§ 122.61–9 SBA grant to intermediary for marketing, management, and technical assistance.

(a) *General.* * * * In addition, each intermediary is authorized to expend no more than fifteen (15) percent of the grant funds received from SBA to provide information and technical assistance to small business concerns that are prospective borrowers under this program. * * *

(b) *Amount of Grant.* (1) Subject to the requirement of paragraph (b)(2) of this section, and the availability of appropriations, each intermediary under this program shall be eligible to receive a grant equal to 25 percent of the total outstanding balance of loans made to it by SBA, *provided, however,* that if an intermediary provides no less than 25 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area, it shall be eligible to receive an additional grant from SBA equal to 5 percent of the total outstanding balance of SBA loans made to the intermediary. The intermediary shall not be required to match such grant.

(2) * * * The requirement that the intermediary contribute 25 percent of the amount of the SBA grant is inapplicable to an intermediary which provides not less than 50 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area.

* * * * *

7. A new § 122.61–13 would be added to read as follows:

§ 122.61–13 SBA guaranteed loans to intermediaries.

(a) *Purpose.* SBA may guarantee not less than 90 percent nor more than 100 percent of a loan made to an intermediary by a for-profit or non-profit entity or by alliances of such entities.

(b) *Number of Intermediaries.* SBA shall not guarantee loans to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

(c) *Maturity and Repayment of Microloan Guaranteed Loan.* An SBA guaranteed loan made to an intermediary under this section shall have a maturity of 10 years. During the first year of each such loan, the intermediary shall not be required to repay any interest or principal, although interest will continue to accrue during this period. During the second through fifth years of such a loan, the intermediary shall pay interest only. During the sixth through tenth years of the loan, the intermediary shall make interest payments and fully amortize the principal.

(d) *Interest rate.* The interest rate on a SBA guaranteed loan to an intermediary shall be calculable as set forth in § 122.61–6.

(e) *Termination of SBA Authority to Guarantee.* The authority of SBA to guarantee loans to intermediaries under this § 122.61–13 shall terminate on September 30, 1997.

Dated: December 21, 1994.

Philip Lader,

Administrator.

[FR Doc. 95–1742 Filed 1–23–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Parts 404 and 405

RIN 1505–AA53

Amendments to Regulations for the Government Securities Act of 1986

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Government Securities Act Amendments of 1993 authorize the Secretary of the Treasury (Treasury) to prescribe rules requiring persons holding, maintaining or controlling large positions in to-be-issued or recently issued Treasury securities to keep records and file reports of such large positions. The Treasury is issuing this Advance Notice of Proposed Rulemaking (ANPR) to advise market participants of our intention to issue large position recordkeeping and reporting regulations, describe the purposes of, and objectives to be achieved by, such rules and identify key elements related to any rule proposal. We invite comments, advice and recommendations from interested parties regarding how the large position recordkeeping and reporting requirements should be structured. To assist in the solicitation of comments and to facilitate in the development of rules, responses to specific questions are requested.

DATES: Comments must be received on or before April 24, 1995.

ADDRESSES: Comments should be sent to: Government Securities Regulations Staff, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW., Room 515, Washington, D.C. 20239–0001. Comments received will be available for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director) or Don Hammond (Assistant Director), Government Securities Regulations Staff, at 202–219–3632. (TDD for the hearing impaired is 202–219–3988.)

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. government securities market is the largest and most liquid securities market in the world. The enormous liquidity and pricing efficiency of this market provide incalculable benefits to other financial markets in the United States, and throughout the world, by providing a continuous benchmark for interest rates on dollar-denominated instruments across the maturity spectrum. The government securities market has consistently demonstrated its ability to absorb the large amounts of Treasury securities that must be issued to finance the operations of the U.S. Government in a cost-effective manner for the taxpayer, which is the market's primary public purpose. However, certain events that occurred in 1991, specifically a ''short squeeze'' [1] in two different Treasury securities led to the realization that Federal financial regulators need, from time to time, more information about holdings of very large amounts of Treasury securities.

A. Events Giving Rise to Large Position Reporting Authority

The occurrence of short squeezes in the government securities market in 1991 is discussed in some detail in the Joint Report on the Government Securities Market (Joint Report).[2] While yields of Treasury securities of similar maturity vary constantly, there were two instances during the Spring of 1991 in which particular securities traded well below the corresponding yields for similar securities for an extended period of time. In the first case, a short squeeze developed in the two-year note auctioned on April 24, 1991. When the squeeze first became evident in mid-May, the yield on the April two-year

[1] A short squeeze can occur when an event unanticipated by short sellers reduces the supply of securities available in the marketplace. It can also occur as a result of deliberate behavior by one or more market participants to restrict the supply of securities, thereby driving up prices.

[2] Department of the Treasury, Securities and Exchange Commission and Board of Governors of the Federal Reserve System *Joint Report on the Government Securities Market,* January 1992.

note had moved considerably out of line from surrounding market rates, and the notes were ''on special'' in the repurchase agreement (repo) market.[3]

The second incident involved the two-year Treasury note auctioned on May 22, 1991. In that auction, Salomon Brothers Inc. (Salomon), a major participant in the market, submitted large, aggressive bids for itself and two of its customers and was awarded a large portion of the amount sold. As a result of these awards and additional purchases in the market, there was a concentration of holdings of the May two-year notes and the prices of the notes in the cash and financing markets were distorted. At that time, a number of market participants contacted the Treasury and the Federal Reserve Bank of New York (FRBNY) expressing concern about a shortage in the May two-year note.[4]

The apparent short squeeze was serious enough that Treasury officials informed staff of the Securities and Exchange Commission (SEC) of possible problems and trading irregularities stemming from the auction and subsequent trading. Following that notification, the Treasury and the FRBNY actively monitored the market for the May two-year notes and the SEC and Justice began investigations. The government investigations, and Salomon's internal review that was conducted in response to these investigations, ultimately resulted in a series of disclosures by Salomon in August 1991 that it had submitted unauthorized customer bids in several auctions in 1990 and 1991.[5]

The events involving the bidding improprieties of Salomon and the squeezes of Treasury notes also focused attention on large investment entities (''hedge funds'' [6] being one of the more prominent types) that play a major role in the government securities market. Many of these investment funds, however, are exempt from most types of U.S. regulatory oversight.

While large investment funds have regularly placed bids in Treasury auctions in the past, it was not until late 1990 that these funds began to be awarded large amounts of securities in Treasury auctions, suggesting that they had highly leveraged positions. Like most investors, they typically bid through major primary dealers. The combined awards of the investment fund and the dealer which submitted such bids would often represent a significant portion of the publicly offered amount of securities.

Regulators had little, if any, authority to gain access to information about the holdings of many major investors. Investment funds, other than those required to register under the Investment Company Act, e.g., mutual funds, are not generally subject to SEC oversight.[7] The SEC also has little authority to obtain regular information on the government securities activities of large investors. Treasury also has little access to information on their activities, other than auction-related information. The CFTC is the only regulatory agency with regular reporting contact with certain large investors. However, the CFTC's responsibilities extend primarily to the futures market.

B. Regulatory Agencies Responses to Market Problems

Beginning in September 1991, the Treasury, the SEC and the Federal Reserve conducted a thorough examination and review of the government securities market and published the *Joint Report* in January 1992. This report contained many legislative and regulatory recommendations for strengthening oversight of the market.[8] One recommendation, which is the focus of this advance notice of proposed rulemaking, involved clarifying and expanding Treasury's authority under the Government Securities Act of 1986 (GSA) to require reporting by all holders of large positions in Treasury securities. The Treasury's authority to prescribe recordkeeping and reporting rules under the GSA, prior to the amendments of 1993, permitted a large position reporting system designed to monitor concentrations of positions at government securities brokers and dealers.

The Treasury also took administrative and regulatory actions to strengthen oversight and surveillance of the market and maintain a fully competitive auction process.[9] A few of the more significant reforms that are related to the issues addressed in this notice involved improved surveillance of the market and the establishment of an automated system of auctioning Treasury securities. A new surveillance working group (comprised of Treasury, FRBNY, SEC, Federal Reserve Board, and CFTC officials) was formed to improve surveillance and strengthen regulatory coordination. FRBNY, acting as Treasury's fiscal agent, as well as to support their monetary policy operations, has enhanced and expanded its market oversight efforts for collecting and analyzing information needed for surveillance purposes. In addition, the Treasury increased the maximum amount from $1 million to $5 million for noncompetitive tenders; published a thoroughly revised, comprehensive Uniform Offering Circular for Treasury securities to codify and clarify Treasury auction rules; and in August of 1992, began auctioning 2- and 5-year notes using a single price auction (or so-called ''Dutch auction'') experiment.

C. Congressional Response to Market Problems—Government Securities Act Amendments of 1993

The short squeezes of the Spring of 1991 and the revelations in August 1991 of wrongdoing by Salomon in the purchase and sale of Treasury securities occurred during a period when Congress was considering government securities legislation to, among other things, reauthorize Treasury's rulemaking authority under the GSA, which was set to expire on October 1, 1991.[10] These events in the government securities market sparked an extensive review of the operations of the market and the need for additional reforms to strengthen its regulation. Numerous Congressional committee hearings and legislative mark-up sessions were held in both the Senate and House of Representatives from May 1991 through the Fall of 1993.

Although, as noted, the Treasury instituted several reforms in response to the Salomon violations and short squeezes, the Treasury also requested expanded and strengthened regulatory power over the government securities market which was realized in the Government Securities Act Amendments of 1993 (GSAA), which

[3] A security is said the be ''on special'' when, due to its scarcity, a holder can enter into a repo involving that specific security at a lower rate of interest, and thus a lower financing cost, than the prevailing or general repo rate.

[4] Information about primary dealers' positions in Treasury securities is collected routinely by the Federal Reserve Bank of New York.

[5] See Salomon Press Releases dated August 9 and 14, 1991.

[6] For a detailed discussion of hedge funds, see the Joint Report, at B–64.

[7] Most investment interests in investment partnerships are not registered pursuant to the Securities Act of 1933; hedge fund structures are such that they claim an exemption from registering as securities dealers under Section 15(a) of the Securities Exchange Act of 1934; and a hedge fund is usually structured so as not to be an investment company under the Investment Company Act of 1940. However, the anti-fraud provisions of the federal securities laws do apply to hedge funds whether or not they are registered with the SEC.

[8] *Joint Report* at xv-xvi and 6–34.

[9] *See Joint Report*, at xiii-xv, for a description of the administrative and regulatory actions taken by the regulatory agencies.

[10] Treasury's rulemaking authority did expire and it was without such authority from October 1, 1991, until December 17, 1993, when the Government Securities Act Amendments of 1993 (P.L. 103–202, 107 Stat. 2344 (1993)) was signed into law.

was signed into law by President Clinton on December 17, 1993. One of the major provisions of the GSAA authorizes the Treasury to write rules for large position reporting.[11] This provision is intended to improve the information available to regulators regarding very large positions of recently issued Treasury securities held by market participants and to assure that regulators have the tools necessary to monitor the Treasury securities market.

Section 104 of the GSAA, which amended Section 15C of the Securities Exchange Act of 1934, authorizes the Treasury to adopt rules requiring specified persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities to file reports regarding such positions.[12] As explained in a floor statement on this legislation, this grant of authority ''* * * rests on the belief that the Secretary of the Treasury is well positioned to determine whether large position reporting is necessary and appropriate in order to monitor the impact in the Treasury securities market of concentrations of positions and to assist the SEC in its enforcement of the Exchange Act. It is our expectation that substantial deference will be accorded to any determination that Treasury makes in this regard.'' [13]

Unless otherwise specified by the Treasury, the large position reports are to be filed with the FRBNY, acting as Treasury's agent. Such reports will in turn be provided to the SEC by the FRBNY. The legislation also authorizes Treasury to prescribe recordkeeping rules for holders of large positions to ensure that they can comply with the reporting requirements. It also permits the Treasury to exempt, consistent with the public interest and the protection of investors, any person or class of persons, or any transaction or class of transactions, from the large position reporting rules. The legislation grants Treasury flexibility and discretion in determining the key requirements and features to be addressed in the rules—defining which persons (individually or as a group) hold positions; the size and types of positions to be reported; the securities to be covered; the aggregation of positions and accounts; and the form, manner and timing of reporting.

To provide the reader with a sense of the Congressional intent and importance associated with large position reporting, the following are excerpts from House Report 103–255.[14]

> In order to monitor developments in the Treasury securities marketplace and better police against fraud or manipulation, the Committee believes that the government needs surveillance tools similar to those employed in other financial markets. One of the more useful tools that regulators in the commodities and equities market[s] currently have is the ability to obtain information regarding the trading activities of major market participants. In the government securities market, no similar statutory authority has existed which would authorize federal regulators to require all market participants to make information available regarding large positions being assumed in the marketplace, and currently government securities brokers and dealers only report such information on a voluntary basis.
>
> * * * The purpose of such reporting would be similar to the purpose of the position reporting that is done in the commodity futures market—it would enable government agencies to monitor market developments, particularly those associated with concentrated positions.
>
> * * * Large position reporting also would be useful in assuring that regulators can monitor the positions of major market participants other than government securities brokers and dealers under certain circumstances. In particular, it will provide assurance that the government can compel disclosure of position information when necessary from all large market participants, including a group of relatively unregulated entities called 'hedge funds'.
>
> * * * The Committee expects the Secretary to take into account the costs and burdens of the reporting requirement to the investor and its shareholders or beneficial owners as well as the impact on the efficiency and liquidity of the Treasury market. The Committee also expects that in prescribing such rules, the Secretary will consider the views of, and consult with, the Commission, the Federal Reserve Board, and the Federal Reserve Bank of New York.

The Treasury intends to prescribe large position reporting rules that meet the intent of Congress, are not overly burdensome or costly, do not impair the liquidity of the market and do not increase borrowing costs to the Federal government. Accordingly, the Treasury is soliciting input from market participants and other interested parties, and requesting answers to the specific questions set out below, as to how large position rules should be structured.

D. Large Position and Large Trader Reporting in Other Markets

Large position and/or large trader reporting rules are currently in place or being developed in several other U.S. markets (e.g., futures and equity markets). Readers may wish to familiarize themselves with these large trader and large position reporting requirements in order to better understand how such reporting systems operate and to assist the reader in commenting on this notice.

CFTC rules require position reporting by a variety of entities or groups—commodity brokers, contract markets and traders.[15] The CFTC regulations require reports when individuals or groups acquire specified levels of futures and options positions in the commodity markets. The levels are determined by the CFTC and there are different amounts for each targeted commodity area.

The Market Reform Act of 1990 [16] authorized the SEC to create a large trader recordkeeping and reporting system for publicly traded equities and options on equities. The SEC proposed a large trader reporting rule on August 22, 1991, and reproposed it on February 9, 1994.[17]

Under the proposed SEC rules, these large traders would be required to report certain information to the SEC and would be assigned large trader identification numbers to provide to each brokerage firm where the traders have accounts. The firms would then be required to maintain, and to report to the SEC on request, records of transactions by large traders.

Large position reporting rules are currently in place in the equity securities market. The SEC requires owners that, directly or indirectly, acquire beneficial control of more than five percent of a class of a corporation's equity securities to make a public disclosure of this information.[18] The

[11] In addition to large position reporting, some of the key provisions of the GSAA are: Permanent reauthorization of Treasury's rulemaking authority; authorization to prescribe sales practice rules for the government securities market; increased authority to the SEC to prevent fraudulent and manipulative acts and practices; prohibition on false and misleading statements in government securities offerings; and authority to the SEC to receive records of government securities transactions for trade reconstruction purposes.

[12] P.L. 103–202, Sec. 104; 15 U.S.C. 78o-5(f).

[13] Floor statement on S. 422, The Government Securities Act Amendments of 1993, representing the views of the Chairman and Ranking Minority Member of the House Committee on Energy and Commerce and the Chairman and Ranking Minority Member of the House Subcommittee on Telecommunications and Finance, *Congressional Record*, (November 22, 1993) at H. 10967. For other legislative history, see S. Rpt. 103–109 (July 27, 1993); *Congressional Record* (July 27, 1993) at S. 9863–9866; H. Rpt. 103–255 (September 23, 1993); and *Congressional Record* (October 5, 1993) at H. 7390–7405.

[14] House Committee on Energy and Commerce, Report to Accompany H.R. 618, H.R. Rep. No. 103–255, 103d Cong., 1st Sess. (September 23, 1993), at 24, 25 and 44.

[15] 17 CFR Parts 15.00–18.06.

[16] P.L. No. 101–432, 104 Stat. 963 (1990).

[17] Securities Exchange Act Release No. 29593 (August 22, 1991), 56 FR 42550 (August 28, 1991); and Securities Exchange Act Release No. 33608 (February 9, 1994), 59 FR 7917 (February 17, 1994).

[18] 15 U.S.C. 78m(d), SEC Rule 13D, 17 CFR 240.13d–1—240.13d–102.

beneficial owner must file its report within 10 business days with the SEC, the issuer and the exchange on which the securities are traded.

In addition, the FRBNY requires primary dealers in Treasury securities to submit several position reports on a regular basis. These include weekly reports of positions (with separate reporting for each when-issued and recently issued security), cumulative transactions, and financing transactions (repos, reverse repos, securities borrowed and lent, collateralized loans and matched-book transactions) and a daily report of when-issued transactions.

II. Purposes, Objectives and Features of Treasury Large Position Rules

The Treasury actively supported large position reporting during the legislative process that resulted in the passage of the GSAA and is committed to implementation of rules that make sense from both a regulatory and market efficiency perspective. As the agency of the Federal government most concerned with minimizing the interest cost on the public debt, Treasury believes that the U.S. is best served by an efficient and liquid market for Treasury securities that is not overburdened with regulation but, at the same time, is not viewed as being subject to manipulation.

Large position rulemaking is a complex and important task. For example, defining a ''reporting entity'' (i.e., persons holding, maintaining or controlling large positions) or determining what constitutes a position in a Treasury security will be very difficult given the many issues that need to be considered. Although everyone would likely agree that a position would include securities owned by and in the possession or control of the reporting entity, there are many views as to whether, and if so how, repos, reverse repos, when-issued trades, futures, forwards, options, bonds borrowed and fails should be included in a position. Determining how to treat repos and reverse repos is likely to be particularly complex, given the potential for duplicate reporting of the same security in both counterparties' positions, and the difficulty of defining control for different types of repo arrangements, such as tri-party repos.

Treasury plans to take a measured approach in exercising its large position reporting authority, including the related recordkeeping requirements, and to actively involve market participants in the rulemaking process. Treasury will take into consideration the costs to market participants, the potential impact on the efficiency and liquidity of the market for Treasury securities and any implications on the Federal government's cost of borrowing.

The principal purpose of large position reporting is to enable Treasury and the other regulators to better understand the possible reasons for apparent significant price distortions in to-be-issued and recently issued Treasury securities. This information would enable policymakers to make better decisions concerning any possible government actions that might be taken in response to apparent price anomalies. The ability to identify concentrations of ownership and to obtain information on large positions being held or controlled in to-be-issued or recently issued Treasury securities is important in enabling regulators responsible for market surveillance and enforcement to understand the causes of market shortages.

Another important goal of large position reporting is to assist securities regulators in conducting market surveillance. The enactment of this authority was largely based on a belief that the government needs surveillance tools, similar to those employed in other financial markets, in order to monitor developments in the Treasury securities market and to better police against fraud and manipulation. Information about large positions may be critical to the SEC in carrying out its enforcement duties under the federal securities laws. Large position reporting will also enable regulators to monitor the positions of major market participants other than government securities brokers and dealers (e.g., large investment funds that are largely unregulated, custodians, and foreign and domestic customers) under certain circumstances.

Large position records and reports could also provide regulatory agencies early warning of potential market problems. If a problem develops, such records and reports could assist regulators in, and reduce the cost of, any investigation.

It is important to recognize that large position reporting merely creates a requirement to maintain records and report information about such positions. Large positions are not inherently harmful and there is no presumption of manipulative or illegal intent solely because a position is large enough to be subject to reporting rules that may be prescribed by the Treasury. Additionally, there is no intention of establishing trading or position limits as part of any rulemaking. Nor is the Treasury planning to institute a recordkeeping and reporting system that would require the identification of large traders or the reporting of large trades.

The statutory provision regarding the minimum size of a position subject to reporting is meant to ensure that the minimum size will be large enough to require reports only of positions that could be used to significantly affect the market for a particular security. It is Treasury's current view that the size of a reportable position would most likely be in the billions of dollars and much larger than the reporting thresholds in the futures market. As a result, it is expected that very few entities would likely have to file large position reports.

The GSAA specifically provides that the Treasury shall not be compelled to disclose publicly any information required to be kept or reported for large position reporting. In particular, such information is exempt from disclosure pursuant to Exemption 3 of the Freedom of Information Act.[19]

The Treasury contemplates granting exemptions from the large position recordkeeping and reporting rules for foreign central bank, foreign government and official international financial institution holdings at the FRBNY.

III. Specific Considerations and Questions

The Treasury welcomes comments, reactions and suggestions on the above issues. Additionally, advice and recommendations regarding an approach and structure for a large position recordkeeping and reporting system that meet the purposes, objectives and features addressed above are invited from all interested persons. Specifically, in developing such recommendations, suggestions and advice, commenters are requested to consider the following questions.

A. Reporting Entities—Persons holding, maintaining or controlling large positions, as yet to be defined, are reporting entities. The questions in this section are directed toward determining which entities should be affected by the regulations. In particular, the questions focus on how affiliated entities are to be treated, what entities should be exempt and whether classes of entities may warrant special treatment.

1. How should we define a ''reporting entity''? Should it be similar to the definition of a bidder in Treasury's rules governing the sale and issue of Treasury bills, notes and bonds (i.e., Uniform Offering Circular at 31 CFR Part 356)?

2. What aggregation rules should apply for affiliated entities? Assuming there are aggregation rules, should there be an exception for affiliates that cannot or do not share information? For example, how should different funds

[19] 5 U.S.C. 552.

within a mutual fund family be treated? Should customer securities that are subject to a broker-dealer's investment discretion be included? Should any exception be the same as the exception provided for in Appendix A to the Uniform Offering Circular?

3. Should reporting entities that are foreign-based be treated differently than domestic entities given the potential enforcement difficulty and geographic separation? Are any exemptions needed for foreign-based entities regarding items such as affiliation rules, location of records, form of reporting, or reporting time frames? What would be the complications of requiring foreign-based entities to comply with such rules as if they were U.S. domestic entities?

4. What exemptions should be considered beyond any for foreign central banks, foreign governments and official international financial institutions holding at the FRBNY?

B. What constitutes ''control''? For the purposes of this ANPR, ''control'' includes the statutory terms ''holding'' and ''maintaining''. The following questions are designed to provide guidance on when these three statutory conditions may be met.

1. Is control evidenced by beneficial ownership, investment discretion, custody or any combination of the three? Is there the possibility of extensive double counting? If so, is it a problem?

2. Should custodial accounts for which the custodian has no investment discretion be the reporting responsibility of the custodian, the customer or both? If the custodian is responsible for reporting, should all custody holdings in a specific security be aggregated, or should the threshold amount established for reporting be applied individually to each customer?

C. What securities should be covered and what size is ''large''? The questions in this section seek guidance on the securities to which the rule should apply and how to determine the reporting threshold.

1. How long should a security be outstanding before it is no longer considered recently issued? Should the reopening date of notes and bonds that are reopened by the Treasury, be the date from which ''recent'' is measured?

2. Should any securities be excluded, e.g., Treasury bills, due to the cost/complexity of calculating a position in them versus the expected benefits of reporting?

3. How should the ''large'' threshold be determined—a percentage of the issue? A standard dollar amount? Should different classes of securities—notes vs. bonds, short-term notes vs. intermediate notes—have different definitions of ''large''? Should there be a different reporting threshold for pre- and post-issuance? Should there be a different reporting threshold for securities reopened by the Treasury?

D. What transactions should be included in a ''position''?

1. Should the definition of ''position'' developed for this rulemaking be consistent with the definition of ''net long position'' in the Uniform Offering Circular? If they are generally consistent, the following questions should be considered as possible exceptions.

2. How should when-issued positions in outstanding securities with the same CUSIP be treated (i.e., reopenings)?

3. How should financing transactions, such as repurchase and reverse repurchase agreements, dollar rolls and bonds borrowed, be treated in defining a position? Should more than one counterparty to the transaction be required to include the transaction in its position? Should contract terms, such as maturity, right to substitute, tri-party relationships and termination notice, be considered?

4. Should large short positions be included in ''position''? What amount of netting should be permitted or should gross long (short) positions be reported?

5. Should forward contracts, options, futures, and open fails be included? Should some of these items only be included under certain circumstances? For example, only include written (sold) options or only include fails to deliver but not fails to receive. If so, what might these circumstances be?

6. Should the various components of a large position, such as outright holdings, repos, forward contracts, etc., be separately identified in any required reports?

E. Recordkeeping.

1. What records should be kept by a reporting entity? Should the recordkeeping requirement be dependent on whether the reporting entity is regulated? Should the reporting entity keep copies only of any reports it has filed, or, in addition, documents and other records sufficient to reconstruct the size of its position?

2. Should there be a requirement to maintain a calculation/worksheet supporting the determination of a large position by detailing the elements comprising any large positions?

3. How long should large position calculations and supporting records be retained?

4. Should the records be kept in a standardized format? Would a requirement to maintain records in electronic form be feasible and practical?

5. Should unregulated entities be required to submit some form of independent verification that they have in place an appropriate record maintenance system, e.g., an accountant's letter?

F. Reporting.

1. Should the reporting requirement be automatic, whereby the reporting entity would file a report any time it has reached the threshold for a particular issue?

2. If reports are periodic at the request of the Treasury, what mechanism should be used to communicate a request to the market? How can it be assured that a potential ''reporting entity'' receives notice of the request for a report? How much lead time would be necessary to assure that everyone who needs to get the notice will receive it?

3. Would it be reasonable for a reporting entity to comply with a request for a large position report on the business day immediately following receipt of the request? If not, what would be a reasonable time period?

4. Should requests for reports follow a sequential process whereby dealers and custodians would be asked to report initially followed, where appropriate, by a more targeted follow-up as to specific customers? For example, an initial report indicates that custodian A has 75% of an issue. A subsequent request is made only to the custodian's customers to determine if any of them have large positions.

5. Is there a need for the reports to be filed using a standardized format? If so, should they be made in machine readable form?

6. Is there a reason for the Secretary to specify that reports would be submitted to parties other than the FRBNY?

7. Should a request for reports on a specific security be: (i) a one-time request (snapshot as of a given date); (ii) an initial report with a continuing obligation to report subsequent significant changes until further notice; or (iii) an individually specified request (i.e., report on any large positions in a specific security for the next 6 business days)?

8. Should there be a responsibility for a broker-dealer to report the name of any customer whose trading activity in the specified security may indicate that the customer could be a holder of a large position even if the customer does not hold such a position at the broker-dealer?

G. Implementation.

1. How much lead-time is necessary for market participants to be able to comply with such a new regulation?

Treasury staff consulted with staff of the SEC, Federal Reserve Board, FRBNY and CFTC in developing the questions that are contained in this ANPR. As the rulemaking process continues in the months ahead, we will continue to solicit the views of these agencies, share information with them and include them in the deliberative process.

The preliminary views expressed in this notice may change in light of comments received. In any case, the Treasury will publish proposed large position reporting rules for public comment after we have had an opportunity to review the comments that we receive in response to this ANPR.

List of Subjects

17 CFR Part 404

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 405

Brokers, Government securities, Reporting and recordkeeping requirements.

Authority: Sec. 101, Pub.L. 99–571, 100 Stat. 3209; Sec. 4(b), Pub.L. 101–432, 104 Stat. 963; Sec. 102, Sec. 106, Pub.L. 103–202, 107 Stat. 2344 (15 U.S.C. 78o–5 (b)(1)(B), (b)(1)(C), (b)(4)).

Dated: January 17, 1995.

Frank N. Newman,

Deputy Secretary.

[FR Doc. 95–1682 Filed 1–23–95; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Regulatory Program

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the Utah regulatory program (hereinafter, the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revision and additional explanatory information for Utah's proposed rules pertain to the confidentiality of coal exploration information. The amendment is intended to revise the Utah program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., m.s.t., February 8, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue NW., Suite 1200, Albuquerque, New Mexico 87102

Utah Coal Regulatory Program, Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180–1203, Telephone: (801) 538–5340.

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SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated September 9, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT–971). Utah submitted the proposed amendment in response to the required program amendment at 30 CFR 944.16(a). The provisions of the Utah Coal Mining Rules that Utah proposed to revise were at Utah Administrative Rule (Utah Admin. R.) 645–203–200, Confidentiality.

OSM announced receipt of the proposed amendment in the September 27, 1994, **Federal Register** (59 FR 49227), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–976). Because no one requested a public hearing or meeting, none was held. The public comment period ended on October 27, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of Utah's rules at Utah Admin. R. 645–203–200 and 645–203–210, confidentiality of coal exploration information. OSM notified Utah of the concerns by letter dated November 15, 1994 (administrative record No. UT–991). Utah responded in a letter dated January 5, 1994, by submitting a revised amendment and additional explanatory information (administrative record No. UT–1003).

Utah proposes revisions to Utah Admin. R. 645–203–200, by deleting the phrase ''or that the information is confidential under the standards of the Federal Act.'' In addition, Utah provides additional explanatory information pertaining to Utah Admin. R. 645–203–210, by stating that there is some question as to the repetitious aspects of Utah Admin. R. 645–203–210. Utah states that Utah Admin. R. 654–203–210 requires the Division of Oil, Gas and Mining (Division) to ''keep'' information confidential while Utah Admin. R. 645–203–200 directs the Division to ''not make'' information available.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Utah program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.