

appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

**Note 2:** 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

(c) 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.

#### Incorporation by Reference

(d) The actions shall be done in accordance with Pratt & Whitney Canada Service Bulletin No. 21533, dated December 16, 1996. 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 Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. 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.

**Note 3:** The subject of this AD is addressed in Dutch airworthiness directive 1997-090(A), dated August 29, 1997.

#### Effective Date

(e) This amendment becomes effective on August 22, 2001.

Issued in Renton, Washington, on July 30, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate,  
Aircraft Certification Service.*

[FR Doc. 01-19423 Filed 8-6-01; 8:45 am]

BILLING CODE 4910-13-P

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 1

RIN 3038-AB52

#### Recordkeeping Amendments to the Daily Computation of the Amount of Customer Funds Required To Be Segregated

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is amending Rule 1.32 to permit a futures commission merchant ("FCM"), in computing the amount of customer funds required to be held in segregated accounts pursuant to Section 4d of the

Commodity Exchange Act ("Act"), to offset a net liquidating deficit or debit ledger balance in a customer's account with securities that have a "ready market", as defined by Rule 15c3-1(c)(11) of the Securities and Exchange Commission ("SEC"), and that are deposited by such customer to margin or guarantee the futures and option positions in such customer's account.<sup>1</sup> The amendments limit the amount of the offset to the market value of the securities, less the applicable haircuts set forth in SEC Rule 15c3-1(c)(2)(vi). The amendments also require an FCM to maintain a security interest in the securities, including a written authorization to liquidate the securities at the FCM's discretion, and to segregate the securities in a safekeeping account with a bank, trust company, clearing organization of a contract market, or another FCM.

**EFFECTIVE DATE:** August 7, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Thomas J. Smith, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581; telephone (202) 418-5495; electronic mail [tsmith@ctfc.gov](mailto:tsmith@ctfc.gov)

#### SUPPLEMENTARY INFORMATION

##### I. Rule Amendments

On October 31, 2000,<sup>2</sup> the Commission published for comment proposed amendments to Rule 1.32 that would permit an FCM, in computing the amount of customer funds required to be held in segregated accounts pursuant to Section 4d of the Act, to offset a net liquidating deficit or a net debit balance in a customer's commodity trading account with securities deposited by such customer to margin or guarantee his account (the "proposing release").<sup>3</sup> The comment period expired on December 1, 2000. The National Futures Association ("NFA") filed the only comment letter. NFA supported the proposed amendments. The

<sup>1</sup> Commission regulations cited herein may be found at 17 CFR Ch. I (2000). SEC regulations cited herein may be found at 17 CFR Ch. II (2000). The Commodity Exchange Act may be found at 7 U.S.C. 1 *et. seq.* (1994), as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

<sup>2</sup> 65 FR 64904 (October 31, 2000).

<sup>3</sup> A distinction is sometimes drawn between a *net liquidating deficit* and a *debit balance*. A *net liquidating deficit* is an amount owed to the FCM resulting from the combination of the customer's debit or credit ledger balance and the mark-to-market gain or loss on any open positions in the customer's account. A *debit balance* is the amount owed to the FCM by the customer represented by the debit ledger balance, and implies that there are no open positions in the account.

Commission is, therefore, adopting the amendments as proposed.

Section 4d of the Act requires, among other things, that an FCM segregate from its own assets all money, securities, and other property held for customers as margin for their commodity futures and option contracts, as well as gains accruing to such customers from open futures and option positions. The statute also prohibits an FCM from using the money, securities, or property of one customer to margin or secure futures or option positions of another customer.

Commission Regulations 1.20 through 1.30 implement the segregation of funds provisions of Section 4d. Rule 1.32, a related recordkeeping regulation, requires each FCM to prepare a daily computation which shows: (1) The amount of funds that an FCM is required to segregate for customers who are trading on U.S. commodity exchanges pursuant to the Act and Commission regulations; (2) the amount of funds the FCM actually has in segregated accounts; and (3) the amount, if any, of the FCM's residual interest in the customer funds segregated. The computations required by Rule 1.32 are hereinafter collectively referred to as the "segregation computation".<sup>4</sup>

Currently, in preparing the segregation computation, an FCM may offset a net liquidating deficit or a net debit balance in a customer's commodity trading account with U.S. Treasury obligations that are deposited by such customer to margin or guarantee his account. An FCM is not permitted, however, to offset a net liquidating deficit or net debit balance by the value of any other readily marketable securities deposited by the customer.<sup>5</sup>

The amendments to Rule 1.32 permit an FCM, in computing the amount of customer funds required to be held in segregated accounts pursuant to Section 4d of the Act, to offset a net liquidating deficit or net debit balance in a customer's account with securities that have a "ready market" as defined by SEC Rule 15c3-1(c)(11). SEC Rule 15c3-1(c)(11) defines "ready market" to include a recognized established securities market in which there exist independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide

<sup>4</sup> Regulation 1.32 further requires that an FCM complete the segregation computation for each trading day prior to 12:00 noon on the next business day and that the computation, and all supporting data, be maintained for a five-year period in accordance with Commission Rule 1.31.

<sup>5</sup> The proposing release contains a more detailed explanation of the development of the disparate treatment afforded U.S. Treasuries and other readily marketable securities in offsetting net liquidating deficits or net debit balances.

competitive bid and offer quotations can be determined for a particular security almost instantaneously and where payment will be received in settlement of a sale at such price within a relatively short time conforming to trade custom.<sup>6</sup> Therefore the amendments expand the securities against which an FCM could offset a customer's net liquidating deficit or net debit balance from just U.S. Treasuries to any security that has a ready market as defined in the SEC's rule.<sup>7</sup>

The amount of the offset is limited to the market value of the securities, less applicable haircuts set forth in SEC Rule 15c3-1(c)(2)(vi).<sup>8</sup> Furthermore, an FCM is required to maintain a security interest in the securities, including the written authorization to liquidate the securities at the FCM's discretion, and to segregate the securities in a safekeeping account with a bank, trust company, clearing organization of a contract market, or another FCM.<sup>9</sup>

<sup>6</sup> The definition goes on to say that a "ready market" will also be deemed to exist where securities have been accepted as collateral for a loan by a bank as defined in section 3(a)(6) of the Securities and Exchange Act of 1934 and where the broker or dealer demonstrates to its Examining Authority that such securities adequately secure such loans as that term is defined in Rule 15c3-1(c)(5). This portion of the definition of a "ready market" is not applicable to the amended Rule 1.32.

<sup>7</sup> For example, if a customer deposits equity securities with a current market value of \$100,000 as margin and his account incurs a \$20,000 trading loss, the customer's account has a net equity of \$80,000. The current interpretations of the segregation requirement, however, require the FCM to maintain the full \$100,000 in segregation. The FCM generally meets this obligation by depositing an additional \$20,000 of its own cash or U.S. Treasury securities into the segregation account.

Under amended Rule 1.32, an FCM would be permitted to offset a customer's net deficit or debit balance by the fair market value of any readily marketable securities deposited by such customer. In the above example, the FCM would not have to deposit \$20,000 of its own funds into the segregation account provided that the fair market value of the securities, net of certain haircuts as discussed below, exceeded \$80,000.

<sup>8</sup> SEC Rule 15c3-1(c)(2)(vi) sets forth haircuts that a broker or dealer is required to apply to investment securities in computing its adjusted net capital. This Rule and the haircuts are incorporated by reference in the Commission's net capital rule. See Commission Rule 1.17(c)(2)(vi)(B).

<sup>9</sup> An FCM is also required to set aside in special accounts a certain amount of funds for U.S.-domiciled customers who trade on non-U.S. commodity markets. (See Commission Rule 30.7, which identifies this as the "secured amount.") Unlike Section 4d of the Act and Commission Rule 1.20, which require an FCM to segregate for the total net liquidating equities in accounts of customers who are trading on U.S. markets, Rule 30.7 requires the FCM to set aside only an amount that equals the margin required on foreign market open positions, plus or minus the mark-to-market gain or loss on such positions. This is normally less than the net liquidating equity in such accounts. However, an FCM is permitted to set aside funds for customers trading on foreign markets in an amount which is calculated in the same manner as that done in determining Section 4d segregation

## II. Related Matters

### A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-611 (1994), requires that agencies, in adopting 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.<sup>10</sup> The Commission has previously determined that, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entity.<sup>11</sup> In this regard, the Commission notes that it did not receive any comments regarding the RFA implications of the amendments to Rule 1.32.

### B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (Supp. I 1995), imposes certain requirements on federal agencies (including the Commission) to review rules and rule amendments to evaluate the information collection burden that they impose on the public. The Commission believes that the amendments to Rule 1.32 do not impose an information collection burden on the public.

### C. Administrative Procedure Act

The Administrative Procedure Act provides that the required publication of a substantive rule shall be made not less than 30 days before its effective date, but provides an exception for "a substantive rule which grants or recognizes an exemption or relieves a restriction."<sup>12</sup> Amended Rule 1.32 will relieve current restrictions imposed upon FCMs by permitting an FCM, in computing the amount of customer funds required to be held in segregated accounts pursuant to Section 4d of the Act, to offset a net liquidating deficit or debit ledger balance in a customer's account with readily marketable securities that were deposited by such customer to margin or guarantee the futures and option positions in such customer's account. Accordingly, the

requirements. If an FCM chooses to calculate its foreign secured amount requirement using the same method as it uses to calculate the segregation requirements under section 4d of the Act, then the FCM would be able to use the same type of offset as permitted under amended Rule 1.32.

<sup>10</sup> 47 FR 18618, 18619-18620 (April 30, 1982).

<sup>11</sup> 47 FR 18619-18620.

<sup>12</sup> 5 U.S.C. 553(d) (1994).

Commission has determined to make Rule 1.32 effective immediately.

### D. Cost Benefit Analysis

Section 15 of the Act, as amended by the Commodity Futures Modernization Act of 2000, requires the Commission to consider the costs and benefits of its actions before issuing a new regulation under the Act. The amended section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations.

The Commission has considered the amendments in light of the factors listed above and has determined to adopt the amendments as proposed. In this regard, the amendments to Rule 1.32 are expected to increase the efficiency and competitiveness of FCMs by reducing the amount of capital that such FCMs are obligated to contribute to customer segregation accounts to cover deficit or debit balances when the deficits or debits may be offset by readily marketable securities deposited as margin by customers. Furthermore, the amendments are not expected to have a significant adverse impact on the protections currently afforded customers and market participants as FCMs will continue to be subject to the Commission's requirements regarding the segregation of customer funds and other financial requirements.

### List of Subjects in 17 CFR Part 1

Brokers, Commodity Futures, Consumer protection, Reporting and recordkeeping requirements.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4d, 4f, 4g and 8a(5) thereof, 7 U.S.C. 6d, 6f, 6g and 12a(5) (1994), as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106-554, 114 Stat. 2763 (2000), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

## PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

**Authority:** 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, and 24 (1994), as

amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106-554, 114 Stat. 2763 (2000).

2. Section 1.32 is revised to read as follows:

**§ 1.32 Segregated account; daily computation and record.**

(a) Each futures commission merchant must compute as of the close of each business day:

(1) The total amount of customer funds on deposit in segregated accounts on behalf of commodity and option customers;

(2) the amount of such customer funds required by the Act and these regulations to be on deposit in segregated accounts on behalf of such commodity and option customers; and

(3) the amount of the futures commission merchant's residual interest in such customer funds.

(b) In computing the amount of funds required to be in segregated accounts, a futures commission merchant may offset any net deficit in a particular customer's account against the current market value of readily marketable securities, less applicable percentage deductions (*i.e.*, "securities haircuts") as set forth in Rule 15c3-1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 241.15c3-1(c)(2)(vi)), held for the same customer's account. The futures commission merchant must maintain a security interest in the securities, including a written authorization to liquidate the securities at the futures commission merchant's discretion, and must segregate the securities in a safekeeping account with a bank, trust company, clearing organization of a contract market, or another futures commission merchant. For purposes of this section, a security will be considered readily marketable if it is traded on a "ready market" as defined in Rule 15c3-1(c)(11)(i) of the Securities and Exchange Commission (17 CFR 240.15c3-1(c)(11)(i)).

(c) The daily computations required by this section must be completed by the futures commission merchant prior to noon on the next business day and must be kept, together with all supporting data, in accordance with the requirements of § 1.31.

Issued in Washington, DC on August 1, 2001 by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 01-19722 Filed 8-6-01; 8:45 am]

BILLING CODE 6351-01-P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 8948]

RIN 1545-AY43

**Minimum Cost Requirement Permitting the Transfer of Excess Assets of a Defined Benefit Pension Plan to a Retiree Health Account; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains corrections to final regulations that were published in the **Federal Register** on Tuesday, June 19, 2001 (66 FR 32897) relating to the minimum cost requirement under section 420, which permits the transfer of excess assets of a defined benefit pension plan to a retiree health account.

**DATES:** This correction is effective June 19, 2001.

**FOR FURTHER INFORMATION CONTACT:** Janet A. Laufer or Vernon S. Carter, (202) 622-6060 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are the subject of these corrections are under section 420 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of the final regulations (TD 8948), that were the subject of FR Doc. 01-15255, is corrected as follows:

1. On page 32900, column 1, amendatory instruction Paragraph 1., lines 2 and 3, the language "for part 1 continues to read in part as follows:" is corrected to read "for part 1 is amended by adding a new entry in numerical order to read in part as follows:".

2. On page 32900, column 1, the authority citation is corrected to read as follows:

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

§ 1.420-1 also issued under 26 U.S.C. 420(c)(3)(E).

**LaNita Van Dyke,**

*Acting, Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).*

[FR Doc. 01-19787 Filed 8-6-01; 8:45 am]

BILLING CODE 4830-01-P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 301**

[TD 8961]

RIN 1545-BA04

**Modification of Tax Shelter Rules II**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** These temporary regulations modify the rules relating to the requirement that certain corporate taxpayers file a statement with their Federal corporate income tax returns under section 6011(a) and the registration of confidential corporate tax shelters under section 6111(d). These regulations provide the public with additional guidance needed to comply with the disclosure rules under section 6011(a), the registration requirement under section 6111(d), and the list maintenance requirement under section 6112 applicable to tax shelters. The temporary regulations affect corporations participating in certain reportable transactions, persons responsible for registering confidential corporate tax shelters, and organizers of potentially abusive tax shelters. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

**DATES:** *Effective Date:* These temporary regulations are effective August 2, 2001.

*Applicability Date:* For dates of applicability, see § 1.6011-4T(g) and § 301.6111-2T(h).

**FOR FURTHER INFORMATION CONTACT:** Danielle M. Grimm (202) 622-3080 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document amends 26 CFR parts 1 and 301 to provide modified rules relating to the disclosure of certain reportable transactions by corporate investors on their Federal corporate income tax returns under section 6011 and the registration of confidential corporate tax shelters under section 6111.

On February 28, 2000, the IRS issued temporary and proposed regulations regarding section 6011 (TD 8877, REG-103735-00), section 6111 (TD 8876, REG-110311-98), and section 6112 (TD 8875, REG-103736-00) (collectively, the February regulations). The February