



4510-29-P

**DEPARTMENT OF LABOR**

Employee Benefits Security Administration

[Application No. **D-11880**]

Notice of Proposed Exemption

Aon Pension Plan (the Plan)

Located in Chicago, Illinois

**AGENCY:** Employee Benefits Security Administration, U.S.

Department of Labor.

**ACTION:** Notice of proposed exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption from certain 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). This notice includes the following proposed exemption: D-11880, Aon Pension Plan (the Plan).

**DATES:** All interested persons are invited to submit written comments and/or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Proposed Exemption,

within 44 days from the date of publication of this Federal Register Notice.

**ADDRESSES:** 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.

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, U.S. Department of Labor, 200 Constitution Avenue, N.W., Suite 400, Washington, D.C. 20210. Attention: Application No. D-11880.

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](mailto:moffitt.betty@dol.gov), or by FAX to (202) 693-8474 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 Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1515, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

**WARNING:** All comments will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Blessed ChukSORJI-Keefe of the Department, telephone (202) 693-8567. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:**

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 44 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).

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 (76 FR 66637, 66644, October 27, 2011).<sup>1</sup> 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, these notices of proposed exemption are issued solely by the Department.

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

#### PROPOSED EXEMPTION

---

<sup>1</sup> The Department has considered exemption applications received prior to December 27, 2011 under the exemption procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

## SECTION I. COVERED TRANSACTIONS

If the proposed exemption is granted, the restrictions of sections 406(a)(1)(A), 406(a)(1)(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), (D), and (E) of the Code,<sup>2</sup> shall not apply to the proposed in-kind contribution (the Contribution) by Aon Corporation (Aon), to the Plan of a 3.5% limited partnership interest (the Partnership Interest) in the Trident V, L.P. Fund (the Fund).

## SECTION II. GENERAL CONDITIONS

(a) The Independent Fiduciary, as defined in Section IV(c) of this proposed exemption, negotiates the terms and conditions of the Contribution, and approves the Contribution as being in the interest of the Plan;

---

<sup>2</sup> For purposes of this proposed exemption, references to specific provisions of section 406 of Title I of the Act, unless otherwise specified, should be read to refer as well to the corresponding provisions of section 4975 of the Code.

(b) The Partnership Interest is contributed to the Plan by Aon at its current fair market value, as determined by the Independent Fiduciary, at the time of the Contribution;

(c) On a date preceding the Contribution, Aon makes a cash contribution to the Plan of \$7.5 million (the Additional Cash Contribution);

(d) The Plan does not have any obligation to make future payments with respect to the Partnership Interest;

(e) Aon contributes, on behalf of the Plan, cash amounts that are equal to the remaining capital calls that are requested by the general partner (the General Partner) of the Fund with respect to the Partnership Interest;

(f) The Plan does not pay any fees, commissions, costs or other expenses in connection with either the Contribution or the Additional Cash Contribution, except for fees that are paid by the Plan to the Independent Fiduciary; and

(g) The terms and conditions of the Contribution and the Additional Cash Contribution are no less favorable to the Plan than those obtainable under similar circumstances when negotiated at arm's-length with unrelated third parties.

SECTION III. INDEPENDENT FIDUCIARY

(a) The Independent Fiduciary represents the interests of the Plan for all purposes with respect to the Contribution and the Additional Cash Contribution;

(b) The Independent Fiduciary:

(1) Reviews, negotiates (if applicable), and approves the terms and conditions of the Contribution and the Additional Cash Contribution, as evidenced in the Contribution Agreement;

(2) Determines, in its sole discretion, that the reported value of the Partnership, as calculated by the General Partner, reflects the fair market value of the Partnership Interest;

(3) Determines, at the time of the Contribution, that the terms of such transaction are no less favorable to the Plan than the terms negotiated at arm's-length under similar circumstances between unrelated third parties;

(4) Ensures the Plan incurs no fees, costs or other charges (other than the fees and expenses of the Independent Fiduciary) as a result of the Contribution and the Additional Cash Contribution;

(5) Acknowledges that the Partnership Interest may not be sold, assigned, transferred or otherwise disposed of without the prior written consent of the General Partner of the Fund, which must be given at least 30 days prior to such transfer;

(6) Enforces the Plan's rights and interests with respect to the terms the Contribution and the Additional Cash Contribution; and

(7) Takes all steps that are necessary and proper to protect the Plan under the terms of the Contribution Agreement.

#### SECTION IV. DEFINITIONS

(a) The term "Aon" means Aon Corporation, and any of its affiliates.

(b) The term "affiliate" means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; or

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

For the purposes of clause (b)(1) above, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "Independent Fiduciary" means Evercore Trust Company (Evercore), to the extent Evercore is a fiduciary with respect to the Plan that is independent of or unrelated to Aon, and has the appropriate training, experience, and facilities to act on behalf of the Plan regarding the proposed transactions in accordance with the fiduciary duties and responsibilities prescribed by the Act (including, if necessary, the responsibility to seek the counsel of knowledgeable advisors to assist in its compliance with the Act). The Independent Fiduciary will not be deemed to be independent of and unrelated to Aon if: (1) such Independent Fiduciary directly or indirectly controls, is controlled by or is under common control, with Aon; (2) such Independent Fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption other than for acting as Independent Fiduciary in connection with the transactions described herein, provided that the amount or payment of such

compensation is not contingent upon, or in any way affected by, the Independent Fiduciary's ultimate decision; and (3) the annual gross revenue received by the Independent Fiduciary from Aon, during any year of its engagement, does not exceed one percent (1%) of such Independent Fiduciary's annual gross revenue from all sources (for federal income tax purposes) for its prior tax year.

### SUMMARY OF FACTS AND REPRESENTATIONS<sup>3</sup>

#### The Parties

1. Aon, which is located in Chicago, Illinois, is the sponsor of the Plan. Aon is a provider of risk management services, insurance and reinsurance brokerage, and human resource consulting and outsourcing. As of December 31, 2015, Aon had total assets of approximately \$22 billion.

2. The Plan is a defined benefit plan maintained by Aon in Chicago, Illinois. As of December 31, 2015, the Plan had approximately 33,016 participants and beneficiaries.<sup>4</sup> Also on

---

<sup>3</sup> The Summary of Facts and Representations is based on Aon's representations, unless indicated otherwise.

<sup>4</sup> Although these are the most recent financial statements

that date, the Plan had \$1.952 billion in assets. The Plan's assets were allocated 35.7% to fixed income investments, 44% to equity investments, 3.9% to real assets (real estate and commodities), 10.8% to hedge funds, 3.9% to private equity and 1.7% to cash. The Plan's current target asset allocation is 30% for fixed income, 50% for equities, 5% for real assets, 8% for hedge funds, and 7% for private equity.<sup>5</sup>

The Plan trustee (the Trustee) is Northern Trust Company of Chicago, Illinois. Investment decisions for the Plan are made by the Aon Corporation Retirement Plan Governance and Investment Committee (the Plan Committee), which is the named fiduciary for the Plan. The Plan Committee is comprised of senior executives of Aon.

3. Effective April 1, 2009, the Plan was frozen for future accrual of benefits. Employees hired on or after January 1,

---

available for the Plan, Aon represents that as of September 30, 2016, the Plan had total assets of \$2.015 million based on reports retained by the Trustee.

<sup>5</sup> Aon represents that following the Contribution, the 7% target allocation for private equity investments will not be exceeded. Aon also represents that if the Plan is over this target allocation, it will amend the Plan's Statement of Investment Policy. However, if the Plan is within 1% of the target allocation, Aon explains that this would be well within an acceptable range.

2004 are not permitted to participate in the Plan. According to Aon, it is not anticipated that the Plan will be terminated assuming the proposed exemption is granted. Instead, Aon states that its de-risking strategy for the Plan is focused on reducing investment risk.

As reported in the Plan's annual funding notice for the plan year ending December 31, 2015, the funding target attainment percentage for the Plan on a HAFTA/MAP-21 basis is 100.97%. On a non-HAFTA/MAP-21 basis, according to Aon, the funding target attainment percentage for the Plan is 80.68%. Aon represents that, based on preliminary information as of December 12, 2016, it will be required to make a \$30.5 million cash contribution to the Plan for the 2016 plan year, which will be due in September 2017.

#### The Partnership Interest

4. Among Aon's assets is an approximately 3.5% interest in the Fund, a private equity fund that is designed to invest in shares of capital stock, limited partnership interests, limited liability company interests, options, bonds, debentures and other forms of equity and debt securities. The Fund, which is

structured as a limited partnership, was formed by Stone Point Capital LLC (Stone Point), a private equity investment manager and an unrelated party with respect to the Plan. Stone Point is the General Partner of the Fund and an unrelated party. Stone Point makes private equity investments in businesses within the financial services industry in the United States, the United Kingdom, Western Europe and Bermuda.

5. In May 2010, Aon acquired the Partnership Interest in the Fund by making a capital commitment to the General Partner to contribute \$75 million during the life of the Fund. The capital commitment represented 3.65% of the Fund's total capital commitments of \$2 billion. As of December 31, 2015, \$78.4 million of capital had been called from Aon to the Fund, and \$11.3 million had been returned by the Fund to Aon.

The Partnership Interest is non-voting and it generally does not provide for a limited partner's participation in the management of the Fund. However, in certain circumstances set forth in the Fund's Partnership Agreement (e.g., misconduct by the General Partner), a limited partner may vote for the election, removal or replacement of the Fund's General Partner.

Contribution of Partnership Interest to Plan

6. Aon is requesting an administrative exemption from the Department in order to contribute the Partnership Interest to the Plan. Aon represents that the proposed contribution is permitted by the Plan's Statement of Investment Policy. By its terms, the Partnership Interest will not be transferred to the Plan without the full, written consent of Stone Point, which Aon will provide to the Department prior to any final determination by the Department to grant this exemption. In addition, the Plan will not have any obligation to make future payments with respect to the Partnership Interest. Further, Aon must contribute to the Plan amounts equal to any remaining capital calls that the General Partner of the Fund may require following the Contribution.

If consummated, the Contribution will be a one-time transaction. The Plan will pay no fees, commissions, or other expenses in connection with the Contribution), with the exception of the fees that are charged by the Independent Fiduciary. Immediately following the Contribution, the aggregate fair market value of the Partnership Interest (approximately \$79.2 million, as described below) will represent approximately four (4%) of the Plan's assets, based on a valuation as of December 31, 2015.

Additional Cash Contribution to Plan

7. On December 29, 2016, Aon made a cash contribution to the Plan of \$7.5 million.<sup>6</sup> According to Aon, the Additional Cash Contribution represents an amount in excess of the aggregate value of: (a) a Put Option that would provide the Plan with the right to sell the Partnership Interest back to Aon at the fair market value of such Partnership Interest as of the date of the Contribution; and (b) a Guaranteed Investment Return of 6% for the life of the Fund, based on the value of the Partnership Interest, and adjusted for distributions.

Taken together, Aon represents that the estimated aggregate value of the Contribution (\$79.2 million) and the Additional Cash Contribution (\$7.5 million) is \$86.7 million. Aon represents that this amount is in excess of Aon's funding obligation to the Plan.

---

<sup>6</sup> Initially, Aon proposed to make an Additional Cash Contribution to the Plan of \$7.4 million, which was consistent with the conclusions reached by Evercore, the Independent Fiduciary for the Plan in the Independent Fiduciary Report (see Representation 18). Aon subsequently decided to increase the Additional Cash Contribution to \$7.5 million.

Aon's Other Obligations

8. Besides making the Contribution and the Additional Cash Contribution to the Plan, Aon is also solely responsible for:

(a) determining the proper treatment of the Partnership Interest with respect to distributions, or other payments, or any proceeds received from any redemption or conversion thereof for tax or financial accounting purposes; (b) any and all regulatory reporting or filings required in connection with or as a result of the Contribution or the Plan's ownership or disposition of the Partnership Interest; and (c) any transfer agency or similar fees or expenses relating to the issuance or transfer of the Partnership Interest.

Rationale for Exemptive Relief

9. Aon represents that the proposed Contribution will allow Aon to enhance the funding to the Plan. In addition, Aon represents that the proposed Contribution will bring the Plan's investment portfolio closer in line with the asset allocation guidelines contained in the Plan's Statement of Investment Policy. In this regard, Aon states that the proposed Contribution will enhance the diversity of the Plan's investment

portfolio and align the Plan's portfolio with the asset allocation strategy described in the Statement of Investment Policy.

10. Aon further represents that the Contribution will enhance the Plan's cash flow because of the maturity of the underlying Fund. Aon states that funds that are nearly fully committed, such as the Fund, tend to generate cash distributions at a much higher rate. According to Aon, the Fund completed its investment period on June 30, 2014. Although remaining capital commitments may be called, no new investments in new portfolio companies have been or will be made. Also, because most of the full capital commitment of the Fund has been invested, Aon represents that the Fund has already started making distributions to limited partners. Therefore, according to Aon, the Partnership Interest will likely generate a significant cash flow to the Plan.

#### Legal Analysis

11. The proposed Contribution by Aon of the Partnership Interest to the Plan would violate several provisions of the Act. In this regard, section 406(a)(1)(A) of the Act provides that a fiduciary with respect to a plan shall not cause the plan

to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect sale or exchange of any property between the plan and a party in interest. Section 406(a)(1)(D) of the Act provides that a fiduciary with respect to a plan shall not cause a plan to engage in a transaction if the fiduciary knows or has reason to know that such transaction constitutes a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of any assets of a plan.

In addition, section 406(b)(1) of the Act prohibits a fiduciary with respect to a plan from dealing with the assets of the plan in such fiduciary's own interest or for such fiduciary's own account. Further, section 406(b)(2) of the Act prohibits a fiduciary from acting in such fiduciary's individual or other capacity in any transaction involving the plan on behalf of a party (or representing a party) whose interests are adverse to the interests of the plan, or the interests of the plan participants and beneficiaries.

The term "party in interest" is defined in section 3(14)(A) and (C) of the Act to include a fiduciary with respect to a plan, and an employer, any of whose employees are covered by such plan. As fiduciaries to the Plan, the Trustee and the Plan

Committee are parties in interest under section 3(14)(A) of the Act. As an employer whose employees are covered under the Plan, Aon is a party in interest under section 3(14)(C) of the Act.

12. Under Department Regulation 2509.94-3, an in-kind contribution of property to a defined benefit pension plan by a plan sponsor is a prohibited transaction under section 406(a)(1)(A) of the Act because it would constitute a transfer that would reduce the obligation of the sponsor or employer to fund the plan. In effect, the Contribution would be treated as a prohibited "sale or exchange" between a party in interest and a plan because it would discharge the sponsor's legal obligation to make an annual cash contribution to the plan.

In addition, because the Plan Committee is a fiduciary with respect to the Plan, the Contribution would violate section 406(b)(1) of the Act. Moreover, the Contribution would violate section 406(b)(2) of the Act inasmuch as the Plan Committee, as a Plan fiduciary, would be acting on behalf of Aon, whose interests are adverse to the interests of the Plan. Accordingly, Aon has requested exemptive relief from the foregoing violations.

The Independent Fiduciary

13. Evercore, the Independent Fiduciary for the Plan, is a national trust bank chartered by the Office of the U.S. Comptroller of the Currency. In an engagement letter dated November 5, 2015 (the Engagement Letter), Evercore represents that it was appointed by the Plan Committee to: (a) determine whether the proposed Contribution is in the interest of the Plan and its participants and beneficiaries, including the terms of the Contribution Agreement and other instruments which Evercore and its legal counsel deem necessary to proceed with the proposed transaction; (b) determine whether the terms of the proposed transaction between Aon and the Plan are no less favorable to the Plan than terms negotiated at arm's-length under similar circumstances between unrelated third parties; (c) determine the fair market value of the Partnership Interest; (d) determine whether the Additional Cash Contribution, equal to 9.33% of the fair market value of the Partnership Interest as of the date of the Contribution, is greater in amount than the aggregate value of the Put Option and the Guaranteed Investment Return; (e) determine whether the Plan should enter into the proposed transaction in accordance with the terms of the proposed exemption, if granted; and (f) report its initial and final determinations in a written report (the Independent

Fiduciary Report) to the named Plan Fiduciary, suitable for submission to the Department in connection with the subject exemption request. Also, in the Engagement Letter, William E. Ryan III, Managing Director and Chief Fiduciary Officer of Evercore, agreed to undertake the duties and responsibilities of the Independent Fiduciary.

In the Independent Fiduciary Report, dated May 16, 2016, Evercore represents that it is: (a) independent of and unrelated to Aon, and (b) appointed to act pursuant to an Independent Fiduciary Agreement dated November 16, 2015. Evercore also represents that it does not directly or indirectly control, is not controlled by, and is not under common control with the Applicant and has warranted that neither it, nor any of its officers, directors, or employees is an officer, director, partner or employee of Aon (or a relative of such person). In addition, Evercore asserts that it will not directly or indirectly receive any compensation or other consideration from Aon in connection with the proposed transaction. In this regard, Evercore represents that the fees and expenses it has received or will receive for its services will be paid by the Plan, and that its compensation will not be contingent upon, or in any way affected by, the decisions or determinations it will

make with respect to the value of the Partnership Interest, and the Additional Cash Contribution.

In addition, Evercore represents that the fees it received from the Plan during 2015, as well as the fees it has received from the Plan during 2016, will be represented less than one (1%) percent of its gross annual revenues. Further, Evercore states that it has not received any compensation from Aon or its affiliates during these years.

14. In its role as Independent Fiduciary for the Plan, Evercore must: (a) review, negotiate (to the extent applicable), and approve the terms and conditions of the Contribution and the Additional Cash Contribution, as evidenced in the Contribution Agreement; (b) determine, in its sole discretion, based primarily on its review of the Fund's audited financials and other qualitative and quantitative information provided by Aon, that the reported value of the Partnership, as calculated by the General Partner, reflects the fair market value of the Partnership Interest; (c) determine, at the time of the Contribution, that the terms of such transaction are no less favorable to the Plan than the terms negotiated at arm's-length under similar circumstances between unrelated third parties; (d) ensure the Plan incurs no fees, costs or other charges (other

than the Independent Fiduciary fees and expenses it receives as a result of the Contribution; (e) acknowledge that the Partnership Interest may not be sold, assigned, transferred or otherwise disposed of without the prior written consent of the General Partner of the Fund, which must be given at least 30 days prior to such transfer; (f) enforce the Plan's rights and interests with respect to the terms the Contribution; and (g) take all steps that are necessary and proper to protect the Plan under the terms of the Contribution Agreement.

15. As Independent Fiduciary, Evercore represents that it conducted a comprehensive due diligence process to evaluate the terms of the Contribution. Evercore states that this process involved: (a) reviewing the Fund's audited financial statements and other information concerning the valuation of the Partnership Interest; (b) conducting numerous calls with Aon's personnel; and (c) holding meetings with professionals from Evercore Partners, Inc. with respect to: (i) secondary private equity markets; and (ii) the investment performance of the General Partner. In addition, Evercore represents that it gathered and reviewed publicly-available information.

16. In valuing the Partnership Interest, Evercore represents that there was no detailed, portfolio-level information available that could be used to perform portfolio-level valuation. Instead, Evercore represents that it used the audited financial statements for the Fund as of December 31, 2015 to provide a fair value estimate of the Partnership Interest, in its Independent Fiduciary Report dated May 16, 2016. Evercore states that the fair value estimate could be adjusted for such factors as the track record and assessment of the General Partner/manager, the stage of the Fund, and the size of the Partnership Interest, in order to determine the fair market value of such Partnership Interest. Based on these assessments, Evercore represents that it applied a discount of 2.5% to its initial valuation of the Partnership Interest of \$81.2 million. Based on this discount, Evercore concluded that the fair market value of the Partnership Interest was \$79.2 million as of December 31, 2015. Evercore will update the fair market value of the Partnership Interest at the time of the Contribution.

17. In addition, Evercore represents that it evaluated Aon's analysis of the Put Option and the Guaranteed Investment

Return, as if these options were being provided to the Plan. Evercore explains that Aon had valued the Put Option and Guaranteed Investment Return, using methodologies that were based on a Monte Carlo simulation and a Black Scholes valuation model.<sup>7</sup> Under these valuation approaches, Evercore represents that Aon's combined range of values as of December 31, 2015 was \$4.04-\$4.17 million for the Put Option and \$6.82-\$6.95 million for the Guaranteed Investment Return. In Evercore's assessment, the range of values for the Put Option and the Guaranteed Investment Return was \$4.0-\$6.9 million as of December 31, 2015.

18. Accordingly, Evercore concluded that, as of December 31, 2015, 9.33% of the \$79.2 million fair market value of the Partnership Interest, or approximately \$7.4 million, was greater than the aggregate fair market value of the Put Option and the Guaranteed Investment Return, less fees, costs, or other charges

---

<sup>7</sup> It is represented that the Monte Carlo methodology simulates over one thousand different investment return scenarios for the private equity fund. Using these different investment return scenarios, a value for the put option and the guaranteed investment return was calculated. It is also represented that the Black Scholes methodology is a model of price variations over time of financial instruments that is commonly used to determine the price of put and call options. The model incorporates the volatility of the financial instrument, the time value of money using the risk free rate, the option's strike price, and the time to the option's expiry.

incurred by the Plan as a result of the proposed transaction. Evercore will update the Independent Fiduciary Report and its valuations at the time of the Contribution.

Other Considerations Made by the Independent Fiduciary

19. In the Independent Fiduciary Report, Evercore also considered the following factors in determining that the Contribution and the Additional Cash Contribution are appropriate and in the interests of the Plan:

(a) Accelerated Contributions. Evercore represents that Aon is not required to make any minimum required contributions to the Plan until 2017. If the exemption is approved, Aon will contribute the Partnership Interest to the Plan and also give the Plan an Additional Cash Contribution equal to 9.33% of the fair market value of Partnership Interest as of the date of such contribution. Absent the Additional Cash Contribution, Evercore represents that it would take until July 2018 for the Plan to receive a similar amount in cash. Based on independent third party estimates, Evercore states that private equity investments are projected to return 10.2% per year. Also, with the

Contribution, Evercore represents that the Plan could be earning the 10.2% projected return and receiving all of the cash distributions. Evercore further represents that assuming the Contribution is made at the end of 2016 and using the 10.2% projected return, the timing of the investment returns could be worth over \$5 million.

(b) Cash Contribution in Lieu of Put Option. Evercore represents that the Additional Cash Contribution will be invested to provide additional returns to the Plan, whereas the Put Option will be an illiquid investment and will only benefit the Plan in the event that circumstances compelled to the Plan to exercise the Put Option, assuming this was an alternative for the Plan.

#### Statutory Findings

20. Aon represents that the proposed exemption is administratively feasible because the Contribution will be a one-time transaction that will require no ongoing oversight by the Department. Administration of the transaction, according to Aon, will not result in any extraordinary burden or cost to the Plan.

In addition, Aon represents that the proposed exemption is in the interests of the Plan and its participants and beneficiaries because the Plan and its participants and beneficiaries will benefit from the substantial, additional funding of the Plan. As described above, if the proposed exemption is granted, Aon will contribute the Partnership Interest to the Plan and will make the Additional Cash Contribution to the Plan. Moreover, Aon will make all remaining capital calls that the Fund's General Partner requests after the Partnership Interest is contributed to the Plan. According to Aon, the Contribution and the Additional Cash Contribution are in excess of the legally required cash contribution to the Plan for the 2016 plan year.

21. Further, Aon represents that the enhanced funding provided by the Contribution adds protection to the rights of the participants and beneficiaries under the Plan to the timely receipt of benefits. Additionally, Aon states that the proposed exemption is conditioned on safeguards that will protect the rights of the Plan's participants and beneficiaries. These protections, according to Aon, include those that are afforded by the Additional Cash Contribution, which will safeguard the Plan's participants and beneficiaries in the event the

Partnership Interest loses value after the Contribution is made, and retain the ability of such participants and beneficiaries to benefit from any increase in the Partnership Interest's value.

Summary

22. Given the conditions described above, the Department has tentatively determined that the relief sought by Aon satisfies the statutory requirements for an exemption under section 408(a) of the Act.

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 the following:

(a) For all currently active employees of Aon, former employees of Aon, Aon retirees, and Aon beneficiaries who participate in the Plan, who either: (a) have e-mail access as a part of performing their job duties; or (b) have consented to, and enrolled in, electronic delivery of benefits information.

Aon will send to such interested persons, an e-mail containing the Notice; a link to the Supplemental Statement (Supplemental

Statement), as required pursuant to 29 CFR 2570.43(b)(2), which will advise interested persons of their right to comment on and/or to request a hearing; a link to a summary of the Department's proposed exemption (the Summary Statement); and a link to the actual proposed exemption, as published in the Federal Register. The e-mail system will notify Aon of any delivery failures (i) in the case of active employees with an Aon e-mail address, on the day that the e-mails are sent, and (ii) in the case of individuals using an external e-mail address, within three (3) calendar days after the e-mails are sent.

(b) For active or former employees of Aon, Aon retirees or Aon beneficiaries whose e-mail transmission fails. Aon will send the Notice by first-class U.S. mail to such interested person's home address. The Notice will contain a website address where interested persons can obtain the Supplemental Statement as required pursuant to 29 CFR 2570.43(b)(2), which will advise interested persons of their right to comment on and/or to request a hearing; the Summary Statement; and a copy of the proposed exemption, as published in the Federal Register. Such interested persons will also be given instructions explaining how they may obtain paper copies of these documents

upon request, and at no charge. The mailing will be sent: (i) in the case of active employees with an Aon e-mail address, within four (4) calendar days, and (ii) in the case of interested persons using an external e-mail address, within six (6) calendar days, after the failed e-mail transmission.

(c) For active or former employees of Aon, Aon retirees or Aon beneficiaries who participate in the Plan and who do not have e-mail access as a part of performing their job or who have not consented to electronic delivery of benefits information.

Aon will send the Notice by first-class U.S. mail to such interested person's home address. The Notice will contain a website address where such interested persons can obtain the Supplemental Statement, as required pursuant to 29 CFR 2570.43(b)(2), which will advise interested persons of their right to comment on and/or to request a hearing; the Summary Statement, and a copy of the proposed exemption, as published in the Federal Register. Interested persons will also be given instructions explaining how to obtain paper copies of these documents upon request, and at no charge.

Aon will provide the Notice to interested persons within fourteen (14) calendar days from the date of publication of the proposed exemption in the Federal Register in order to provide

the Notice in the manner described above. All written comments or hearing requests must be received by the Department within forty-four (44) calendar days of the publication of this proposed exemption in the Federal Register.

All comments will be made available to the public.

**Warning:** Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

#### **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, D.C., this 4th day of April, 2017.

---

Lyssa E. Hall,  
Director  
Office of Exemption  
Determinations  
Employee Benefits Security  
Administration  
**U. S. DEPARTMENT OF LABOR**

[FR Doc. 2017-07421 Filed: 4/13/2017 8:45 am; Publication Date: 4/14/2017]