

(1) Any operator complying with paragraph (b) of this AD may use an alternative recordkeeping method to that otherwise required by FAR § 91.417 or § 121.380 for the actions required by this AD, provided it is approved by the FAA and is included in a revision to the FAA-approved maintenance/inspection program.

(2) Subsequent to the accomplishment of the initial corrosion task, extensions of R intervals specified in the Service Bulletin must be approved by the FAA.

(c) To accommodate unanticipated scheduling requirements, it is acceptable for an R interval to be increased by up to 10%, but not to exceed 6 months. The FAA must be informed, in writing, of any such extension within 30 days after such adjustment of the schedule.

(d)(1) If, as a result of any inspection conducted in accordance with paragraph (a) or (b) of this AD, Level 3 corrosion is determined to exist in any area, accomplish either paragraph (d)(1)(i) or (d)(1)(ii) within 7 days after such determination:

- (i) Submit a report of that determination to the FAA and complete the corrosion task in the affected areas on all Model BAC 1-11 series airplanes in the operator's fleet; or
- (ii) Submit to the FAA for approval one of the following:

(A) A proposed schedule for performing the corrosion tasks in the affected areas on the remaining Model BAC 1-11 series airplanes in the operator's fleet, which is adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for that schedule; or

(B) Data substantiating that the Level 3 corrosion found is an isolated occurrence.

Note 8: Notwithstanding the provisions of Table 1 of the Service Bulletin, which would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it, "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

(2) The FAA may impose schedules other than those proposed, upon finding that such changes are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

(3) Within the time schedule approved under paragraph (d)(1) or (d)(2) of this AD, accomplish the corrosion tasks in the affected areas of the remaining Model BAC 1-11 series airplanes in the operator's fleet.

(e) If, as a result of any inspection after the initial inspection conducted in accordance with paragraph (a) or (b) of this AD, it is determined that corrosion findings exceed Level 1 in any area, within 60 days after such determination a means approved by the FAA must be implemented to reduce future findings of corrosion in that area to Level 1 or better.

(f) Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment

of corrosion tasks required by this AD must be established in accordance with paragraph (f)(1) or (f)(2) of this AD, as applicable:

(1) For airplanes previously maintained in accordance with this AD, the first corrosion task in each area to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each corrosion task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first corrosion task for each area to be performed by the new operator must be accomplished prior to further flight or in accordance with a schedule approved by the FAA.

(g) Reports of Level 2 and Level 3 corrosion must be submitted at least quarterly to British Aerospace in accordance with Section 2.5 of the Service Bulletin.

Note 9: Reporting of Level 2 and Level 3 corrosion found as a result of any opportunity inspections is highly desirable.

(h) 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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 10: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(i) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(j) Reports of corrosion inspection results required by this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and have been assigned OMB Control Number 2120-0056.

(k) The corrosion tasks and reports shall be done in accordance with British Aerospace Alert Service Bulletin 5-A-PM5987, "Time Limits—Aircraft General—Corrosion Control Programme," Issue 2, dated June 30, 1992, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
Bulletin Text, including Content Checklist:		
1-3, 5-6, 8, 11, 13-14, 19,	2	June 30, 1992.
4, 7, 9-10, 12, 15-18.	1	Nov. 30, 1990.

Page No.	Revision level shown on page	Date shown on page
Appendix 1:		
1-3	2	June 30, 1992.
4	1	Nov. 30, 1990.
Appendix 2:		
1	2	June 30, 1992.
2	1	Nov. 30, 1990.
Appendix 3:		
1-5, 7-10, 12-14, 16-19, 23-28, 31-37, 37A, 39-44, 44A, 45-46, 48-55, 58-59, 62, 64-75, 77, 6, 11, 15, 20-22, 29-30, 38, 47, 56-57, 60-61, 63, 76, 78.	2	June 30, 1992.
6, 11, 15, 20-22, 29-30, 38, 47, 56-57, 60-61, 63, 76, 78.	1	Nov. 30, 1990.
Appendix 4:		
2-5, 8-10	2	June 30, 1992
1, 6-7, 11-12 ...	1	Nov. 30, 1990

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on March 19, 1993.

Issued in Renton, Washington, on February 4, 1993.

James V. Devany,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 93-3422 Filed 2-11-93; 8:45 am]
BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Computation and Presentation of Rate-Of-Return Information and Other Disclosures Regarding Partially Funded Accounts Managed By Commodity Trading Advisors

AGENCY: Commodity Futures Trading Commission.

ACTION: Issuance of advisory.

SUMMARY: A past performance record contains information required to be presented by commodity trading advisors ("CTAs") pursuant to Commodity Futures Trading Commission ("Commission") rule 4.31(a)(3)¹ and is intended to present

¹ Commission rules referred to herein are found at 17 CFR Ch. 1 (1992).

the historical periodic performance of accounts operated or directed in a prescribed format for purposes of disclosure to customers or prospective customers. The prescribed format includes periodic rate of return ("ROR") information. On November 10, 1992, the Commission published a proposed Advisory entitled: "Consolidating In The Same Performance Table Similarly Traded Accounts Funded With Different Amounts of Actual Funds" and allowed thirty days for comments thereon. The Advisory interprets the Commission's existing performance disclosure regulations to permit (but not require) ROR for a CTA's program to be presented on the basis of a "Fully-Funded" subset of the accounts included in a particular trading program offered by the CTA, as set forth in the Advisory and provides guidance concerning the disclosure of material information pertaining to partially funded trading programs. Use of the Advisory may permit a reduction in the number of performance tables required to disclose fully the past performance of all of a CTA's accounts traded pursuant to a particular program. Further, use of the Advisory, including the special disclosures associated with it, could enhance a prospective customer's understanding of the interrelationship between the level of funding in an account and the relative rates of return. The Commission has carefully considered the comments received and has determined to issue the Advisory essentially as proposed, with only minor modifications incorporating specific comments received with respect to the implementation of the Advisory.

DATES: This advisory is effective February 8, 1993.

FOR FURTHER INFORMATION CONTACT: Paul H. Bjarnason, Jr., Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission received a total of four comment letters: One from a trade association representing Commission registrants; one from a bar association; one from a law firm; one from a person registered as both a CTA and a commodity pool operator ("CPO"). Several of the letters encouraged the Commission to continue to pursue various performance reporting issues, some of which are related to matters covered by the Advisory. Although certain commenters believed that the purposes and manner of performance disclosure should continue to be

explored by the Commission, in response to the request for comment contemporaneously published with the proposed Advisory, these commenters were generally supportive of issuing the Advisory at this time. Moreover, the commenters indicated that the issuance of the Advisory would constitute an improvement over the existing scheme of performance reporting. The commenters also provided some suggestions for revision of the Advisory which have been considered in making the final changes to the Advisory. The most significant changes in the Advisory concern implementation issues. In order to permit retroactive application of the Advisory to prior years, Section XI. provides flexibility to CTAs in the initial implementation of the Advisory respecting application of the two tests contained in Section IV. to periods prior to January 1, 1992. Additionally, Section III. was amended to indicate that the two tests did not necessarily need to be met for all periods presented, thus providing flexibility to CTAs in meeting the two tests on an ongoing basis. In addition, as one commenter suggested, the Advisory provides guidance as to how the Commission's requirements for CTAs to make all material disclosures may be satisfied by CTAs offering partially funded accounts, generally.

The Advisory

This Advisory specifies an acceptable methodology for a Commodity Trading Advisor ("CTA") to consolidate in the same performance table customer accounts traded under the same trading program which have materially different levels of funding; and provides guidance concerning the disclosure of material information pertaining to partially funded trading programs, generally. This Advisory addresses the presentation of Rate-of-Return ("ROR")² information for accounts which contain different percentage levels of Actual Funds, but have the same Nominal Account Size (as defined below). This Advisory permits the ROR information, which is required to be included in a performance table, to be based on the CTA's Fully-Funded accounts, and uses a matrix, descriptive text or graphs to demonstrate the effect on ROR of accounts funded at lesser levels. Accordingly, use of the Advisory methodology may permit a CTA to reduce the required number of performance tables and, in effect,

² Commission regulation 4.31(a)(3) requires CTAs to disclose past performance. ROR is part of the information contained in the required performance table.

permits a CTA to show performance of similarly traded "Notional" accounts as if they were Fully-Funded.

Although a client should not rely solely on ROR information, nonetheless, it is one of the types of information required by the Commission to help the public assess a CTA's performance. This Advisory is intended to enhance the usefulness of that information.

In order to use the methodology provided in this Advisory, all of the conditions set forth herein must be met for each of the time periods presented in the performance table.

The sections of this Advisory are:

- I. Definitions
- II. The Composite Table and Notes
- III. The Fully-Funded Subset
- IV. The Matrix—RORs for Accounts Not In the Subset
- V. Special Notionally-Funded Account Disclosure
- VI. Materiality—Quantitative
- VII. The Nominal (Notional) Account Size
- VIII. The CTA/Client Agreement
- IX. Applicability of this Advisory to Commodity Pools
- X. Representations and Required Disclosures
- XI. Initial Implementation of the Advisory

I. Definitions

Actual Funds—The amount of margin-qualifying assets on deposit in a commodity interest account, generally cash and marketable securities. "Actual Funds" can include certain additional funds which are held in other accounts identified by the customer provided the conditions set forth in Division of Trading and Markets Advisory No. 87-2 are met.

Nominal or Notional Account Size—The dollar amount that a CTA and its customers have agreed in writing will determine the level of trading in an account regardless of the amount of Actual Funds. Accounts in which the Nominal or Notional Account Size exceeds the amount of Actual Funds are hereinafter referred to as "Notionally-Funded Accounts". The terms "Nominal Account Size" and "Notional Account Size" are used interchangeably herein.

Notional Funds—The amount by which the Nominal Account Size exceeds the amount of Actual Funds which are on deposit in an account.

Fully-Funded Account—An account which at its inception contains an amount of Actual Funds equal to its Nominal Account Size.

II. The Composite Table and Notes

A. Columnar Format

The composite table should be in a columnar format as follows:

- (1) Reporting Period

- (2) Beginning Net Asset Value ("BNAV")—Actual Funds
- (3) BNAV—Nominal Account Size
- (4) Additions to Col. 3
- (5) Withdrawals from Col. 3
- (6) Net Performance
- (7) Ending Net Asset Value—Cols. 3–6
- (8) Rate-of-Return—calculated based upon the Actual Funds contained in the subset of "Fully-Funded" accounts³

B. Notes To The Table And Other Disclosures

As more fully explained later in this Advisory, the notes to the table or the text of the disclosure document should contain:

- (1) An explanation of how the composite performance table was developed. Generally, there should be a separate composite table for each of the CTA's separate trading programs;
- (2) Information to permit conversion of the RORs presented on the face of the table (which are based upon the Fully-Funded subset) to Actual Funds-based RORs, for an account funded at each of the other funding levels offered by the CTA. The disclosure should be made in a clear and concise fashion using descriptive text, a matrix, or a graph; and
- (3) Any additional disclosures which may be material under Commission rules 4.31(a) (3) and 4.31(g).

III. The Fully-Funded Subset

A. The Fully-Funded Subset (the "Subset") is comprised of all Fully-Funded accounts, adjusted to include or exclude certain accounts, as explained below. The Subset must meet the following two tests, as explained further below:

1. The aggregate of the Subset's Actual Funds must be at least 10% of the aggregate of the Nominal Account Sizes of the accounts which make up the composite performance table; and
2. The Gross Trading Profit (Loss) Ratio ("GTPR") of the aggregate of the accounts contained in the Subset based on Actual Funds must be materially⁴ the same as the GTPR for the aggregate of accounts contained in the composite performance table based upon the Nominal Account Size.⁵

³ ROR for the Fully-Funded subset is computed by dividing the sum of the net performance, i.e., the aggregate of net performance for each of the accounts, for the Fully-Funded subset, by the sum of the Actual Funds-based BNAVs for the Fully-Funded subset.

⁴ See section VII re: Materiality.

⁵ A GTPR is computed by dividing gross trading profits by the account size for any single account or by the aggregates of the account sizes for any subset of accounts (Notional or Actual Funds).

In computing compliance with the two tests enumerated above, any accounts excluded from the Subset pursuant to adjustments required below should be: (1) Included in the aggregate of the accounts contained in the composite performance table for purposes of test No. A.1.; and (2) excluded from the aggregate of the accounts contained in the composite performance table for purposes of test No. A.2.

B. The following adjustments to the Subset are permitted:

1. Accounts which are closed during a reporting period should be excluded, if inclusion of such account(s) would materially change the ROR reported for the Subset;
2. Accounts which are newly-opened should be excluded for one or more of their first 3 months of existence, if inclusion of such account(s) would materially change the ROR reported for the Subset for one or more of the first 3 months; and
3. Accounts in which the net liquidating equity has materially declined from the initial Fully-Funded level may be excluded.

The CTA should consider whether performance information on certain accounts excluded from the subset, if any, may be material to prospective investors. If such information may be material, it must be disclosed.

In the event that the accounts to be included in the composite table do not meet both tests in every period presented, the Advisory may nonetheless be used, provided that:

- (1) Failures to meet the first test, if any, were for a limited number of periods;
- (2) Any differences in GTPR are not related to substantive differences in the trading program included in the composite, e.g., they are related to differences in fills among accounts which were beyond the control of the CTA;
- (3) To avoid compounding the cumulative impact of any errors or inaccuracies in the Value Added Monthly Index ("VAMI") or any other similar measure presented in the performance table, the measure is reset to its base amount at the beginning of each year presented; and
- (4) The RORs presented in the table are not misleading as to the results of the Program in the particular reporting period.

IV. Disclosures for Accounts not in the Subset

Disclosure must accompany the performance table, which would permit a prospective customer to convert any

given Fully-Funded ROR to the equivalent ROR for any Notional funding level offered by the CTA, as set forth below. The information should be provided using a matrix, descriptive text or a graphic format. If a matrix is used, it would have two axes. The first axis would display the range of Fully-Funded RORs for each period appearing in the performance table, including negative RORs, if any. The second axis would display Actual Funding levels offered by the CTA expressed as percentages (e.g., 60%, 70%), including a 100% (Fully-Funded) level.

Therefore, with the required disclosure, a client would be able to convert each ROR in the table to an ROR for the percentage range of Actual Funding for accounts traded by that CTA. For example, where a matrix is used, a 10% ROR reported for a Fully-Funded account on the face of the table for the month of January would, by reference to the matrix, approximate a 20% return on a 50%-funded account. This is because the 50%-funded account would contain one-half the Actual Funds of a Fully-Funded account, although the absolute dollar amount of net performance would be approximately the same.

If the disclosures provided above should fail to convey adequately the risks of accounts funded at lesser levels, additional disclosures should be provided.

V. Special Notionally-Funded Account Disclosure Statement

The following special disclosure must be provided by a CTA which elects to report ROR pursuant to the Fully-Funded Subset Method provided in this Advisory. This special disclosure (with the deletion of item number (3) may also be used by CTAs, who offer to manage partially funded accounts but who do not use the Fully-Funded Subset Method, as a means of making material disclosure regarding partially funded accounts. The special disclosure may be included either in the disclosure document or in the customer account agreement. The special disclosure is: Special Disclosure for Notionally-Funded Accounts

You should request your commodity trading advisor to advise you of the amount of cash or other assets (Actual Funds) which should be deposited to the advisor's trading program for your account to be considered "Fully-Funded". This is the amount upon which the commodity trading advisor will determine the number of contracts traded in your account and should be an amount sufficient to make it unlikely that any further cash deposits would be required from you over the course of your participation in the commodity trading advisor's program.

You are reminded that the account size you have agreed to in writing (the "nominal" or "notional" account size) is not the maximum possible loss that your account may experience.

You should consult the account statements received from your futures commission merchant in order to determine the actual activity in your account, including profits, losses and current cash equity balance. To the extent that the equity in your account is at any time less than the nominal account size you should be aware of the following:

1. Although your gains and losses, fees and commissions measured in dollars will be the same, they will be greater when expressed as a percentage of account equity.
2. You may receive more frequent and larger margin calls.
3. The disclosures which accompany the performance table may be used to convert the rates-of-return ("RORs") in the performance table to the corresponding RORs for particular partial funding levels.

VI. Materiality—Quantitative

For purposes of this Advisory the terminology "materially the same" or "not materially different" when used in comparing percentage amounts, will be interpreted⁶ as follows:

- (i) If two percentage amounts being compared average 10 percentage points or more, they will be deemed to be not materially different, if the difference between the two amounts is less than 10 percent of their average;
- (ii) If two percentage amounts being compared average less than 10 and greater than 5, they will be deemed to be not materially different, if the difference between the two amounts is 1.5 percentage points or less; and
- (iii) If two percentage amounts being compared average 5 or less they will be deemed to be not materially different, if the difference between the two amounts is 1.0 percentage point or less.

VII. The Nominal (Notional) Account Size

A CTA's Nominal or Notional Account Sizes should be established on a systematic basis for all the accounts. The number of contracts traded and held and the pattern of trading must be materially the same for all accounts of a given Nominal Account Size which are presented in the same performance

⁶ This "safe harbor" is applicable only in the context of the disclosures required by application of this Advisory. In other contexts it may not be appropriate to rely solely upon numerical factors in assessing whether something might be of "material" interest or concern to a prospective investor. Thus, registrants must continue to consider all relevant facts and circumstances in determining whether information is material in any context not addressed here.

table. This relationship must be maintained across all of the CTA's accounts, which are presented in the same composite performance table. In addition, because an account's gross trading profits are a function of positions traded and held, the ratio of gross trading profits to Nominal Account Size should be materially the same for accounts included in the composite performance table.

For example, if one of a CTA's accounts is nominally a \$100,000 account, such account must have substantially the same positions as all other \$100,000-denominated accounts of the CTA, which are in the same program and reflected in the same performance table. If a client were to deposit Actual Funds equal to the Nominal Account Size, based upon historical experience with the program or other available data, it should be unlikely that any further cash deposits would be required from the client over the course of the client's expected term of participation in the CTA's program.

VIII. The CTA/Client Agreement

All customer accounts reported pursuant to this Advisory must be documented by an agreement between the CTA and its customer. The agreement must specify:⁷

- a. the name of the CTA's trading program in which the customer is participating;
- b. the Nominal Account Size, including how profits, losses and withdrawals/additions of Actual Funds and trading would affect or be related to the Nominal Account Size; and
- c. how and to what extent (as a percentage of the account's Nominal Account Size) the account will be funded with Actual Funds.

IX. Applicability of this Advisory to Commodity Pools

A CTA applying this Advisory to its trading of an account for a pool would treat such pool account exactly as any other type of client account, i.e., as Fully-Funded or as partially funded, as the case may be. (For information regarding pool allocations to a CTA under a "liquid asset allocation system", where not all funds allocated to a CTA are maintained in the CTA's trading account, see Comm. Fut. L. Rep. (CCH) ¶24,058, p. 34639 (December 16, 1987).) However, the Division believes that it would not be appropriate to apply the concept of Notional or partial

⁷ The Commission notes that the issues covered by this section would generally be deemed to be "material information" and, thus, a required disclosure to all customers with partially funded accounts.

funding to the reporting by a pool of its performance results, since a pool is, in fact, trading only with the funds contained in the pool. The proper method of reporting for pools is based upon generally accepted accounting principles and is set forth in the Commission's part 4 regulations. Nothing in this Advisory is intended to alter or change those requirements.

X. Representations and Required Disclosures

A. The CTA to the public—In making representations and disclosures to the public, both with respect to the disclosure document (other than the disclosures in the performance tables specified in the Advisory) and in other written or oral communications, the following should be observed by CTA:

- i. When referring to funds under management, the amount of Actual Funds under management should always be disclosed. If also referring to the amount of funds under management inclusive of Notional Funds, such amount should be referred to as "including Notional Funds".
- ii. Asset based costs/fees should be denominated as a percentage of the amount of Actual Funds to be collected from a prospective customer at the inception of the account, although use of the percentage of the Nominal Account Size may also be disclosed.

B. The CTA to the carrying FCM—The CTA will supply the carrying FCM with each partially funded customer's Nominal Account Size and whether that account size will fluctuate based on changes in account equity.

XI. Initial Implementation of the Advisory

This Advisory is effective as of the issue date indicated below.

Regarding retroactive application of this Advisory, the Commission recognizes that calculating the two tests for each period presented for several prior years might be difficult. Because the Commission wishes to facilitate the retroactive use of the Advisory, the Commission will not require explicit compliance with the tests for such prior periods provided that:

- (1) To avoid compounding the cumulative impact of any errors or inaccuracies, any VAMI, or any other similar measure, presented for such prior periods is reset to its base amount annually; and
- (2) The CTA uses the Nominal Account sizes for the entire composite in computing RORs for such prior

periods and is able to state that to the best of its knowledge there is no reason why the CTA could not have used the Fully-Funded Subset Method.

The following is the text which should be used:

In the accompanying performance table, for periods beginning after January 1, 1992, X CTA has adopted a new method of computing rate-of-return and performance disclosure, referred to as the "Fully-Funded Subset" method, pursuant to an Advisory published by the CFTC. To qualify for use of the Fully-Funded Subset method, the Advisory requires that certain computations be made in order to arrive at the Fully-Funded Subset and that the accounts for which performance is so reported meet two tests which are designed to provide assurance that the Fully-Funded Subset and the resultant RORs are representative of the trading program. X CTA has performed these computations for periods subsequent to January 1, 1992. However, for periods prior to January 1, 1992, due to cost considerations, the Fully-Funded Subset method has not been used. Instead, the RORs reported are based upon a computation which uses the Nominal Values of all of the accounts included in the composite table. X CTA believes that this method yields substantially the same RORs as the Fully-Funded Subset method and that the RORs presented in the performance table are representative of the trading program for the periods presented.

Issued in Washington, DC, February 8, 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-3335 Filed 2-11-93; 8:45 am]

BILLING CODE 6351-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning March 1, 1993. The use of these interest rates and factors to value benefits is mandatory for some

terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after March 1, 1993, which will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-778-8850 (202-778-8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding.

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since February 1, 1993. This amendment adds to appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after March 1, 1993, which set reflects a decrease of ¼ percent in the immediate interest rate from 5½ percent to 5¼ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates

and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the Federal Register by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after March 1, 1993, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of \$100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, part 2619 of chapter XXVI, title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362 (1988).

2. Rate Set 103 of appendix B is revised and Rate Set 104 of appendix B is added to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Gy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of