

investigation is complete and an enforcement panel concludes that pursuit of an enforcement action appears warranted. Generally, post-investigation ADR processes will parallel and work in conjunction with the NRC enforcement program.

After an investigation is complete, there are generally three issues that can be resolved using ADR; whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions for the violation(s). If the parties agree, any or all three may be considered in an ADR session.

Two different types of enforcement cases will be eligible for ADR after an investigation is complete, discrimination and other wrongdoing cases. ADR will normally be considered at three places in the enforcement process after OI has completed an investigation: (1) After an enforcement panel has concluded there is the need to continue pursuing potential enforcement action based on an OI case and prior to the conduct of a predecisional enforcement conference (PEC); (2) after the initial enforcement action is taken, typically a Notice of Violation (NOV) and potentially a proposed civil penalty; and (3) after imposition of a civil penalty and prior to a hearing request.

The parties to an ADR session after an OI investigation is complete will be the licensee and the NRC. Fees associated with the neutral will typically be divided between the NRC and the licensee, with each paying half of the total cost.

Settlement discussions are expected to be complete within 90 days of initiating ADR prior to a PEC. The NRC may withdraw from settlement discussions if negotiations have not been completed in a timely manner.

The terms of a settlement agreement will normally be confirmed by order. Typically, the specific terms of settlement will be agreed to during the negotiation. The staff will then incorporate appropriate terms into a confirmatory order, a draft of which will then be agreed to by the licensee prior to issuance.

If an attempt to resolve a case using ADR prior to the conduct of a PEC fails, a predecisional enforcement conference will normally be offered to the licensee. The PEC will be conducted as described in the Enforcement Policy.

For cases within the scope of the pilot program, after a panel concludes that a case warrants continuation of the enforcement process, the responsible region or office will contact the licensee and offer either a PEC or ADR.

Consistent with the Enforcement Policy,

a written response could be offered at the staff's discretion.

Public notification of the settlement will normally be a press release and the confirmatory order will be published in the **Federal Register**.

Confidentiality with the NRC as a party will be determined by the parties as allowed by the ADR Act.

#### 1. Discrimination Cases

Consistent with centralization of the discrimination enforcement process, the Director, Office of Enforcement, will normally negotiate for the NRC.

Normally the NRC will coordinate participation of the complainant. While the complainant will not be a party to the ADR process after OI issues an investigation report, the NRC will typically seek the complainant's input to the process. Normally, the NRC will at least seek input from the complainant regarding suggested corrective actions aimed at improving the safety conscious work environment.

OI reports (not including exhibits) will normally be provided to the licensee when the choice of ADR or a PEC is offered.

A licensee may request ADR for discrimination violations based solely on a finding by DOL. However, the staff will not negotiate the finding by DOL. The appropriate enforcement sanction and corrective actions will be the typical focus of settlement discussions.

#### 2. Other Than Discrimination Wrongdoing

The regional administrator will normally be the principal negotiator for the NRC in ADR sessions on other wrongdoing cases. After imposition of a civil penalty or other order, the Director, Office of Enforcement and applicable regional administrator may determine that the Director would be the appropriate negotiator.

Typically, an enforcement panel will be conducted to discuss the NRC's specific interests in the case prior to the regional administrator attending the settlement discussions. A limited review of the settlement terms may be conducted in conjunction with the preparation of the confirmatory order.

The OI report will not routinely be offered to the licensee prior to ADR. However, the OI report may be provided, as necessary, during the negotiations with the licensee.

#### IV. Integration With Traditional Enforcement Policy

##### A. Potential Future Enforcement Actions Civil Penalty Assessments

Section VI.C.2 of the Enforcement Policy provides the method for

determination of a civil penalty amount. One aspect of the determination uses enforcement history as a factor. If the staff considers a civil penalty for a future escalated enforcement action, settlements under the enforcement ADR program occurring after a formal enforcement action is taken (e.g. an NOV is issued) may count as an enforcement case for purposes of determining whether identification credit is considered. Settlements occurring prior to an OI investigation will not count as previous enforcement. The status of settlement agreements occurring after an investigation is completed but prior to an NOV being issued will be established as part of the negotiation between the parties.

Dated at Rockville, Maryland, this 6th day of August, 2004.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

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#### PENSION BENEFIT GUARANTY CORPORATION

##### Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of interest rates and assumptions.

**SUMMARY:** This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (<http://www.pbgc.gov>).

**DATES:** The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in August 2004. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in September 2004.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users

may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:**

**Variable-Rate Premiums**

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the "required interest rate") in determining a single-employer plan's variable-rate premium. Pursuant to the Pension Funding Equity Act of 2004, for premium payment years beginning in 2004 or 2005, the required interest rate is the "applicable percentage" (currently 85 percent) of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid. Thus, the required interest rate to be used in determining variable-rate premiums for premium payment years beginning in August 2004 is 5.10 percent (i.e., 85 percent of the 6.00 percent composite corporate bond rate for July 2004 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between September 2003 and August 2004. Note that the required interest rates for premium payment years beginning in September through December 2003 were determined under the Job Creation and Worker Assistance Act of 2002, and that the required interest rates for premium payment years beginning in January through August 2004 were determined under the Pension Funding Equity Act of 2004.

| For premium payment years beginning in: | The required interest rate is: |
|---|--------------------------------|
| September 2003 <sup>1</sup> .....       | 5.31                           |
| October 2003 <sup>1</sup> .....         | 5.14                           |
| November 2003 <sup>1</sup> .....        | 5.16                           |
| December 2003 <sup>1</sup> .....        | 5.12                           |
| January 2004 <sup>2</sup> .....         | 4.94                           |
| February 2004 <sup>2</sup> .....        | 4.83                           |
| March 2004 <sup>2</sup> .....           | 4.79                           |
| April 2004 <sup>2</sup> .....           | 4.62                           |
| May 2004 <sup>2</sup> .....             | 4.98                           |
| June 2004 <sup>2</sup> .....            | 5.26                           |
| July 2004 <sup>2</sup> .....            | 5.25                           |
| August 2004 <sup>2</sup> .....          | 5.10                           |

<sup>1</sup>The required interest rates for premium payment years beginning in September through December 2003 were determined under the Job Creation and Worker Assistance Act of 2002.

<sup>2</sup>The required interest rates for premium payment years beginning in January through August 2004 were determined under the Pension Funding Equity Act of 2004.

**Multiemployer Plan Valuations Following Mass Withdrawal**

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in September 2004 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 10th day of August 2004.

**Joseph H. Grant,**

*Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Investment Company Act Release No. 26528 ; 812-13107]

**Fixed Income Securities, L.P., et al.; Notice of Application**

August 9, 2004.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 ("Act") for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

*Summary of the Application:* Fixed Income Securities, L.P. ("FIS"), Advisor's Disciplined Trust ("ADT"), and any registered unit investment trusts ("UITs") organized in the future and sponsored by FIS, or an entity controlling, controlled by or under common control with FIS (each, a "Depositor"), and their respective series (together with the ADT, the "Trusts", and each series of the Trusts, a "Series"), request an order to permit the Trusts to acquire shares of registered management investment companies and UITs both within and outside the same group of investment companies.

*Applicants:* FIS and ADT.

*Filing Dates:* The application was filed on July 14, 2004, and amended on August 5, 2004. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 2, 2004, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, 18925 Base Camp Road, Monument, Colorado 80132.

**FOR FURTHER INFORMATION CONTACT:** Bruce MacNeil, Senior Counsel, at (202) 942-0634, or Annette Capretta, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102, (202) 942-8090.

**Applicants' Representations**

1. ADT is a UIT registered under the Act. Each Series will be a series of a Trust, each a UIT which is or will be registered under the Act. FIS, a Texas limited partnership, is registered under the Securities Exchange Act of 1934 as a broker-dealer.

2. Applicants request relief to permit the Series to invest in (a) registered investment companies that are part of the same "group of investment companies" (as that term is defined in section 12(d)(1)(G) of the Act) as the Trust ("Affiliated Funds"), and (b) registered investment companies that are not part of the same group of investment companies as the Trust ("Unaffiliated Funds," together with the Affiliated Funds, the "Funds"). The Unaffiliated Funds may include UITs ("Unaffiliated Underlying Trusts") and