

179-AD. Supersedes AD 98-16-24, Amendment 39-10701.

Applicability: All Model BAe 146 series airplanes; and Model Avro 146-RJ series airplanes, as listed in British Aerospace Inspection Service Bulletin SB.57-57, dated February 25, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion from developing on the underside of the top skin of the center wing, which could result in reduced structural integrity of the airplane, accomplish the following:

Inspection: "Drill Marks" and Corrosion

(a) For airplanes on which protective treatment coating has NOT been applied in accordance with British Aerospace Service Bulletin SB.57-50 [reference Repair Instruction Leaflet (R.I.L.) HC573H9014], and for airplanes on which the inspection required by AD 98-16-24, amendment 39-10701, has not been accomplished: Within 6 months after the effective date of this AD, perform a one-time intrascopic inspection for "drill marks" and corrosion on the underside of the wing top skin, in accordance with British Aerospace Inspection Service Bulletin ISB.57-57, dated February 25, 2000.

(1) If no "drill mark" or corrosion is detected, no further action is required by this AD.

(2) If any corrosion is detected, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Directorate; or the Civil Aviation Authority (CAA) of the United Kingdom (or its delegated agent). For a repair method to be approved by the Manager, ANM-116, International Branch, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(3) If any "drill mark" is detected, or if any corrosion is detected and repaired, prior to further flight, apply protective treatment coating in accordance with British Aerospace Inspection Service Bulletin ISB.57-57, dated February 25, 2000. After this application, no further action is required by this AD.

Note 2: Accomplishment of an intrascopic inspection for "drill marks" and corrosion prior to the effective date of this AD in accordance with British Aerospace Service Bulletin SB.57-50, Revision 2, dated March 20, 1997, is acceptable for compliance with

the inspection requirements of paragraph (a) of this AD.

Inspection: Paint Debris and Inadequate Protective Coating

(b) For airplanes on which protective treatment coating HAS been applied prior to the effective date of this AD in accordance with British Aerospace Service Bulletin SB.57-50 (reference R.I.L. HC573H9014): At the next scheduled maintenance inspection ("C-check") or within 6 months after the effective date of this AD, whichever occurs first, perform one-time detailed visual and borescope inspections of the fuel tank, pump, and stringers to detect discrepancies (including paint debris and inadequacy of existing protective treatment coating); in accordance with British Aerospace Inspection Service Bulletin ISB.57-57, dated February 25, 2000.

(1) If no discrepancy is found, no further action is required by this AD.

(2) If any discrepancy is found, prior to further flight, accomplish all applicable corrective actions (including removal of paint debris and testing of paint adhesion), and apply protective treatment coating, in accordance with British Aerospace Inspection Service Bulletin ISB.57-57, dated February 25, 2000. After this application, no further action is required by this AD.

Note 3: British Aerospace Inspection Service Bulletin ISB.57-57, dated February 25, 2000, references R.I.L. HC573H9032 as an additional source of service information for accomplishing the application of protective treatment coating.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 21, 2000.

Donald L. Riggan,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-18996 Filed 7-26-00; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038-AB60

Profile Documents for Commodity Pools

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule amendments.

SUMMARY: Commodity Futures Trading Commission ("Commission") Rule 4.21(a)¹ currently requires that commodity pool operators ("CPOs") deliver a disclosure document, containing specified information, to prospective participants before soliciting or accepting any funds, securities or other property from such participants. National Futures Association's ("NFA's") Compliance Rule 2-35(d) would permit CPOs to deliver a shorter profile document containing only key information about the pool to prospective participants prior to providing them with the pool's Disclosure Document. Pursuant to section 17(j) of the Commodity Exchange Act² ("Act"), NFA has requested that the Commission review NFA Compliance Rule 2-35(d) and its Interpretive Notice regarding profile documents for commodity pools. NFA has also submitted a petition for rulemaking which requests that the Commission amend Rule 4.21(a) to permit use of the profile. The amendment to Commission Rule 4.21(a) proposed herein will be necessary to allow commodity pool operators ("CPOs") to use a profile document. The Commission is also proposing amendments to Commission Rule 4.26 to establish procedures for the use, amendment and filing of profile documents that are parallel to those applicable to disclosure documents.

In addition, certain technical amendments related to filings by CPOs and commodity trading advisors ("CTAs") are proposed. The primary change would decrease regulatory burden by reducing the number of copies of disclosure documents that CPOs and CTAs must file with the Commission. The Commission is also proposing to revise Rule 4.2(a), which permits that disclosure documents may be filed electronically, to expand the availability of electronic filing to profile documents. Technical amendments to Rule 4.2(a) would correct the address

¹ Commission rules referred to herein can be found at 17 CFR Ch. I (2000).

² 7 U.S.C. 21(j) (1994).

specified for hard copy filing and specify the address for electronic filing.

DATES: Comments must be received by August 28, 2000.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418-5521, or by electronic mail to secretary@cftc.gov. Reference should be made to "Profile Documents for Commodity Pools."

FOR FURTHER INFORMATION CONTACT: Eileen R. Chotiner, Futures Trading Specialist, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5467; electronic mail: "echotiner@cftc.gov."

SUPPLEMENTARY INFORMATION:

I. Rule 4.21(a)

Commission Rule 4.21(a) requires that CPOs deliver a disclosure document, containing specified information, to prospective participants before soliciting or accepting any funds, securities or other property from such participants.³ Currently, the rule permits a CPO to provide a more summary disclosure (a "Term Sheet") prior to the delivery of a disclosure document, in the form of a notice of intended offering and a statement of the terms of such offering. A Term Sheet may only be delivered to "accredited investors,"⁴ subject to rules promulgated by a registered futures association pursuant to Section 17(j) of the Act. In 1996, the Commission approved amendments to NFA Compliance Rule 2-13 implementing provisions for the Term Sheet.⁵

³ A publicly offered commodity pool refers to a distribution of units, some or all of which are registered under the Securities Act of 1933 ("Securities Act"). Commission Rule 4.24(d)(3)(i) defines "privately offered" commodity pools as those "offered pursuant to section 4(2) of the Securities Act of 1933, as amended (15 U.S.C. 77d(2)), or pursuant to Regulation D thereunder (17 CFR 230.501 *et seq.*)." Section 4(2) of the Securities Act exempts from registration transactions by an issuer not involving any public offering; Regulation D contains rules for the limited offer and sale of securities without registration under the Securities Act.

⁴ The term "accredited investor" is defined in 17 CFR 230.501(a).

⁵ NFA Compliance Rule 2-13(d) requires the notice of intended offering and statement of terms to include "no more than" the following information:

- (1) The name of the CPO, issuer, underwriter, and selling agent;
- (2) The name of the pool;

By letter dated March 7, 2000,⁶ NFA submitted to the Commission for its review and approval, pursuant to Section 17(j) of the Act, NFA Compliance Rule 2-35(d) and its Interpretive Notice regarding commodity pool profile documents. The use of profile documents would not be limited to accredited investors. The profile document is based on a rule adopted by the Securities and Exchange Commission ("SEC") that permits mutual funds to solicit and accept investments using a shorter "profile" document instead of a prospectus.⁷ NFA also submitted a petition for rulemaking to amend Commission Rule 4.21(a) in order to allow a profile document to be delivered, in advance of the pool's disclosure document, to potential participants, whether or not they are accredited investors. CPOs who wish to use a profile document would be required to do so in accordance with the rules of a registered futures association, such as NFA Compliance Rule 2-35(d).

The purpose of the profile document is to provide prospective participants with succinct disclosure of the key aspects of a commodity pool offering in an easily accessible format. A more accessible disclosure format is more likely to be read and therefore more likely to be useful to a person considering a commodity pool investment. The Commission believes that the benefits of a profile document are no less applicable to prospective pool participants who are not accredited investors. Therefore, the Commission is proposing to expand Rule 4.21(a) to allow CPOs to provide all prospective

(3) The title, amount, minimum escrow, and basic terms of the equity interests the CPO proposes to offer;

(4) The date the offering begins, how long it will remain open and a brief statement of the manner of the offering;

(5) The type of pool (multi-advisor, single-advisor, principal-protected, speculative, hedge) and interests to be traded and, if a single-advisor pool, the name of the CTA;

(6) Any limitations regarding who may invest in the pool or the amount of any investment;

(7) Any statement or legend required by any applicable laws, regulations, or rules or by any state, federal or foreign regulator; and

(8) The name and address and/or telephone number to obtain a copy of the disclosure document.

⁶ Prior versions of the proposal, which were submitted in letters dated September 10, 1998 and April 13, 1999, were withdrawn by NFA on October 27, 1999.

⁷ 17 CFR 230.498. SEC Rule 498 permits profile documents to be used only by open-end management investment companies that register on Form N-1A (17 CFR 274.11A). The SEC noted in its adopting release that it would assess the use of profiles by mutual funds over a period of time before considering a rule to permit use of profiles by other types of investment companies.

participants with a profile document prior to delivery of a Disclosure Document, subject to compliance with rules promulgated by a registered futures association pursuant to Section 17(j) of the Commodity Exchange Act ("Act").⁸

II. Background

In September 1998, the Commission approved NFA Compliance Rules 2-35(a)-(c), which require that disclosure documents be presented in a two-part format, and that they be prepared using "plain English" principles.⁹ The Commission also adopted corresponding changes to Commission Rules 4.24 and 4.25. These changes are intended to make commodity pool documents more understandable. NFA's Interpretive Notice to the two-part document rule states that "[a] Disclosure Document should provide essential information about the fundamental characteristics of a pool, and it should provide the information in a way that will assist investors in making informed decisions about whether to invest in the pool."¹⁰

In approving these NFA rules, the Commission noted that "the adoption of a two-part document format and plain English principles will assist investors in making an informed decision prior to investing in a pool by providing clear and concise information about the possible investment."¹¹ The Commission believes that the profile document described in NFA Rule 2-35(d) would further enhance the ability of prospective participants to evaluate the key characteristics of commodity pools prior to making investment decisions. Because the profile document must be followed with a complete disclosure document prior to the CPO's acceptance of any funds or property from a prospective pool participant, participants will receive all required

⁸ CPOs would continue to have the option to provide a notice of intended offering and term sheet to accredited investors.

⁹ NFA's Interpretive Notice to Rule 2-35(a)-(c) provides guidance on what is meant by the use of "plain English principles." Such principles include: using active voice; using short sentences and paragraphs; breaking up the document into short sections; using titles and subtitles that specifically describe the contents of each section; using words that are definite, concrete, and part of everyday language; avoiding legal jargon and highly technical terms; using glossaries to define technical terms that cannot be avoided; avoiding multiple negatives; and using tables and bullet lists, where appropriate.

¹⁰ NFA Interpretive Notice ¶9035, Compliance Rule 2-35: Guidelines for Filing Two-Part Disclosure Documents for Commodity Pools (board of Directors, April 30, 1999).

¹¹ 63 FR 15112, 15114 (March 30, 1998).

disclosure about the offered pool before committing their funds.

III. Description of NFA Compliance Rule 2-35(d)

Rule 2-35(d) would permit CPOs to deliver a profile document, containing key information about a commodity pool, to a prospective participant prior to delivery of the pool's disclosure document. The profile document must clearly state that an investment in the pool may not be made until after the prospective participant has received the pool's disclosure document. Further, the profile may not be accompanied by any advertising or other promotional material unless also accompanied by the pool's disclosure document.

The profile is required to include key information about the pool, such as: The risks of participating in commodity pools, and any specific risks that are material to the particular pool; a break-even analysis that reflects all fees and expenses of the pool; a discussion of the pool's trading strategy; any conflicts of interest material to the pool; a summary of any material actions against the CPO and its principals within the past five years; a brief description of the pool's redemption policies; and the performance of the offered pool. No information other than that specified in Rule 2-35(d) may be included in the profile. Rule 2-35(d) also specifies that the profile document is subject to the filing requirements of CFTC Rule 4.26 and must be submitted with the pool's disclosure document.

NFA is also proposing to issue a new Interpretive Notice to Rule 2-35(d) regarding CPO profile documents. The Interpretive Notice provides further guidance as to the types of risk factors and conflicts of interest that should be discussed in the profile document.

IV. Related Changes to Commission Rules 4.2 and 4.26

Pursuant to Rule 4.26, a CPO may use a disclosure document for nine months from its date of first use, must amend the document if it is materially inaccurate or incomplete and distribute the changes to existing and previously solicited prospective participants, and must file the disclosure document and amendments thereto with the Commission. The Commission is proposing to revise Rule 4.26 to establish the same requirements for profile documents. The Commission is also proposing to revise Rule 4.2(a) to permit profile documents to be filed electronically along with the disclosure documents to which they pertain. The proposed changes to Rules 4.2(a) and 4.26(d) would incorporate the

requirement in NFA Rule 2-35(d) that the profile document be filed along with the disclosure document.

V. Technical Changes

In order to reduce regulatory burden for CPOs and CTAs, the Commission is proposing to amend Rules 4.26 and 4.36 to reduce the number of copies of the Disclosure Document that must be filed with the Commission by CPOs and CTAs. The proposed changes would require that only one copy of each disclosure document be filed with the Commission, rather than the two copies currently required by these rules. A single copy of the profile document, if one is used, would be required to be filed with the CPO's disclosure document for the applicable pool. The only proposed rule revision that is applicable to CTAs is the proposed reduction in the number of copies of disclosure documents that CTAs must file with the Commission under Rule 4.36(d).¹²

Technical changes to Rule 4.2(a) are also proposed to correct the address to which hard copy filings must be sent and to specify the e-mail address for electronic filings.

VI. Additional Request for Comment

The amendments to Rules 4.2(a), 4.21(a) and 4.26 that are related to use of a profile document are being proposed to enable the Commission to approve NFA Compliance Rule 2-35(d). Accordingly, the Commission seeks comments both on the proposed amendments to the Commission's rules for the purpose of permitting profile documents for CPOs and clarifying procedures for their use, amendment and filing, as well as comments on the disclosure format established by proposed NFA Compliance Rule 2-35(d). The Commission also seeks comments on the proposed technical amendments to reduce the number of copies of disclosure documents that CPOs and CTAs must file. The text of NFA Compliance Rule 2-35(d) and its Interpretive Notice are attached to this release as Appendix A.

VII. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-611 (1994),

¹² Although NFA's initial submission of Rule 2-35 included provisions for use of profile documents by CTAs, these provisions were eliminated from their recent submission because CTA documents are "not nearly as voluminous as CPO documents. * * *" Letter from Daniel J. Roth, Executive Vice President and General Counsel, NFA, to Jean A. Webb, Secretary of the Commission, dated March 7, 2000.

requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.¹³ The Commission previously has determined that registered CPOs are not small entities for the purpose of the RFA.¹⁴ With respect to CTAs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of any rule.¹⁵ The portion of the rule proposal herein that affects CTAs makes no change in existing requirements other than to reduce the number of copies of the disclosure document that CTAs seeking to direct or guide client accounts must file pursuant to Rule 4.31(a). Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA"),¹⁶ which imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA, does not apply to this rule. The Commission believes the proposed rule revisions do not contain information collection requirements which require the approval of the Office of Management and Budget. The purpose of this rule is to permit the use of a summary profile document for commodity pools, and other technical changes related to filing of disclosure documents.

List of Subjects in 17 CFR Part 4

Brokers, commodity futures, commodity pool operators and commodity trading advisors.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular sections 2(a)(1), 4l, 4m, 4n, 4o, and 8a, 7 U.S.C. 2, 6l, 6m, 6n, 6o, and 12(a), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

¹³ 47 FR 18618-18621 (April 30, 1982).

¹⁴ 47 FR 18619-18620.

¹⁵ 47 FR 18618-18620.

¹⁶ 44 U.S.C. 3507(d).

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. The authority citation for part 4 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a and 23.

2. Section 4.2 is proposed to be amended by revising paragraph (a) to read as follows:

§ 4.2 Requirements as to filing.

(a) All material filed with the Commission under this part 4 must be filed with the Commission at its Washington, DC office (Att: Managed Funds Branch, Division of Trading and Markets, CFTC, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC, 20581; Provided, however, that Disclosure Documents, profile documents, and amendments thereto may be filed at the following electronic mail address: *ddoc-efile@cftc.gov*.

* * * * *

3. Section 4.21 is proposed to be amended by revising paragraph (a) to read as follows:

§ 4.21 Required delivery of pool Disclosure Document.

(a)(1) No commodity pool operator registered or required to be registered under the Act may, directly or indirectly, solicit, accept or receive funds, securities or other property from a prospective participant in a pool that it operates or intends to operate unless, on or before the date it engages in that activity, the commodity pool operator delivers or causes to be delivered to the prospective participant a Disclosure Document for the pool containing the information set forth in § 4.24.

(2) Notwithstanding the requirements regarding solicitation specified in paragraph (a)(1) of this section, a commodity pool operator may provide to a prospective participant either of the following documents prior to delivery of a Disclosure Document, subject to compliance with rules promulgated by a registered futures association pursuant to section 17(j) of the Act:

(i) A profile document;

(ii) Where the prospective participant is an accredited investor, as defined in 17 CFR 230.501(a), a notice of intended offering and statement of the terms of the intended offering.

* * * * *

3. Section 4.26 is proposed to be amended by revising paragraphs (a), (b) and (d) to read as follows:

§ 4.26 Use, amendment and filing of Disclosure Document.

(a) (1) Subject to paragraph (c) of this section, all information contained in the Disclosure Document and, where used, profile document, must be current as of the date of the Document; *Provided, however,* that performance information may be current as of a date not more than three months prior to the date of the Document.

(2) No commodity pool operator may use a Disclosure Document or profile document dated more than nine months prior to the date of its use.

(b)(1) If the commodity pool operator knows or should know that the Disclosure Document or profile document is materially inaccurate or incomplete in any respect, it must correct that defect and must distribute the correction to:

(i) All existing pool participants within 21 calendar days of the date upon which the pool operator first knows or has reason to know of the defect; and

(ii) Each previously solicited prospective pool participant prior to accepting or receiving funds, securities or other property from any such prospective participant.

(2) The pool operator may furnish the correction by any of the following means:

(i) An amended Disclosure Document or profile document;

(ii) With respect to a hard copy of the Disclosure Document, a sticker affixed to the Disclosure Document; or

(iii) Other similar means.

(3) The pool operator may not use the Disclosure Document or profile document until such correction has been made.

* * * * *

(d) Except as provided by § 4.8:

(1) The commodity pool operator must file with the Commission one copy of the Disclosure Document and profile document for each pool that it operates or that it intends to operate not less than 21 calendar days prior to the date the pool operator first intends to deliver the Document to a prospective participant in the pool; and

(2) The commodity pool operator must file with the Commission one copy of the subsequent amendments to the Disclosure Document and profile document for each pool that it operates or that it intends to operate within 21 calendar days of the date upon which the pool operator first knows or has reason to know of the defect requiring the amendment.

4. Section 4.36 is proposed to be amended by revising paragraph (d) to read as follows:

§ 4.36 Use, amendment and filing of Disclosure Document.

* * * * *

(d)(1) The commodity trading advisor must file with the Commission one copy of the Disclosure Document for trading program that it offers or that it intends to offer not less than 21 calendar days prior to the date the trading advisor first intends to deliver the Document to a prospective client in the trading program; and

(2) The commodity trading advisor must file with the Commission one copy of the subsequent amendments to the Disclosure Document for each trading program that it offers or that it intends to offer within 21 calendar days of the date upon which the trading advisor first knows or has reason to know of the defect requiring the amendment.

Issued in Washington, D.C. on July 20, 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations:

Appendix A: Proposed NFA Compliance Rule 2-35(d) and Related Interpretive Notice

VIII. COMPLIANCE RULES

* * *

Part 2—Rules Governing the Business Conduct of Members Registered With the Commission

* * *

RULE 2-35. CPO/CTA DISCLOSURE DOCUMENTS.

* * *

(d) CPO Profile Document.

(1) A Member CPO may deliver a profile document, as defined in paragraph (2) below, to a prospective participant prior to the delivery of a Disclosure Document, provided that the profile clearly states that an investment in the pool may not be made until after the prospective participant has received the Disclosure Document. A Member CPO shall not provide any advertising or other promotional materials with the profile unless it is also accompanied by the pool's Disclosure Document.

(2) A profile document shall not present information on more than one pool. A profile document shall include the following information, in the order indicated:

(i) A cover page which contains the following information:

- The following legend:

This profile summarizes key information about the pool that is included in the pool's disclosure document. The disclosure document includes additional information about the pool, including a more detailed description of the risks associated with investing in the pool, that you should consider before you invest. Before accepting

any funds or other property from you for investment in this pool, the operator of this pool is required to provide you with a copy of the pool's disclosure document and obtain a signed and dated acknowledgment from you indicating that you have received the pool's disclosure document. You may obtain the disclosure document and other information about the pool at no cost by contacting _____ at _____.

- The name, main business address, main business telephone number and form of organization of the pool;
- The name, main business address, main business telephone number and form of organization of the pool operator;
- A statement identifying the document as a "profile" without using the term "disclosure document;"
- The approximate date of the profile's first use;

• A break-even analysis which includes a tabular presentation of all fees and expenses presented in a manner prescribed by NFA's Board of Directors;

(ii) The following cautionary statement:

Before investing in a commodity pool, you should carefully consider the following:

- Futures and options trading can quickly lead to large losses as well as gains.
- Trading losses can sharply reduce the net asset value of a pool and the value of your interest in the pool.
- Some pools have restrictions on redemptions that may affect your ability to withdraw your investment in the pool.
- Some pools are subject to substantial charges for management, advisory and brokerage fees. In order to cover these fees, the pool may have to experience substantial trading profits.

This profile document does not provide all the information you need to evaluate your participation in this pool. You should carefully review the pool's disclosure document which contains detailed information on the pool's principal risk factors, the expenses that will be charged to the pool and a more detailed description of the break-even analysis for this pool.

You should also be aware that neither the Commodity Futures Trading Commission nor the National Futures Association has passed upon the merits of participating in this pool nor the adequacy or accuracy of this profile.

(iii) The identity of each principal of the pool operator, the pool's trading manager and its principals, if any, each major investee pool, the operator of the pool and its principals, and each major CTA and its principals (for natural persons, this should include name and title);

(iv) A non-marketing orientated discussion of the trading strategy used to trade the pool;

(v) A discussion of any additional risk factors not highlighted in the cautionary statement which are material to this particular pool;

(vi) A discussion of any conflicts of interest which are material to the particular pool;

(vii) A summary of any material administrative or criminal actions, whether pending or concluded, within five years of the date of the profile, against the commodity pool operator or any of its principals;

(viii) A brief description of any restrictions on transfers of a participant's interest in the pool;

(ix) A brief description of how a participant may redeem his interest in the pool and a statement of redemption charge, if any;

(x) If applicable, a statement indicating the extent to which a participant may be held liable for obligations of the pool in excess of the funds contributed by the participant for the purchase of an interest in the pool;

(xi) For pools with prior operating history, the capsule performance information for the offered pool as required by Commodity Futures Trading Commission Regulation 4.25(a)(1)(i), exclusive of the requirement of Regulation 4.25(a)(2). In addition, if applicable, notice to the prospective participant that the pool operator is required to report performance information on other pools operated by the pool operator in its Disclosure Document under CFTC Regulation 4.25 and the specific section in the Disclosure Document where this information may be found; and

(xii) For pools with no operating history, a statement that the pool has no operating history and, if applicable, notice to the prospective participant that the pool operator is required to report performance information on other pools operated by the pool operator and performance information on major CTAs trading the pool in its Disclosure Document under CFTC Regulation 4.25 and the specific section in the Disclosure Document where this information may be found.

(3) The profile document is subject to the filing requirements of CFTC Regulation 4.26. A particular pool's profile document must be filed with the disclosure document required under CFTC Regulation 4.21(a).

* * *

CPO Profile Documents: Compliance Rule 2-35 Interpretive Notice

NFA Compliance Rule 2-35 permits Member CPOs to conduct initial customer solicitations with a profile document, provided that a customer is given the disclosure document prior to investing in the pool. The profile document should provide a summary of key information regarding an investment in the commodity pool being offered. Among other things, the profile requires a discussion of the risk factors material to the particular pool being offered and a discussion of any conflicts of interest material to the offered pool. The information provided under both these sections should be tailored to the pool being offered and should not include a generic discussion of risks or conflicts of interest typical of all commodity pools.

The discussion of risk factors should focus on characteristics of the pool that go beyond risks that are associated with commodity pool investments in general. This section should not contain boilerplate or generic language on the risks related to volatility and leverage which are associated with all commodity pool investments. If, however, these risk factors raise any special considerations with respect to the offered pool, the profile should contain a complete discussion of these special considerations.

Other risk factors that should be discussed in this section include but are not limited to risks associated with allocating a substantial portion of a pool's assets to one CTA or a group of CTAs whose trading methods do not provide any diversification (e.g., a single CTA fund which invested exclusively in agricultural products); counterparty creditworthiness issues that may arise if the pool's assets are concentrated in OTC or foreign instruments; liquidity issues that may arise if the pool itself is invested in illiquid products; and leverage issues that may exist if the pool will engage in borrowing or if assets are allocated among the pool's CTAs in such a way that the total allocations to the pool's CTAs are greater than the total assets of the pool.

The discussion on conflicts of interest should focus on arrangements or relationships among the pool's CPO, trading manager, major CTAs, CPOs of major investee pools, and any other person providing services to the pool that may compromise the pool participants' interest with respect to trading costs, fees, execution, or any other aspects of the pool's operation. For example, if the CPO provides other services to the pool for compensation, the CPO has a financial disincentive to replace itself even if it would be in the best interest of the pool. In addition, the compensation the CPO receives for providing these services will not have been set by arm's length negotiation. Other conflicts of interest that should be disclosed include, but are not limited to, situations where the CPO or CTA receives per trade compensation or where the CPO participates in soft dollar arrangements with the pool's FCM.

This interpretive notice is not intended to provide an inclusive list of the risk factors and conflicts of interest that must be disclosed in the profile.

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AC43

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Oil and Gas Drilling Operations

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends to October 19, 2000, the deadline for submitting comments on the proposed rule which restructures the requirements for oil and gas drilling operations on the Outer Continental Shelf (OCS), adds some new requirements, and converts the rule into plain language.