Trustee is a wholly-owned subsidiary of First Bank System, Inc., a Delaware corporation headquartered in Minneapolis, Minnesota.

3. Approximately 2.8 percent of the total assets in the Plan are invested in the GIC which was acquired by the Plan on January 25, 1990, for the principal amount of \$500,000. Currently there are 327 participants who have their respective individual accounts holding various proportional interests in the GIC.

The terms of the GIC guarantees the Plan a non-compounded 9.03 percent annual rate of return on its \$500,000 investment until January 24, 1995, when the GIC expires and the principal amount is returned to the Plan. Interest earned by the GIC is payable to the Plan each year in January. All annual interest payments through January 24, 1994, have been paid by Confederation, leaving only the interest that has accrued since January 25, 1994, to be paid to the Plan. Under the terms of the GIC, the Plan may not deposit additional amounts nor withdraw amounts from its initial \$500,000 investment.

4. Confederation, which is owned by its policyholders, has operations in Canada, United States and Britain, and has been in operation 123 years. In the United States, Confederation operates as the Confederation Life Insurance and Annuity Company of Atlanta.

At the time the Plan acquired the GIC, Standard & Poor's ranked Confederation as an "AAA" insurance company. Beginning in January 1992, Confederation ratings began to decrease as it suffered losses in its commercial mortgage and real estate investments in the United States and Canada. In April 1994, Confederation disclosed its net losses for 1993 were \$29 million in Canadian dollars. On August 11, 1994, the board of directors of Confederation voted to turn over control of the Confederation to the Superintendent of Financial Institutions for Canada. On August 12, 1994, the Michigan Insurance Commissioner, through the Ingham County Circuit Court, Lansing, Michigan, had Confederation's United States subsidiary placed in conservatorship and rehabilitation to prevent the transfer of assets of Confederation located in the United States. The action by the Michigan Circuit Court suspended all payments on contracts of Confederation, including the GIC. It is not known whether, when, or under what circumstances Confederation will resume payments of interest pursuant to the terms of the GIC or whether it will be permitted to make

payment of the principal upon maturity of the GIC.

In order to avoid the continued risk to the participants and beneficiaries of the Plan from the investment in the GIC, the Employer proposes to purchase the GIC from the Plan for cash in a one-time transaction with no loss nor expense to the Plan.<sup>5</sup> The Employer intends to pay the Plan the greater of either the fair market value of the GIC as determined on the date of the Sale, or the GIC's principal amount of \$500,000 plus simple interest accrued at the rate of 9.03 percent per annum on the principal amount for the period from January 25, 1994, to the date of the Sale. (January 25, 1994, was the last date on which the Plan received its annual interest payment from Confederation.)

In addition the applicant represents that considering the unstable circumstances of Confederation and the uncertainty of reimbursing the holders of the GIC, the proposed Sale will enable the Plan to recoup its initial investment plus the accrued interest, and then invest the proceeds of the Sale in more stable investments that will generate a return to the Plan.

In a written statement the Trustee represented that in its capacity of independent fiduciary of the Plan and based upon all the surrounding facts and circumstances, including the status of Confederation, that the proposed Sale is in the best interests of the Plan and its participants and beneficiaries.

6. In summary, the applicant represents that the proposed transaction will satisfy the criteria for an exemption under section 408(a) of the Act because (a) the Plan will receive from the Employer in a one-time transaction cash in an amount that is not less than the fair market value of the GIC, or an amount that is equal to the total amount paid by the Plan for the GIC, plus earnings the GIC would have received to the date of the Sale if Confederation had not been placed under conservatorship and rehabilitation by the Circuit Court of Michigan; (b) the transaction will enable the Plan and its participants and beneficiaries to avoid any risk associated with the continued holding of the GIC; (c) the Plan will not incur any loss or expense from the proposed transaction; and (d) the Trustee of the Plan has determined that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Iron Workers Pension Trust of Colorado (The Pension Plan); and Colorado Iron Workers (Erection) Statewide Joint Apprenticeship and Trust Fund (the Apprenticeship Plan; together, the Plans) Located in Denver, Colorado; Proposed Exemption

[Application Nos. D-9690 and L-9691]

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) 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 to the loan (the Loan) of \$141,601.36 by the Pension Plan to the Apprenticeship Plan, under the terms described in this notice of proposed exemption, provided the following conditions are satisfied: (a) the Loan represents less than 25% of the assets of the Pension Plan; (b) the terms of the Loan are not less favorable to either Plan than those obtainable in arm's-length transactions with unrelated parties; (c) the trustees of each Plan approved the Loan as being appropriate for, and in the best interest of each Plan; (d) no trustee of either Plan made such determination on behalf of the other Plan; and (e) the property securing the Loan (the Property) has been appraised by a qualified, independent appraiser as having a fair market value in excess of 150% of the principal amount of the

**EFFECTIVE DATE:** If the proposed exemption is granted, the exemption will be effective August 11, 1992.

## **Summary of Facts and Representations**

- 1. The Pension Plan is a defined benefit plan which provides retirement benefits under a unit benefit formula. The Pension Plan is a Taft-Hartley plan which is maintained pursuant to a collective bargaining agreement between Local 24 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO (the Union) and the participating employers. The Pension Plan had 983 participants as of March 31, 1991 and total assets of approximately \$36 million as of July 31, 1992.
- 2. The Apprenticeship Plan is an employee welfare benefit plan which is

<sup>&</sup>lt;sup>5</sup> Section 3.04 of the GIC provides that the GIC may not be assigned. The applicant is negotiating with Confederation to obtain a waiver of this assignment restriction.