

submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2000-SW-21-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2000—20—06 Agusta S.p.A.: Amendment 39—11917. Docket No. 2000-SW-21-AD.

Applicability: Model A109K2 with serial number (S/N) up to and including 10036 and Model A109E with S/N up to and including 11069, excluding A109E helicopters with serial number 11049, 11055, 11056, or 11067, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 (d) 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 a crack in a main transmission aft support fitting (aft support fitting) that could result in excessive displacement of the main gearbox, failure of an engine to main gearbox drive shaft, loss of power to the main rotor, and a subsequent forced landing, accomplish the following:

(a) Remove each main transmission aft support fitting, part number (P/N) 109-0325-08-01 and replace it with an airworthy support fitting, P/N 109-0325-08-109, as follows:

(1) For an aft support fitting, P/N 109-0325-08-01, with less than 140 hours time-in-service (TIS), replace it at or before 150 hours TIS.

(2) For an aft support fitting, P/N 109-0325-08-01, with 140 or more hours TIS, replace it within 10 hours TIS.

Note 2: Agusta Alert Bollettino Tecnico (Technical Bulletin) No. 109K-25 and No. 109EP-7, both dated March 3, 2000, pertain to the subject of this AD.

(b) This AD revises the Airworthiness Limitations Section of the applicable maintenance manual by establishing a life limit of 150 hours TIS for the aft support fitting, P/N 109-0325-08-01.

(c) Replacing all aft support fittings, P/N 109-0325-08-01, with support fittings, P/N 109-0325-08-109, constitutes terminating action for the requirements of this AD.

(d) 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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(e) 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 helicopter to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on October 17, 2000.

Note 4: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD No. 2000-128, dated March 6, 2000.

Issued in Fort Worth, Texas, on September 25, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00-25151 Filed 9-29-00; 8:45 am]

BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038-AB60

Profile Documents for Commodity Pools

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("CFTC" or "Commission") is adopting amendments to its rules to permit commodity pool operators ("CPOs") to provide a summary profile document to prospective commodity pool participants prior to giving them the pool's complete disclosure document. Certain technical changes to rules relating to CPOs and commodity trading advisors ("CTAs") are also being adopted.

EFFECTIVE DATE: November 1, 2000.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On July 27, 2000, the Commission proposed to amend its rules to allow CPOs to use a profile document to solicit prospective commodity pool participants prior to providing them with the pool's Disclosure Document.¹ The Commission also proposed 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. The proposed rule changes are intended to accommodate National Futures Association's ("NFA") proposed Compliance Rule 2-35(d). In addition, certain technical amendments related to filings by CPOs and commodity trading advisors ("CTAs") were proposed.

The 30-day comment period expired on August 28, 2000. The Commission received one comment letter, from NFA, which supported the proposed rule changes. Accordingly, the Commission has determined to adopt the changes to Rules 4.2, 4.21, 4.26 and 4.36, essentially as proposed.

Related Matters**A. Regulatory Flexibility Act**

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-611 (1994), 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.² The Commission previously has determined that registered CPOs are not small entities for the purpose of the RFA.³ With respect to CTAs, the Commission has stated that it would evaluate within the context of a particular rule proposal which all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of any rule.⁴ In this regard, the Commission notes that the sole effect on CTAs of the rule revisions adopted herein is to reduce the filing requirement for disclosure documents. The Commission has previously determined that the disclosure

requirements governing this category of registrant will not have a significant economic impact on a substantial number of small entities.⁵ Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that these regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

This rule (Sections 4.31 and 4.33) contains information collection requirements. As required by the Paperwork Reduction Act of 1995,⁶ the Commission has submitted a copy of this rule to the Office of Management and Budget (OMB) for its review.⁷ In response to the Commission's invitation in the proposed rulemaking to comment on any potential paperwork burden associated with this regulation, no comments were received.

List of Subjects in 17 CFR Part 4

Brokers, Commodity futures, Commodity pool operators, Commodity trading advisors.

For the reasons stated in the preamble, the Commission amends 17 CFR Part 4 as follows:

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 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 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.

* * * * *

4. Section 4.26 is 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;

¹ 65 FR 46122 (July 27, 2000).

² 47 FR 18618-18621 (April 30, 1982).

³ 47 FR 18619-18620.

⁴ 47 FR 18618-18620.

⁵ See 60 FR 38146, 38181 (July 25, 1995) and 48 FR 35248 (August 3, 1983).

⁶ Pub. L. 104-13 (May 13, 1995).

⁷ 44 U.S.C. 3504(h).

(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, where used, 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 such Document or documents 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, where used, 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.

5. Section 4.36 is 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, DC, on September 25, 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00-24984 Filed 9-29-00; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8904]

RIN 1545-AX38

Treatment of Nonqualified Preferred Stock and Other Preferred Stock in Certain Exchanges and Distributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to nonqualified preferred stock. The regulations address the effective date of the definition of nonqualified preferred stock and the treatment of nonqualified preferred stock and similar preferred stock received by shareholders in certain corporate reorganizations and distributions. The regulations are necessary to reflect changes to the law concerning these types of preferred stock that were made by the Taxpayer Relief Act of 1997.

EFFECTIVE DATE: These regulations are effective October 2, 2000.

FOR FURTHER INFORMATION CONTACT: Richard E. Coss, (202) 622-7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

On January 26, 2000, the IRS and Treasury published in the **Federal Register** a notice of proposed rulemaking (REG-105089-99, 2000-6 I.R.B. 580 [65 FR 4203]) relating to nonqualified preferred stock (as defined in section 351(g)(2) of the Internal Revenue Code) (NQPS). The proposed regulations address the effective date of the definition of NQPS, and provide rules exempting from treatment as NQPS certain preferred stock received by shareholders in corporate reorganizations and distributions subject to sections 354, 355, and 356.

No comments responding to the notice of proposed rulemaking were submitted, and no public hearing was requested or held. However, one commentator suggested that the rule in the proposed regulations interpreting section 351(g)(2)(C)(i)(II) (relating to preferred stock transferred in connection with the performance of services) should be expanded to include transactions subject to section 351.

The IRS and Treasury agree with this suggestion. Accordingly, these final regulations extend the exemption from

treatment as NQPS in § 1.356-7(c) to preferred stock received by shareholders in certain stock exchanges under section 351. The proposed regulations are adopted as revised by this Treasury decision.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Richard E. Coss of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding the following entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.351-2 also issued under 26 U.S.C. 351(g)(4).

Section 1.354-1 also issued under 26 U.S.C. 351(g)(4).

Section 1.355-1 also issued under 26 U.S.C. 351(g)(4).

Section 1.356-7 also issued under 26 U.S.C. 351(g)(4). * * *

Section 1.1036-1 also issued under 26 U.S.C. 351(g)(4). * * *

Par. 2. Section 1.351-2 is amended by adding paragraph (e) to read as follows:

§ 1.351-2 Receipt of property.

* * * * *

(e) See § 1.356-7(a) for the applicability of the definition of