the exemption is granted, the restrictions of sections 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 (1) the proposed extensions of credit (the Loans) to the Plan from Universal Underwriters Insurance Company (the Employer), with respect to a guaranteed investment contract (the GIC) issued by Confederation Life Insurance Company (Confederation); (2) the Plan's potential repayment of the Loans upon the receipt by the Plan of payments under the GIC; and (3) the assignment by the Plan to the Employer of all claims or causes of action it may have against the Plan's former GIC placement advisor for recommending that the Plan purchase the GIC; provided the following conditions are satisfied:

(A) All terms and conditions of such transaction are no less favorable to the Plan than those which the Plan could obtain in arm's-length transactions with unrelated parties;

(B) No interest or expenses are paid by the Plan in connection with the proposed transaction;

(C) The Loans will be repaid only out of amounts paid to the Plan by Confederation, its successors, or any other responsible third party;

(D) Repayment of the Loans will be waived to the extent that the Loans exceed GIC proceeds;

(E) A qualified independent fiduciary will represent the interests of the Plan throughout the duration of the proposed transaction; and

(F) The Employer's recovery resulting from a cause of action assigned to the Employer by the Plan will be limited to the amount necessary to pay for litigation expenses and to pay off the Plan's outstanding Loan balance and any excess recovery will be transferred back to the Plan.

Summary of Facts and Representations

1. The Plan is a defined contribution 401(k) plan which provides for individual participant accounts and participant-directed investments. The Plan had approximately 1,100 participants as of December 30, 1993 and $45,924,914.96 in assets as of June 30, 1994. The Plan trustee is United Missouri Bank, N.A. (UMB), located in Kansas City, Missouri. The Employer is a Missouri corporation that provides insurance protection for automobile dealerships and other businesses. Under the terms of the Plan, participants have the option of investing in any of six investment funds, including the Stable Interest Fund, which invests primarily in interest-paying contracts with insurance companies. As of December 31, 1994, the Stable Interest Fund held ten guaranteed investment contracts and several other interest bearing contracts, as well as approximately $74,413 in a deposit account. The GIC, which was issued on February 10, 1994, is part of the Stable Interest Fund. The GIC is a single-deposit non-participating contract which allows the Plan to make benefit-responsive withdrawals to fund benefit payments, investment fund transfers, hardship withdrawals and participant loans (collectively, the Withdrawal Events). The terms of the GIC provide for interest on the $5,500,000 principal amount at a guaranteed interest rate of 6.12% over a period of 61 months. Interest payments are to be made annually to the Plan on April 1 (beginning April 1, 1995), up to the scheduled maturity date of April 1, 1999. As of June 30, 1994, the GIC had an accumulated book value of $5,615,769.50.

2. Confederation is a Canadian corporation doing business in the United States through branches in Michigan and Georgia. The Employer represents that on August 11, 1994, the Canadian insurance regulatory authorities placed Confederation into a liquidation and winding-up process, and on August 12, 1994, the insurance authorities of the State of Michigan commenced legal action to place the U.S. operations of Confederation into a rehabilitation proceeding. As a result of these actions, Confederation suspended interest and maturity payments under the GIC and significantly limited the circumstances under which withdrawals may be obtained from the GIC. The Employer represents that it has established a separate fund to which the portion of the Stable Interest Fund attributable to the GIC has been transferred. This separate fund has been frozen so that no payments for Withdrawal Events are permitted.[7]

3. The Employer proposes to advance interest free loans to the Plan at such times and in such amounts as required to fully realize the interest payments due the Plan under the GIC, but only to the extent that such amounts are not timely paid by or on behalf of Confederation. Consequently, each Loan will be reduced by any amounts actually received by the Plan, with respect to the particular interest payment due, from Confederation or any other party making payment with respect to Confederation's obligations under the GIC. In addition to the Loans required to guarantee interest payments, the Employer is also proposing a final Loan upon the GIC's final maturity date to the extent that Confederation fails to pay the full amount due. The amount of interest accrual and the final maturity payment due will be determined on the basis of the GIC's principal plus interest at the guaranteed rate, less previous withdrawals, as of the date of the Loan.

4. The Loans and their repayments will be made pursuant to a written agreement (the Loan Agreement) between the Plan and the Employer. The Plan and the Employer will also enter into a separate agreement (the Assignment Agreement) under which the Plan will agree to assign to the Employer any and all claims or causes of action it may have as holder of the GIC against the Plan's former GIC placement adviser, Buck Pension Fund Services, Inc. and its employees, agents, and related entities (collectively referred to as Buck). The Employer's recovery under the Assignment Agreement will be limited to the amount necessary to pay for litigation expenses and to pay off the Plan's outstanding Loan balance. If, pursuant to a cause of action assigned by the Plan, the Employer recovers from Buck an amount exceeding such litigation expenses and the outstanding Loan balance, the excess recovery will be transferred back to the Plan.

5. UMB (see section 1—above) has agreed to serve as independent fiduciary on behalf of the Plan throughout the duration of the transaction. UMB has acknowledged its duties, responsibilities and liabilities in acting as a fiduciary with respect to the proposed transaction. UMB represents that the Employee Benefit Division of its Trust Department has extensive experience as a provider of services to employee benefit plans. UMB maintains that less than 1% of its business is associated with the Employer. As independent fiduciary, UMB has concluded that the proposed transaction is in the best interests of, and protective of, the rights of the Plan's participants and beneficiaries. In this regard, UMB represents that the Loan Agreement will ensure that the Plan suffers no investment loss from its investment in the GIC, will make it possible for Plan Participants to gain access to their funds which have been frozen, and will allow the Plan to reinvest the funds that were previously invested in the GIC. In addition, UMB represents that the proposed transaction is protective of the

[7] The Department notes that the decisions to acquire and hold the GIC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GIC issued by Confederation.