

entities would be treated as a single account and reported in the name of the advisor.¹⁴ Changes to the Form 102 specifically provide for this. See proposed §§ 17.01(b)(1) and (b)(1)(iii). Certain additional information must be provided on all accounts included in this type of special account. If the special account is a customer trading program and involves 10 or more separate accounts of other persons, firms need only give the name of the program and identify those accounts held by commodity pools in item 3(a) on the Form 102.¹⁵ Information concerning other controlled accounts is reported in item 3(b). See proposed § 17.01(b)(1)(iii)(B) and (C). On the new form, the account numbers of the controlled accounts must now be reported. This information is helpful to those exchanges using their large trader systems to identify accounts on the daily trade register. Additionally, the information will be useful when Commission or exchange staff contact firms about specific accounts on their books.¹⁶

The operations committees of the FIA which were interviewed posed a number of questions concerning accounts controlled by independent account advisors. First, those surveyed by the Commission suggested that a distinction be made between managed and guided accounts. The Commission does not agree. In its 1979 Statement of Policy on Aggregation the Commission considered differences between managed and guided account programs.¹⁷ The Commission determined then that there was little difference between managed and guided account programs since such programs are designed and represented to customers to give best results by complete or general participation in the trades generated by the program.

The operations committees also noted that a definition of "program" might be

helpful and questioned whether the language in item 3(a) concerning "programs in which 10 or more accounts participate" referred to all accounts parented to an investment advisor and whether this would include investment partnerships. Commission Rule 15.00(f) currently defines a customer trading program for reporting purposes as:

Any system of trading offered, sponsored, promoted, managed or in any other way supported by, or affiliated with, a futures commission merchant, an introducing broker, a commodity pool operator, or other trader, or any of its officers, partners or employees, and which by agreement, recommendations, advice or otherwise directly or indirectly controls trading done and positions held by any other person.

Generally, this refers to all accounts parented to an investment advisor.

With respect to investment partnerships, if all partners make trading decisions for the partnership and share in ownership rights of the assets of the partnership, then under § 17.00(b)(1)(ii) accounts of the partnership should be reported in the name of the partnership.¹⁸ In this instance, none of the partners are parented to the partnership account for reporting. A second type of partnership involves limited partners. Many commodity pools are organized in this manner. In this case, if the partnership is traded by an independent account advisor for an FCM or eligible entity, the partnership is reported in the name of the independent account advisor.¹⁹ If the partnership trading is conducted by a general partner and there is only one such person, then the partnership is reported in the name of the general partner.²⁰

Those who are required to respond on the Form 102 also suggested that consideration be given to include instructions or guidelines in completing the Form 102, especially as it relates to independent account advisors. Generally, reporting issues and questions arise when multiple persons have financial interest or control of an account or control of an account is vested in persons other than those having a financial interest in the account. In such cases it is possible for reporting firms to combine and report

positions in more than one manner.²¹ The Commission has given guidance in §§ 17.00(b)(1)(i) and (ii) for reporting the more commonly occurring types of such situations. Answers to other problems are generally specific in nature depending on the particular circumstances surrounding each situation. In view of this, the Commission is instructing its staff to coordinate with their counterparts at the exchanges and give answers to reporting questions in writing. These answers, which will be publicly available, will serve as advisories on reporting, providing guidance on reporting issues within the context of those which have already been encountered.

Other Special Accounts

This includes accounts owned and controlled by the same person or entity (or controlled by an officer or employee of the entity) and general partnership or joint accounts. The information that is required for special accounts in this category on the new Form 102 is similar to that requested on the current Form 102. See items 1(d) and 2 on the Form 102 and proposed §§ 17.01(b)(1), 17.01(b)(1)(i), and (ii)(A)–(E). Additional information on the new form includes the names and locations of all persons authorized to trade an account included in the special account. Since this identifies employees or officers of corporations or other entities who conduct the actual trading, the information can be used to ensure that if persons are suspended from trading, they are not violating the suspension by masking their trading in the name of a business. The Commission, however, is limiting the amount of information that must be supplied. Large corporations may use multiple accounts and traders, creating a burden for firms to obtain and report all persons having trading authority for a special account. Moreover, for large corporations this information is not necessary for surveillance purposes. In view of this, the Commission is proposing that the names and locations of account controllers be provided only if there are five or fewer such traders.²²

During staff interviews, those likely to be responding on the forms presented a number of other suggestions. Chief among these was a concern about the

¹⁴ There is one general exception to this manner of reporting. If an FCM or eligible entity owns an account, the account is reported in the name of the FCM or eligible entity unless otherwise directed by the Commission. Reporting accounts in this manner will alert the Commission when an FCM or eligible entity trades above the speculative limit levels and that further investigation may be necessary.

¹⁵ The Commission amended Rules 17.01 (b)(6) and 18.04(a)(5) in June 1993, to limit the amount of information that is supplied on Forms 102 and 40 concerning controlled accounts. As the Commission then noted, participants in customer trading programs tend to be small traders whose identity for market surveillance purposes is not needed on a routine basis. The Commission reserved the right to obtain this information on call (58 FR 33329 June 17, 1993).

¹⁶ For these same reasons, the Commission is requiring that account numbers be provided in items 2(c) and 4 on the new form.

¹⁷ 44 FR 33842 (June 13, 1979).

¹⁸ On the new Form 102, as proposed, item 1(b) would be checked and the partnership identified in item 1(d). This manner of reporting general partnerships was set forth in the 1993 **Federal Register** Notice (58 FR 33328 June 17, 1993). Generally, this would also apply to joint accounts.

¹⁹ Item 1(c) is checked and information about the advisor is supplied in item 1(d).

²⁰ Item 1(b) is checked and information about the general partner is supplied in item 1(d).

²¹ As noted in the June 17, 1993 **Federal Register**, firms must report in a manner that avoids duplicate reporting of position data so that the data is suitable for regulatory analysis and publication (55 FR 33328).

²² The remaining information on the proposed Form 102 (items 4–12) is substantively the same information that is asked on the current form and does not need further discussion.