

the issuance of the Treasury press release requesting large position reports. Given that large position reports would generally be requested by the Department in response to certain market conditions or activity, the proposed rule has a fairly short response time for submission of the reports. The one and one-half day reporting deadline balances the need for timely information with the recognition that some time is required to compile the information. The reporting time frame should not present significant problems since the information would be derived from records required to be maintained by the reporting entities. Additionally, we understand that most large firms engaged in the securities business compile their positions on a daily basis. Finally, since reporting is "on-demand," the filing of a large position report will be an exceptional event not requiring regular preparation.

The Treasury requests comments from market participants on the proposed reporting time frame, specifically concerning any potential obstacles, burdens or other factors that would make meeting the deadline problematic, and the extent of any extra costs that would be incurred.

The rule, in paragraph 420.3(d), also provides that the large position report may be filed in any manner or media (i.e., hard copy, facsimile or other electronic transmission) that is acceptable to the FRBNY. As mentioned earlier, the reporting entities are permitted to produce or generate their own large position reports.

Follow-Up Inquiries

The requirement to file a large position report in response to a specific Treasury notice requesting this information is expected to be an occasional event. The requirement is satisfied upon receipt of the report by the FRBNY within the required time frame and in the required format as prescribed in paragraph 420.3. The proposed rule does not impose a continuous reporting requirement. However, the Treasury and the FRBNY staff may contact a designated filing entity after receiving a large position report to discuss any aspect of the report, seek clarification of the information provided or request additional documents or information. The purpose of such inquiries or requests for data would be to understand the concentration of positions better. The Treasury or the FRBNY staff may also request further detail on any position reported, such as breaking out the gross financing position into its component parts or

identifying repurchase agreements by their terms or types (e.g., overnight repos, term repos, tri-party repos, hold-in-custody repos). Reporting entities are required to make good faith attempts to respond to inquiries and provide any additional data requested in an expeditious manner.

Testing of Large Position Reporting Systems

The Department wishes to underscore the importance of accurate, reliable and timely reporting of large position information by affected market participants. As the agency of the Federal government most concerned with minimizing the interest cost on the public debt, the Treasury believes that the United States is best served by a liquid and efficient market for Treasury securities that is not overburdened with regulation, but, at the same time, is not viewed as being subject to manipulation. In developing these proposed rules, the Treasury has attempted to pursue a modest approach that balances the need for additional regulation with a desire to minimize the burdens on, and costs to, the industry and to preserve the efficiency of the Treasury securities market.

Compliance with these large position rules—the maintenance of reliable records and the accurate and timely reporting of large position information—is essential to preserving and strengthening the integrity of the Treasury securities market. One of the primary concerns with an on-demand reporting system is the increased potential for inaccurate or incomplete information on large positions due to unfamiliarity by market participants with the reporting requirements. Large position information will be extremely important for policymakers at Treasury, in consultation with other regulatory officials, in determining whether, and what course of, action should be taken to alleviate a concentration of control in a particular Treasury security. Thus, it is imperative that market participants fully understand and comply with the large position recordkeeping and reporting requirements.

To ensure that market participants remain knowledgeable about the rules, specifically how to calculate and report a reportable position, the Treasury intends to "test" the reporting system by requesting large position reports at least annually, regardless of market conditions for a particular security. The Treasury does not intend to notify market participants that its request for large position reports is merely a test. Commenters are asked to address this proposed treatment of "test" reporting.

The notice and reporting requirements are proposed to be identical to a call for large position information in which the Department is concerned about price anomalies and concentrated ownership. "Test" reporting is consistent with the statutory purpose since the Department believes it is both necessary and appropriate to help ensure that an on-demand program of large position reporting is conducted effectively.

4. Section 420.4

Recordkeeping. Section 15C(f)(2) of the Securities Exchange Act of 1934 authorizes the Secretary to promulgate rules requiring large position holders to make and preserve records related to large position reporting requirements. Section 420.4 sets forth the proposed recordkeeping rules supporting large position reporting under that authority. The proposed recordkeeping rules are divided into two classes: (1) records required for entities that are currently subject to recordkeeping rules of federal securities or federal bank regulators (paragraph 420.4(b)); and (2) records required for all other entities, such as hedge funds, insurance companies, and pension funds (paragraph 420.4(c)).

Under paragraph 420.4(a)(1), the recordkeeping rules would apply to all aggregating entities that may control components of their respective reporting entity's reportable position as of the effective date of the final large position rules, but only if the aggregating entities' respective reporting entity had a reportable position in any Treasury security equal to or in excess of \$2 billion (the minimum large position threshold) at any time during the prior two-year period ending 90 days after publication of the final rule. Thus, all reporting entities (through their respective aggregating entities) will be responsible for determining whether they have controlled a reportable position of at least \$2 billion in a Treasury security during the two-year period. For some firms, this will necessitate a thorough review of their records to determine if their reportable positions reached that level.

In addition, under paragraph 420.4(a)(2), in instances where a reporting entity controlled a reportable position of at least \$2 billion in a Treasury security during the two-year period, its designated filing entity will be required to submit a letter to the FRBNY certifying that it has in place, or will have in place by the effective date of the final rules, a recordkeeping system (including policies and procedures) capable of making, verifying the accuracy of, and preserving the requisite records. This