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 preand 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.