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

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-beissued 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

¹¹In 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); *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.