C., this 1st day of August, 1997.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, Department of Labor.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-10439, et al.]

Proposed Exemptions; Alloy Die Casting Co. Employees Profit Sharing Plan and Trust (the Plan), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in

29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Alloy Die Casting Co. Employees' Profit Sharing Plan and Trust (the Plan), Located in Anaheim, California

[Application No. D-10439]

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 exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan to the Alloy Die Casting Co./W.E. Holmes, Inc. (Alloy), the Plan sponsor and a party in interest with respect to the Plan, of units (the Units) in the Krupp Insured Plus-II Limited Partnership (the Partnership), provided: (a) the sale is a one-time transaction for cash; (b) no commissions or other expenses are paid by the Plan in connection with the sale; (c) the Plan will receive \$1.15 above the highest bid price for the Units at the most recent sealed bid auction for the Units which has occurred prior to the time of the sale; and (d) Alloy will purchase the Units from the Plan within 10 calendar days following the granting of the exemption proposed herein.

Summary of Facts and Representations

1. On June 23, 1997, the Department proposed an exemption for the subject transaction (62 FR 33924). However, the exemption proposed therein provided for a sales price for the Units of the greater of: (1) \$13.05 per Unit, or (2) \$1.15 above the highest bid price for the Units at the most recent sealed bid auction for the Units which has

occurred prior to the time of the sale. The floor price of \$13.05 per Unit derived from the highest bid price at the most recent sealed bid auction prior to the filing of the exemption application request.

2. The applicant represents that subsequent to the publication of the proposed exemption, Krupp Insured Plus Corp. (Krupp), a general partner of the Partnership, announced that all holders of Partnership Units would receive a special distribution (the SD) of \$.71 per Unit. The applicant represents that this SD constitutes a material change which necessitates an amendment to the proposed exemption cited in rep. 1, above. The applicant states that the SD will result in a decrease in the fair market value of each Unit at the next sealed bid auction. Consequently, if the exemption were to be granted as originally proposed, Alloy would be paying significantly more than the fair market value of the Units. While Alloy felt that the proposed transaction, as published in the above cited proposed exemption, was close to fair market value at the time of the application and the publication, Alloy no longer believes that the proposed purchase price therein is representative of fair market value in light of the SD. Therefore, Alloy has requested that the proposed exemption be amended to the price of \$1.15 above the highest bid price for the Units at the most recent sealed bid auction for the Units which has occurred prior to the time of the sale, but subsequent to the SD. The applicant further represents that Alloy will purchase the Units from the Plan within 10 calendar days of the granting of the exemption proposed herein.

3. For a more complete statement of the circumstances involved in the subject transaction, refer to the notice of proposed exemption cited in rep. 1, above.

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

Bloom Consulting Corporation Profit Sharing Plan (the Plan), Located in Tiburon, California

[Application No. D-10440]

Proposed Exemption

The Department of Labor 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, August 10, 1990). If the exemption is granted, the sanctions resulting from the

application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase by the Plan of shares of common stock of Valley Forge Corporation (the Stock) from the Martin J. Bloom Family Trust, (the Trust) a disqualified person with respect to the Plan provided that the following conditions are satisfied: (1) the purchase of the Stock will be a one-time transaction for cash; (2) the Plan will purchase the Stock at a price no greater than the fair market value of the Stock as reported on the American Stock Exchange (AMEX) on the date of purchase; (3) the Plan will not pay any expenses in connection with the proposed transaction; and (4) the purchase of the Stock shall represent no more than 25% of the fair market value of the Plan's assets.

Summary of Facts and Representations

1. The Plan is a profit sharing plan established and maintained by Bloom Consulting Corporation with one participant, Martin Bloom. As of September 1996, the fair market value of the Plan's assets was \$5,307,723. In addition, Mr. Bloom is also the sole owner of Bloom Consulting Group which specializes in real estate investment and management consulting services. The Plan's trustees are Mr. Bloom and Theodore Desloge, Jr. Martin J. Bloom is also the owner of 100% of the beneficial interest in the Trust.

2. Mr. Bloom proposes that the Plan purchase the Stock from the Trust. The Stock is traded on the American Stock Exchange (the AMEX). The purchase will be a one time transaction for cash. The total purchase price of the Stock will be determined by multiplying the number of shares to be purchased by the Plan by the closing price of the Stock as quoted on the AMEX on the date of the transaction. The value of the total shares of the Stock to be purchased by the Plan will be equal to the lesser of (a) \$1,000,000 or (b) 25% of the fair market value of the Plan's assets at the time the transaction closes. The Plan will not pay any commissions or other expenses in connection with the purchase of the Stock.

3. Mr. Bloom believes it is in the interest of the Plan to purchase the Stock. The Stock is a desirable investment for the Plan because of its history of steady growth. Further, Mr. Bloom believes that the market undervalues the stock, and it is a very safe investment for the Plan. Mr. Bloom expects such growth to continue. Further, Mr. Bloom believes that the market undervalues the stock, and it is a very safe investment for the Plan. In

addition, the proposed transaction will permit the Plan to acquire the Stock without incurring any sales commissions or fees which ordinarily are associated with such a purchase on the open market.

4. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 4975(c)(2) of the Code because: (a) the purchase of the Stock is a one time transaction for cash; (b) the Plan will pay no more than the fair market value of the Stock as traded on the AMEX; (c) no sales commissions or other expenses will be incurred by the Plan; and (d) the value of the total shares of Stock to be purchased by the Plan shall be lesser of \$1,000,000 or 25% of the Plan's total assets.

Notice to Interested Persons: Since Mr. Bloom is the only participant of the Plan, thus the only participant affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed transaction are due 30 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Allison Padams of the Department, telephone (202) 219-8971. (This is not a toll free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and

protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

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

Signed at Washington, DC, this 5th day of August, 1997.

Ivan Strasfeld,

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

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97-42, et al.; Exemption Application No. D-10314, et al.]

Grant of Individual Exemptions; TA Associates, Inc. (TA Associates), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions 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).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for

exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type 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.

TA Associates, Inc. (TA Associates) Located in Boston, MA

[Prohibited Transaction Exemption 97-42; Exemption Application No. D-10314]

Exemption

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, shall not apply, effective December 29, 1993, to the making, by an employee benefit plan (the Plan), of capital contributions to any venture capital fund (the TA Fund) that is organized, sponsored and/or managed by TA Associates and/or any of its affiliates (collectively, TA) pursuant to a contractual obligation by a plan having an interest in the TA Fund.

This exemption is subject to the following conditions:

(a) At the time the Plan undertakes the obligation to make such capital contributions (the Determination Date), the TA Fund is not a party in interest with respect to the Plan.

(b) The decision to make a capital contribution to a TA Fund is made on behalf of the Plan by a Plan fiduciary which is independent of and unrelated to TA and the portfolio company whose interest is acquired by the TA Fund.

(c) TA does not otherwise provide investment advice to the Plan within the meaning of Regulation section 29 CFR 2510.3-21(c) with respect to such Plan's assets that are invested in the TA Fund.

(d) At the Determination Date, the Plan has aggregate assets that are in excess of \$50 million; provided however, that in the case of—

(1) Two or more Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are invested in a TA Fund through a group trust, an insurance company pooled separate account or any other form of entity the assets of which are "plan assets" under 29 CFR 2510.3-101 (the Plan Asset Regulation), the foregoing \$50 million requirement shall in any event be satisfied if such trust, separate account or other entity has aggregate assets which are in excess of \$50 million, provided further that the fiduciary responsible for making the investment decision on behalf of such group trust, insurance company pooled separate account or other entity has—

(i) Full investment responsibility¹ with respect to the plan assets invested therein; and

(ii) Total assets under its management and control, exclusive of the assets invested in the TA Fund, which are in excess of \$100 million, for TA Funds established after the date this grant notice is published in the **Federal Register**.

(2) Two or more Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans), whose assets are invested in a TA Fund through a master trust or any other entity the assets of which are "plan assets" under the Plan Asset Regulation, the \$50 million requirement shall in any event be satisfied if such trust or other entity has aggregate assets which are in excess of \$50 million, provided, further, that, in the case of a

¹ For purposes of this exemption, the term "full investment responsibility" means that the fiduciary responsible for making the investment decision has and exercises discretionary management authority over all of the assets of the group trust or other plan assets entity.