

such registered government securities broker or dealer, except that the equity capital and subordinated debt of registered brokers and dealers that are exempt from the provisions of §240.15c3-3 of this title, pursuant to paragraph (k)(1) of §240.15c3-3, shall not be included in the capital computation.

“(5) The Secretary may, upon written application by a Reporting Registered Government Securities Broker or Dealer, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any registered government securities brokers or dealers that are associated persons of such Reporting Registered Government Securities Broker or Dealer. The term ‘Reporting Registered Government Securities Broker or Dealer’ shall mean any registered government securities broker or dealer that submits such application to the Secretary on behalf of its associated registered government securities brokers or dealers.”

(5) Paragraph 240.17h-2T(c) of this title is modified to read as follows:

“(c) *Special provisions with respect to Material Associated Persons subject to the supervision of certain domestic regulators.* A registered government securities broker or dealer shall be deemed to be in compliance with the reporting requirements of paragraph (a) of this section with respect to a Material Associated Person if such registered government securities broker or dealer files Items 1, 2, and 3 (in Part I) of Form 17-H in accordance with paragraph (a) of this section, provided that:

“(1) Such Material Associated Person is subject to examination by or the reporting requirements of a Federal banking agency and the registered government securities broker or dealer or such Material Associated Person furnishes in accordance with paragraph (a) of this section copies of reports filed by the Material Associated Person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners’ Loan Act, or section 5 of the Bank Holding Company Act of 1956; or * * * ”

(6) Paragraph 240.17h-2T(d) of this title is modified to read as follows:

“(d) *Special provisions with respect to Material Associated Persons subject to the supervision of a foreign financial regulatory authority.* A registered government securities broker or dealer shall be deemed to be in compliance with the reporting requirements of paragraph (a) of this section with respect to a Material Associated Person if such registered government securities broker or dealer furnishes, in accordance with the provisions of paragraph (a) of this section, Items 1, 2, and 3 (in Part I) of Form 17-H and copies of the reports filed by such Material Associated Person with a Foreign Financial Regulatory Authority. The registered government securities broker or dealer shall file a copy of the original Foreign Financial Regulatory report and a copy translated into the English language. For the purposes of this section, the term Foreign Financial Regulatory Authority shall have the meaning set forth in section 3(a)(52) of the Act.”

(7) Paragraph 240.17h-2T(f) of this title is modified to read as follows:

“(f) *Implementation schedule.* Every registered government securities broker or dealer subject to the requirements of this section shall file the information required by Items 1, 2 and 3 (in Part I) of Form 17-H by July 31, 1995. Commencing September 30, 1995, the provisions of this section shall apply in their entirety.”

(Approved by the Office of Management and Budget under control number 1535-0089)

[60 FR 20401, Apr. 26, 1995]

PART 420—LARGE POSITION REPORTING

Sec.

420.1 Applicability.

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APPENDIX B TO PART 420—SAMPLE LARGE POSITION REPORT.

AUTHORITY: 15 U.S.C. 78o-5(f).

SOURCE: 61 FR 48348, Sept. 12 1996, unless otherwise noted.

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§ 420.1 Applicability.

(a) This part, including the Appendices, is applicable to all persons that participate in the government securities market, including, but not limited to: government securities brokers and dealers, depository institutions that exercise investment discretion, registered investment companies, registered investment advisers, pension funds, hedge funds and insurance companies that may control a reportable position in a recently-issued marketable Treasury bill, note or bond as those terms are defined in § 420.2.

(b) Notwithstanding paragraph (a) of this section, foreign central banks, foreign governments and international monetary authorities are exempt from this part. This exemption is not applicable to a broker, dealer, financial institution or other entity that engages primarily in commercial transactions and that may be owned in whole or in part by a foreign government.

(c) Notwithstanding paragraph (a) of this section, Federal Reserve Banks are exempt from this part for the portion of any reportable position they control for their own account.

§ 420.2 Definitions.

For the purposes of this part:

(a) “Aggregating entity” means a single entity (e.g., a parent company, affiliate, or organizational component) that is combined with other entities, as specified in paragraph (i) of this section, to form a reporting entity. In those cases where an entity has no affiliates, the aggregating entity is the same as the reporting entity.

(b) “Control” means having the authority to exercise investment discretion over the purchase, sale, retention or financing of specific Treasury securities. Only one entity should be considered to have investment discretion over a particular position.

(c) “Gross financing position” is the sum of the gross par amounts of a security issue received from financing transactions, including reverse repurchase agreement transactions, bonds borrowed, and as collateral for financial derivatives and other securities transactions (e.g., margin loans). In calculating the gross financing position, a reporting entity may not net its

positions against repurchase agreement transactions, securities loaned, or securities pledged as collateral for financial derivatives and other securities transactions.

(d) “Large position threshold” means, with respect to a reportable position, the dollar par amount such position must equal or exceed in order for a reporting entity to be required to submit a large position report. The large position threshold will be announced by the Department and may vary with each notice of request to report large position information and with each specified Treasury security. However, under no circumstances will a large position threshold be less than \$2 billion.

(e) “Net fails position” is the net par amount of “fails to receive” less “fails to deliver” in the same security. The net fails position, as reported, may not be less than zero.

(f) “Net trading position” is the net sum of the following respective positions in the specific security issue:

(1) Cash/immediate net settled positions;

(2) Net when-issued positions;

(3) Net forward positions, including next-day settling;

(4) Net futures contract positions that require delivery of the specific security; and

(5) Net holdings of STRIPS principal components of the security.

(g) “Recently-issued” means:

(1) With respect to Treasury securities that are issued quarterly or more frequently, the three most recent issues of the security (e.g., in early April, the January, February, and March 2-year notes).

(2) With respect to Treasury securities that are issued less frequently than quarterly, the two most recent issues of the security.

(3) With respect to a reopened security, the entire issue of a reopened security (older and newer portions) based on the date the new portion of the reopened security is issued by the Department (or for when-issued securities, the scheduled issue date).

(4) For all Treasury securities, a security announced to be issued or auctioned but unissued (when-issued), starting from the date of the issuance

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announcement. The most recent issue of the security is the one most recently announced.

(5) Treasury security issues other than those specified in paragraphs (g)(1) and (2) of this section, provided that such large position information is necessary and appropriate for monitoring the impact of concentrations of positions in Treasury securities.

(h) "Reportable position" is the sum of the net trading positions, gross financing positions and net fails positions in a specified issue of Treasury securities collectively controlled by a reporting entity.

(i) "Reporting entity" means any corporation, partnership, person or other entity and its affiliates, as further provided herein. For the purposes of this definition, an affiliate is any: entity that is more than 50% owned, directly or indirectly, by the aggregating entity or by any other affiliate of the aggregating entity; person or entity that owns, directly or indirectly, more than 50% of the aggregating entity; person or entity that owns, directly or indirectly, more than 50% of any other affiliate of the aggregating entity; or entity, a majority of whose board of directors or a majority of whose general partners are directors or officers of the aggregating entity or any affiliate of the aggregating entity.

(1) Subject to the conditions prescribed in Appendix A, one or more aggregating entities, either separately or together with one or more other aggregating entities, may be recognized as a separate reporting entity.

(2) Notwithstanding this definition, any persons or entities that intentionally act together with respect to the investing in, retention of, or financing of, Treasury securities are considered, collectively, to be one reporting entity.

[61 FR 48348, Sept. 12 1996, as amended at 67 FR 77414, Dec. 18, 2002]

§ 420.3 Reporting.

(a) A reporting entity is subject to the reporting requirements of this section only when its reportable position equals or exceeds the large position threshold specified by the Department for a specific Treasury security issue. The Department shall provide notice of

such threshold by issuance of a press release and subsequent publication of the notice in the FEDERAL REGISTER. Such notice will identify the Treasury security issue to be reported (including, where applicable, identification of the related STRIPS principal component); the date or dates (as of close of business) for which the large position information must be reported; and the applicable large position threshold for that issue. It is the responsibility of a reporting entity to take reasonable actions to be aware of such a notice.

(b) A reporting entity shall select one entity from among its aggregating entities (i.e., the designated filing entity) as the entity designated to compile and file a report on behalf of the reporting entity. The designated filing entity shall be responsible for filing any large position reports in response to a notice issued by the Department and for maintaining the additional records prescribed in the applicable paragraph of § 420.4.

(c)(1) In response to a notice issued under paragraph (a) of this section requesting large position information, a reporting entity with a reportable position that equals or exceeds the specified large position threshold stated in the notice shall compile and report the amounts of the reporting entity's reportable position in the order specified, as follows:

(i) Net trading position, and each of the following items that together comprise the net trading position:

(A) Cash/immediate net settled positions,

(B) Net when-issued positions for to-be-issued and reopened issues,

(C) Net forward settling positions, including next-day settling,

(D) Net positions in futures contracts requiring delivery of the specific security, and

(E) Net holdings of STRIPS principal components of the specific security;

(ii) Gross financing position and each of the following items that comprise the gross financing position:

(A) Securities received through reverse repurchase agreements by maturity classification:

(1) Overnight and open, and

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(2) Term (report the total dollar amount of the outstanding contracts, summing across maturity dates), and

(B) Securities received through bonds borrowed, and as collateral for financial derivatives and other financial transactions.

(iii) Net fails position; and

(iv) Total reportable position.

(2) The large position report must include the following two additional memorandum items:

(i) The total gross par amounts of securities delivered through:

(A) Repurchase agreements by maturity classification:

(1) Overnight and open, and

(2) Term (report the total dollar amount of the outstanding contracts, summing across maturity dates), and

(B) Securities loaned, and as collateral for financial derivatives and other securities transactions.

(ii) The gross par amount of "fails to deliver" in the security. This total must also be included in Net Fails Position, Line 3.

(3) An illustration of a sample report is contained in Appendix B.

Each of the net trading position components shall be netted and reported as a positive number (long position), a negative number (short position), which should be shown in parenthesis, or zero (flat position). The total net trading position shall also be reported as the applicable positive or negative number (or zero). Each of the components of the gross financing position shall be reported. The total gross financing position, which is the sum of the gross financing position components, shall also be reported. The net fails position should be reported as a single entry. If the amount of the net fails position is zero or less, report zero. The total reportable position, which is the sum of the net trading position, gross financing position, and net fails position, must be reported. Each component of Memorandum 1 shall be reported. The total of Memorandum 1, which is the sum of its components, shall also be reported. Memorandum 2, which is the gross par amount of fails to deliver, shall also be reported. All of these positions should be reported in the order specified above. All position amounts should be

reported on a trade date basis and at par in millions of dollars.

(4) All positions must be reported as of the close of business of the reporting date(s) specified in the notice.

(5) Each submitted large position report must include the following administrative information in addition to the reportable position: the name of the reporting entity, the address of the principal place of business, the name and address of the designated filing entity, the Treasury security that is being reported, the CUSIP number for the security being reported, the report date or dates for which information is being reported, the date the report was submitted, the name and telephone number of the person to contact regarding information reported, and the name and position of the authorized individual submitting this report.

(6) The large position report must be signed by one of the following: the chief compliance officer; chief legal officer; chief financial officer; chief operating officer; chief executive officer; or managing partner or equivalent. The designated filing entity must also include in the report, immediately preceding the signature, a statement of certification as follows:

By signing below, I certify that the information contained in this report with regard to the designated filing entity is accurate and complete. Further, after reasonable inquiry and to the best of my knowledge and belief, I certify: (i) That the information contained in this report with regard to any other aggregating entities is accurate and complete; and (ii) that the reporting entity, including all aggregating entities, is in compliance with the requirements of 17 CFR Part 420.

(7) The report must be filed before noon Eastern time on the fourth business day following issuance of the press release.

(d) A report to be filed pursuant to paragraph (c) of this section will be considered filed when received by the Federal Reserve Bank of New York, Market Reports Division. The report may be filed with the Federal Reserve Bank of New York by facsimile or delivered hard copy. The Federal Reserve Bank of New York may in its discretion also authorize additional means of reporting.

(e) A reporting entity that has filed a report pursuant to paragraph (c) of this section shall, at the request of the Department or the Federal Reserve Bank of New York, timely provide any supplemental information pertaining to such report.

(Approved by the Office of Management and Budget under control number 1535-0089)

[61 FR 48348, Sept. 12 1996, as amended at 67 FR 77414, Dec. 18, 2002; 70 FR 73378, Dec. 12, 2005]

§ 420.4 Recordkeeping.

(a)(1) Notwithstanding the provisions of paragraphs (b) and (c) of this section, an aggregating entity must make and maintain records pursuant to this part as of its effective date, but only if the aggregating entity has controlled a portion of its reporting entity's reportable position in any Treasury security when such reportable position of the reporting entity has equaled or exceeded the minimum large position threshold specified in § 420.2(d) (i.e., \$2 billion) during the prior two-year period ending December 11, 1996. Subsequent to the effective date, an aggregating entity that controls a portion of its reporting entity's reportable position in a recently-issued Treasury security, when such reportable position of the reporting entity equals or exceeds the minimum large position threshold, shall be responsible for making and maintaining the records prescribed in this section.

(2) In the case of a reporting entity whose reportable position in any Treasury security has equaled or exceeded the minimum large position threshold during the prior two-year period ending December 11, 1996, each such reporting entity's designated filing entity shall submit a letter to the Government Securities Regulations Staff, Bureau of the Public Debt, 999 E Street, N.W., Room 515, Washington, DC 20239, stating that the designated filing entity has in place, or will have in place by the effective date, a recordkeeping system (including policies and procedures) capable of making, verifying the accuracy of, and preserving the records required pursuant to this section. The letter shall further state that, after reasonable inquiry and to the best of its knowledge and belief, the des-

ignated filing entity represents that all other aggregating entities have in place, or will have in place by the effective date, a system (including policies and procedures) capable of making, verifying the accuracy of, and preserving the records required pursuant to this section.

(3) The letter specified in paragraph (a)(2) of this section must be signed by one of the following: the chief compliance officer; chief legal officer; chief financial officer; chief operating officer; chief executive officer; or managing partner or equivalent. The letter must be received by the Bureau of the Public Debt no later than January 10, 1997.

(b) *Records to be made and preserved by entities that are subject to the recordkeeping provisions of the Commission, the Department, or the appropriate regulatory agencies for financial institutions.* As an aggregating entity, compliance by a registered broker or dealer, registered government securities broker or dealer, noticed financial institution, depository institution that exercises investment discretion, registered investment adviser, or registered investment company with the applicable recordkeeping provisions of the Commission, the Department, or the appropriate regulatory agencies for financial institutions shall constitute compliance with this section, provided that if such entity is also the designated filing entity it:

(1) Makes and keeps copies of all large position reports filed pursuant to this part;

(2) Makes and keeps supporting documents or schedules used to compute data for the large position reports filed pursuant to this part, including any certifications or schedules it receives from aggregating entities pertaining to their holdings of a reportable position;

(3) Makes and keeps a chart showing the organizational entities that are aggregated (if applicable) in determining a reportable position; and

(4) With respect to recordkeeping preservation requirements that contain more than one retention period, preserves records required by paragraphs (b)(1)-(3) of this section for the longest record retention period of applicable recordkeeping provisions.

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(c) *Records to be made and kept by other entities.* (1) An aggregating entity that is not subject to the provisions of paragraph (b) of this section shall make and preserve a journal, blotter, or other record of original entry containing an itemized record of all transactions that fall within the definition of a reportable position, including information showing the account for which such transactions were effected and the following information pertaining to the identification of each instrument: the type of security, the par amount, the CUSIP number, the trade date, the maturity date, the type of transaction (e.g., a reverse repurchase agreement), and the name or other designation of the person from whom sold or purchased.

(2) If such aggregating entity is also the designated filing entity, then in addition, it shall make and preserve the following records:

(i) Copies of all large position reports filed pursuant to this part;

(ii) Supporting documents or schedules used to compute data for the large position reports filed pursuant to this part, including any certifications or schedules it receives from aggregating entities pertaining to their holdings of a reportable position; and

(iii) A chart showing the organizational entities that are aggregated (if applicable) in determining a reportable position.

(3) With respect to the records required by paragraphs (c) (1) and (2) of this section, each such aggregating entity shall preserve such records for a period of not less than six years, the first two years in an easily accessible place. If an aggregating entity maintains its records at a location other than its principal place of business, the aggregating entity must maintain an index that states the location of the records, and such index must be easily accessible at all times.

(Approved by the Office of Management and Budget under control number 1535-0089)

[61 FR 48350, Sept. 12 1996, as amended at 61 FR 52498, Oct. 7, 1996]

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§ 420.5 Effective Date.

The provisions of this part, except for § 420.4(a), shall be first effective on March 31, 1997.

[61 FR 48350, Sept. 12 1996, as amended at 61 FR 52498, Oct. 7, 1996; 61 FR 53996, Oct. 16, 1996]

APPENDIX A TO PART 420—SEPARATE REPORTING ENTITY

Subject to the following conditions, one or more aggregating entity(ies) (e.g., parent, subsidiary, or organizational component) in a reporting entity, either separately or together with one or more other aggregating entity(ies), may be recognized as a separate reporting entity. All of the following conditions must be met for such entity(ies) to qualify for recognition as a separate reporting entity:

(1) Such entity(ies) must be prohibited by law or regulation from exchanging, or must have established written internal procedures (i.e., Chinese walls) designed to prevent the exchange of information related to transactions in Treasury securities with any other aggregating entity;

(2) Such entity(ies) must not be created for the purpose of circumventing these large position reporting rules;

(3) Decisions related to the purchase, sale or retention of Treasury securities must be made by employees of such entity(ies). Employees of such entity(ies) who make decisions to purchase or dispose of Treasury securities must not perform the same function for other aggregating entities; and

(4) The records of such entity(ies) related to the ownership, financing, purchase and sale of Treasury securities must be maintained by such entity(ies). Those records must be identifiable—separate and apart from similar records for other aggregating entities.

To obtain recognition as a separate reporting entity, each aggregating entity or group of aggregating entities must request such recognition from the Department pursuant to the procedures outlined in paragraph 400.2(c) of this title. Such request must provide a description of the entity or group and its position within the reporting entity, and provide the following certification:

“[Name of the entity(ies)] hereby certifies that to the best of its knowledge and belief it meets the conditions for a separate reporting entity as described in Appendix A to 17 CFR Part 420. The above named entity also certifies that it has established written policies or procedures, including ongoing compliance monitoring processes, that are designed to prevent the entity or group of entities from:

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“(1) Exchanging any of the following information with any other aggregating entity (a) positions that it holds or plans to trade in a Treasury security; (b) investment strategies that it plans to follow regarding Treasury securities; and (c) financing strategies that it plans to follow regarding Treasury securities, or

“(2) In any way intentionally acting together with any other aggregating entity with respect to the purchase, sale, retention or financing of Treasury securities.

“The above-named entity agrees that it will promptly notify the Department in writ-

ing when any of the information provided to obtain separate reporting entity status changes or when this certification is no longer valid.”

Any entity, including any organizational component thereof, that previously has received recognition as a separate bidder in Treasury auctions from the Department pursuant to 31 CFR Part 356 is also recognized as a separate reporting entity without the need to request such status, provided such entity continues to be in compliance with the conditions set forth in Appendix A of 31 CFR Part 356.

APPENDIX B TO PART 420—SAMPLE LARGE POSITION REPORT

FORMULA FOR DETERMINING A REPORTABLE POSITION

[\$ Amounts in millions at par value as of trade date]

Security Being Reported	_____
Date For Which Information is Being Reported	_____
1. Net Trading Position:	
Cash/Immediate Net Settled Positions	\$ _____
Net When-Issued Positions for To-Be-Issued and Reopened Issues	\$ _____
Net Forward Settling Positions Including Next-Day Settling	\$ _____
Net Positions in Futures Contracts Requiring Delivery of the Specific Security	\$ _____
Net Holdings of STRIPS Principal Components of the Specific Security	\$ _____
Total Net Trading Position	\$ _____
2. Gross Financing Position:	
Total of securities received through	
Reverse Repurchase Agreements	
Overnight and Open	\$ _____
Term	\$ _____
Bonds borrowed, and as collateral for financial derivatives and other financial transactions	\$ _____
Total Gross Financing position	+\$ _____
3. Net Fails Position	+\$ _____
(Fails to receive less fails to deliver. If equal to or less than zero, report 0.)	
4. Total Reportable Position	= \$ _____
Memorandum 1:	
Report the total gross par amounts of securities delivered through	
Repurchase Agreements	
Overnight and Open	\$ _____
Term	\$ _____
Securities loaned, and as collateral for financial derivatives and other securities transactions	\$ _____
Total Memorandum 1	\$ _____
Memorandum 2:	
Report the gross par amount of fails to deliver. Included in the calculation of line item 3 (Net Fails Position)	\$ _____

[67 FR 77415, Dec. 18, 2002; 68 FR 402, Jan. 3, 2003]

PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

Sec.

449.1 Form G-FIN, notification by financial institutions of status as government se-

curities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934.

449.2 Form G-FINW, notification by financial institutions of cessation of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the