change also amends the exception for stock or options issued as an inducement for employment to a person not previously employed by the company, to state that it must be a material inducement (as opposed to an inducement essential) to such person's entering into an employment contract with the company. In its discussions with the NYSE on the proposed rule change, the Legal Advisory Committee raised for discussion the current requirements that a stock option grant be an ''essential'' inducement, and believed that it is difficult, if not impossible, to conclude that any single item is ''essential'' to a person's entering into an employment contract. Rather, they believed that a ''materiality'' standard would be more workable, yet still would achieve the NYSE's goal of ensuring that the stock option grant be an important aspect of an employment decision. The NYSE agreed with that comment and incorporated the change into the proposed rule change.

2. Statutory Basis

The Exchange believes that the basis under the Act of this proposed rule change is the requirement under Section 6(b)(5)[7] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

control the company, as well as corporate affiliates. While the NYSE never intended to exclude stock holdings of natural persons in making calculations under Paragraph 312.04(c), the current wording of this provision is ambiguous. To eliminate this ambiguity, the NYSE now proposed to return to the original working of Paragraph 312.04(c) through the use of the term ''subsidiary.'' As before, the NYSE will interpret the term to include any majority-owned subsidiary of the listed company. *See* Amendment No. 1, *supra* note 1.

[7] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested person are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–97–37 and should be submitted by March 16, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–4402 Filed 2–20–98; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 98-1(8)]

Newton v. Chater; Entitlement to Trial Work Period Before Approval of an Award for Benefits and Before Twelve Months Have Elapsed Since Onset of Disability—Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(2), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 98-1(8).

EFFECTIVE DATE: February 23, 1998.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 402.35(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Eighth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after February 23, 1998. If we made a determination or decision on your application for benefits between August 9, 1996, the date of the Court of Appeals decision, and February 23, 1998, the effective date of this Social Security Acquiescence Ruling, you may request application of the Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e) or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence

Ruling as provided for by 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security - Disability Insurance; 96.002 Social Security - Retirement Insurance; 96.004 Social Security - Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income.)

Dated: December 22, 1997.

Kenneth S. Apfel,

Commissioner of Social Security.

Acquiescence Ruling 98-1(8)

Newton v. *Chater*, 92 F.3d 688 (8th Cir. 1996)—Entitlement to Trial Work Period Before Approval of an Award for Benefits and Before Twelve Months Have Elapsed Since Onset of Disability—Titles II and XVI of the Social Security Act.

Issue: Whether a person's return to substantial gainful activity (SGA) within 12 months of the onset date of his or her disability, and prior to an award of benefits, precludes an award of benefits and entitlement to a trial work period.

Statute/Regulation/Ruling Citation: Sections 222(c), 223, 1614(a)(3) and (4) and 1619 of the Social Security Act (42 U.S.C. 422(c), 423, 1382c(a)(3) and (4) and 1382h); 20 CFR 404.1505, 404.1520(b), 404.1592, 416.262, 416.905, 416.906, 416.920(b), 416.924(b); Social Security Ruling (SSR) 82-52.

Circuit: Eighth (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota).

Newton v. *Chater*, 92 F.3d 688 (8th Cir. 1996).

Applicability of Ruling: This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge (ALJ) hearing and Appeals Council review).

Description of Case: Donald A. Newton applied for disability insurance benefits and Supplemental Security Income (SSI) on April 22, 1993, alleging disability since October 30, 1992, based on illiteracy, memory lapses, alcoholism and hypertension. The applications were denied initially and on reconsideration. From June to September 1994, Mr. Newton worked in a foundry as a grinder and a metal beater for at least 40 hours per week and earned between $6.50 and $7.26 per hour. In October 1994, he worked for one week at a wood products firm. In November 1994, a hearing was held before an ALJ who issued a decision in February 1995 denying disability benefits.

The ALJ found that Mr. Newton was not disabled under step one of the five-step sequential evaluation process due to his performance of substantial gainful activity from June to September 1994. The ALJ also cited this 1994 work activity as evidence that Mr. Newton's alleged impairments did not prevent him from performing his past relevant work. The Appeals Council denied Mr. Newton's request for review in May 1995 and the district court affirmed the ALJ's decision in December 1995. On his appeal to the United States Court of Appeals for the Eighth Circuit, Mr. Newton argued, among other things, that he was entitled to a trial work period for the work he performed in 1994 and that the evidence supported a finding of disability.

Holding: The Eighth Circuit reversed the judgment of the district court and directed that the case be remanded to the Social Security Administration (SSA) for further administrative proceedings. The court of appeals determined that the ALJ erred in considering Mr. Newton's work from June to September 1994 as evidence of substantial gainful activity to support a finding of no disability without first determining whether he was entitled to a trial work period during those months.[1] The court stated that under the Social Security Act (the Act) and SSA's regulations,

> . . . a trial work period starts in the month that entitlement to disability benefits begins, which is the month following five consecutive months of being under a disability that has lasted or is *expected* to last a total of twelve continuous months. (Emphasis in original.)[2]

The court found that the provision of SSR 82-52 which precludes a finding of disability where a claimant returns to substantial gainful activity before an award of benefits and before 12 months have elapsed since the date of onset of an impairment which prevented substantial gainful activity ''is inconsistent with the statutory provisions governing the start of a trial work period.'' The Eighth Circuit held:

> The language in the statutes and regulations does not require that a trial work period be conditioned on a prior receipt of benefits and/or the lapse of a twelve month period of disability.

In support of its holding, the Eighth Circuit cited two other court of appeals decisions in which the courts reached a similar conclusion on this issue — *Walker* v. *Secretary of Health and Human Services*, 943 F.2d 1257 (10th Cir. 1991), for which SSA published Acquiescence Ruling (AR) 92-6(10), and *McDonald* v. *Bowen*, 818 F.2d 559 (7th Cir. 1987), for which SSA published AR 88-3(7).

Statement As To How Newton Differs From Social Security Policy

SSR 82-52 contains a clear statement of SSA policy on this issue[3] as follows:

> When the [individual's] return to work demonstrating ability to engage in SGA occurs before approval of the award and prior to the lapse of the 12-month period after onset, the claim must be denied.

The Eighth Circuit held that, under the Act and regulations, entitlement to a trial work period is not conditioned upon a prior award of benefits and/or the lapse of a 12-month period of disability. This raises the possibility that, on remand of the case to SSA, should Mr. Newton establish the onset of an impairment that could otherwise be the basis for a finding of disability, Mr. Newton may receive a benefit award and a trial work period even if he returned to work demonstrating an ability to engage in substantial gainful activity before the lapse of the 12-month period after the onset date of such impairment and before a decision by SSA to award benefits.

Explanation of How SSA Will Apply The Newton Decision Within The Circuit

This Ruling applies only to cases in which the claimant resides in Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota or South Dakota at the time of the determination or decision at any administrative level, i.e., initial, reconsideration, ALJ hearing or Appeals Council review.

This Ruling applies to claims for title II benefits based on disability. It also applies to claims for title XVI benefits based on disability as explained below.

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[1] Section 222(c)(2) of the Act provides that ''any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether disability has ceased in a month during such period.''

[2] Section 222(c)(3) of the Act provides, in pertinent part, that ''[a] period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits . . . .'' Under section 222(c)(4) of the Act, a trial work period ends with the ninth month, in any period of 60 consecutive months, in which the individual renders services (whether or not the nine months are consecutive), or, if earlier, with the month in which disability ceases.

[3] SSR 91-7c superseded SSR 82-52, but only to the extent that SSR 82-52 discussed former procedures used to determine disability in children. The issue in this AR does not relate to those former procedures and the cited policy statement in SSR 82-52 remains in effect.

A claim for title II disability insurance benefits, widow(er)'s insurance benefits based on disability or child's insurance benefits based on disability in which the claimant returns to work within 12 months of the established onset date of an impairment which could otherwise be the basis for a finding of disability should be allowed and the claimant granted a trial work period if the following conditions are met:

(1) the claimant establishes that, at the time he or she returned to work and thereafter, the impairment was still expected to last for at least 12 consecutive months from the date of onset;

(2) the claimant returns to work after the waiting period (if a waiting period is applicable) and after the established onset date (but within the 12-month period following such onset date); and

(3) the return to work demonstrating an ability to engage in substantial gainful activity occurs either before or after approval of the award.

A claim for title XVI benefits based on disability in which the claimant returns to work within 12 months of the established onset date of an impairment which could otherwise be the basis for a finding of disability should be allowed and the claimant granted section 1619 status[4] if the following conditions are met:

(1) the claimant establishes that, at the time he or she returned to work and thereafter, the impairment was still expected to last for at least 12 consecutive months from the date of onset;

(2) the claimant returns to work in a month subsequent to the month of established onset (but within the 12-month period following such onset date);

(3) the claimant is eligible for ''regular'' SSI benefits under section 1611 of the Act (or a federally administered State supplementary payment) based on the impairment (disregarding the effect that the claimant's return to work within 12 months after onset would otherwise have on eligibility for such benefits or payment) for at least one month in the period preceding the month in which he or she returns to work;

(4) the claimant meets all other nondisability requirements for section 1619 status; and

(5) the return to work demonstrating an ability to engage in substantial gainful activity occurs either before or after approval of the award.

[FR Doc. 98–4468 Filed 2–20–98; 8:45 am]

BILLING CODE 4190–29–F

[4] Pursuant to statutory amendments made by Public Law 99-643, effective July 1, 1987, the trial work period provisions no longer apply to title XVI disability claims. Beginning July 1, 1987, a disabled individual, who was eligible to receive ''regular'' SSI benefits under section 1611 of the Act (or a federally administered State supplementary payment) for a month and subsequently has earnings ordinarily considered to represent substantial gainful activity, will move directly to section 1619 status rather than be accorded a trial work period. This Ruling extends to such individuals, i.e., a claim for title XVI benefits based on disability should be allowed and the claimant granted section 1619 status if the claimant would otherwise be eligible for section 1619 status and the same conditions set out above for title II claims based on disability are met.

DEPARTMENT OF STATE

[Public Notice 2745]

Bureau of Political-Military Affairs; Imposition of Chemical and Biological Weapons Proliferation Sanctions on a Foreign Person

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The United States Government has determined that an individual has engaged in chemical weapons proliferation activities that require the imposition of sanctions pursuant to the Arms Export Control Act and the Export Administration Act of 1979 (the authorities of which were most recently continued by Executive Order 12924 of August 19, 1994).

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Vann H. Van Diepen, Office of Chemical, Biological, and Missile Nonproliferation, Bureau of Political-Military Affairs, Department of State (202–647–1142).

SUPPLEMENTARY INFORMATION: Pursuant to Section 81(a) of the Arms Export Control Act (22 U.S.C. 2798(a)), Section 11C(a) of the Export Administration Act of 1979 (50 U.S.C. app. 2410c(a)) and Executive Order 12851 of June 11, 1993, the United States Government determined that the following foreign person has engaged in chemical weapons proliferation activities that require the imposition of the sanctions described in Section 81(c) of the Arms Export Control Act (22 U.S.C. 2798(c)) and Section 11C(c) of the Export Administration Act of 1979 (50 U.S.C. app. 2410c(c)): *Berge Aris Balanian* (fugitive from justice previously residing in Germany, and last known to be in Lebanon).

Accordingly, the following sanctions are being imposed:

(A) Procurement Sanction. The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person; and

(B) Import Sanction. The importation into the United States of products produced by the sanctioned person shall be prohibited.

Sanctions on the person described above may apply to firms or other entities with which that individual is associated. Questions as to whether a particular transaction is affected by the sanctions should be referred to the contact listed above. The sanctions shall commence on February 9, 1998. They will remain in place for at least one year and until further notice.

These measures shall be implemented by the responsible agencies as provided in the Executive Order 12851 of June 11, 1993.

Dated: February 10, 1998.

Robert J. Einhorn,

Acting Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 98–4414 Filed 2–20–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2744]

Bureau of Political-Military Affairs, Determination Under the Arms Export Control Act

Pursuant to Section 654(c) of the Foreign Assistance Act of 1961, as amended, notice is hereby given that the Acting Under Secretary of State for Arms Control and International Security Affairs and Director of the Arms Control and Disarmament Agency has made a determination pursuant to Section 81 of the Arms Export Control Act and has concluded that publication of the determination would be harmful to the national security of the United States.

Dated: February 10, 1998.

Robert J. Einhorn,

Acting Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 98–4415 Filed 2–20–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Form, and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of The Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44