

U.S. Department of the Treasury
Administering the
Government Securities Act Regulations
(17 CFR Chapter IV)

Supporting Statement to Request OMB Approval
Extension of a Currently Approved Collection of Information
Submitted: June 16, 2021

Approval of Collection of Information
OMB Control Number: 1530-0064

JUSTIFICATION

1. Explain the circumstances that make this collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

Title I of the Government Securities Act of 1986 (Pub. L. 99-571) ("the GSA") added Section 15C to the Securities Exchange Act of 1934, requiring that the Secretary of the Treasury promulgate regulations concerning, among other things, financial responsibility of government securities brokers and dealers and safeguarding of customer securities and balances. The Government Securities Act Amendments of 1993 (Pub L. 103-202) ("the GSAA") permanently reauthorized Treasury's rulemaking authority. The GSA states that the rules must require every government securities broker and dealer to make reports, including annual audited financial statements, and submit them to supervisory agencies. According to the GSA, the Secretary is also required to promulgate recordkeeping requirements specifying records to be made and kept and the periods of time for which they must be maintained (Attachment A). The purpose of the regulations and the associated recordkeeping and reporting requirements continues to be the enhancement of investor protection in the government securities market, combined with the maintenance of a fair, efficient, and liquid market.

Title II of the GSA requires the Secretary to promulgate regulations concerning holdings by depository institutions of government securities for customers, as custodian, fiduciary, or otherwise (Attachment B). These regulations are designed to protect investor holdings of government securities at locations other than with brokers and dealers, thereby assuring the safety and security of investments in Treasury and other government securities.

Final regulations implementing the GSA were published in the *Federal Register* on July 24, 1987. Amendments to the regulations involving the collections of information have been published from time to time since the final regulations were implemented. The information collections expire on October 31, 2021. The regulations, as amended, are codified at 17 CFR Chapter IV.

Two amendments to the regulations are briefly described here because of their specific focus, risk assessment and large position reporting.

The Market Reform Act of 1990 (Reform Act) authorized the Securities and Exchange Commission (SEC) and the Treasury to promulgate risk assessment rules for diversified and municipal securities brokers and dealers and for specialized government securities brokers and dealers, respectively (Attachment C). Treasury's amendment to the GSA regulations, which incorporates the SEC risk assessment rules with only minor modifications, was published on April 26, 1995, and applies only to specialized government securities brokers and dealers (registered government securities brokers and dealers). Treasury's risk assessment rules require registered government securities brokers and dealers to maintain and file information concerning certain of their affiliates with the SEC. The purpose of the rules is to strengthen investor confidence and the integrity of the market.

Section 104 of the GSAA authorized Treasury to adopt rules requiring specified persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities, to file reports and maintain records regarding such positions (Attachment D). Treasury's large position rules, which were published on September 12, 1996, established recordkeeping and reporting requirements for entities that control large positions in certain Treasury securities.

On December 18, 2002, Treasury issued final rule amendments to the large position rules. These amendments modified the formula for the large position calculation and required affected firms to identify their positions in a more detailed manner. And, on December 10, 2014, Treasury published a final rule amending its large position reporting rules to improve the information reported so that Treasury can better understand supply and demand dynamics in certain Treasury securities. The rule became effective on March 10, 2015.

A copy of the relevant portions of the GSA, the GSAA, and the respective regulations authorizing or mandating the collection of information is attached (Attachments A through D).

2. Indicate how, by whom, and for what purpose the information is to be used.

The information collected has and will be used by the regulatory agencies with enforcement jurisdiction over government securities brokers and dealers and depository institutions, namely the SEC, the Board of Governors of the Federal Reserve System (Board), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration, as well as self-regulatory organizations supervised by the SEC. The information is essential for carrying out the objectives of the GSA -- dealer financial responsibility and investor (customer) protection. A failure to collect, or an interruption in collecting, the information would result in an inability to implement the GSA through enforcement of its implementing regulations. This would frustrate the intent of Congress and could result in problems in the government securities market.

The information collected related to Treasury's risk assessment rules has and will be used by the SEC to specifically monitor the financial risk posed to specialized government securities brokers and dealers -- and to the securities markets as a whole -- as a result of certain financial and

securities activities conducted by affiliates within holding company structures. The SEC will use the information collected for surveillance, enforcement, and other regulatory purposes. Without the information, the SEC would not be able to monitor the impact of potentially damaging activities of affiliates on the specialized government securities brokers and dealers and the securities markets.

The information collected related to Treasury's large position rules has and will be used by the SEC and Treasury to better understand the possible reasons for any apparent significant price distortions and the possible causes of market shortages in certain Treasury securities. This information also helps Treasury and other regulators to better understand supply and demand dynamics in certain Treasury securities. Such information allows Treasury to monitor the impact of concentrations of positions in the Treasury securities market. It is anticipated that the information will be collected infrequently and will be used by the SEC for surveillance, enforcement and other regulatory purposes. Due to the high large position reporting threshold(s) (i.e., a minimum of 10% of the outstanding amount of the specified Treasury security, typically in excess of \$4 billion) which will be announced in a call for reports, it is expected few entities will likely file large position reports. Since the large position rules became fully effective on March 31, 1997, Treasury has announced seventeen calls for large position reports (June 9, 1997; June 8, 1998; July 12, 1999; September 13, 2000; June 4, 2001; July 8, 2003; August 23, 2004; September 14, 2005; July 5, 2006; November 27, 2007; November 7, 2008; December 9, 2010; February 27, 2012; March 15, 2013; June 1, 2016; April 9, 2018; and June 3, 2019).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? Also describe any consideration of using information technology to reduce burden.

The regulations do not prevent or discourage the development of electronic records and reports and the use of computers to generate the required records and reports. Most specialized government securities brokers and dealers employ automated systems for computing their financial responsibility requirements.

Treasury's large position rules specifically allow the reporting entities to develop and generate their own reports provided the reports contain all of the required information. This allows firms the opportunity to integrate the report into their existing systems. Many larger government securities market participants employ automated systems for aggregating and computing their securities positions.

Treasury is currently exploring alternate options for the submission of large position reports. In October 2018, Treasury issued non-substantive technical amendments to its large position rules. The technical amendments gave Treasury the added flexibility to consider alternate means of submission which may further reduce the burden on reporting entities. Specifically, the technical amendments replace references to "press release" with "public announcement;" provide the option for Treasury to specify in its public announcement that reports can be submitted to

Treasury directly; and provide the option for Treasury to specify in its public announcement how reports are to be submitted by removing references to “facsimile” and “delivered hard copy.”

On October 27, 1997, the Treasury issued two interpretive letters that permit specialized government securities brokers and dealers and financial institutions to use electronic media to deliver hold-in-custody repurchase agreement confirmations and to store records under the GSA regulations. The letter to specialized government brokers and dealers also permits certain other customer account information and certain financial reports to be sent electronically. The letter to financial institutions also allows depository institutions that are custodians of government securities to use electronic media to transmit confirmations/safekeeping receipts and to store records under the GSA rules.

Regarding the provision of electronic agency services, various Internet notification mail lists are available at TreasuryDirect.gov. There are approximately 3,300 subscribers to the Government Securities Act regulation mail list and approximately 1,700 to the Large Position Reports list. Anyone signing up on these lists will receive an e-mail notifying them that Treasury has issued a proposed or final rule amendment, interpretation, or call for large position reports.

In addition, Treasury has made certain forms electronically available on its website. The “Report on Finances and Operations of Government Securities Broker-Dealers” (Parts I, II, IIA, III, and Schedule 1), the “Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer” and the “Uniform Termination Notice for Person Associated with a Financial Institution Government Securities Broker or Dealer” forms can all be accessed and downloaded electronically for ease of use.

4. Describe efforts to identity duplication. Show specifically why any similar information already available cannot be used or modified for the purposes described in Item 2 above.

In implementing the regulations, Treasury reduced duplication in several ways. First, registered broker-dealers are exempt from filing any of the forms or keeping almost any of the records to avoid duplication with their responsibilities under other sections of the Securities Exchange Act of 1934. The obligations of financial institutions and their government securities employees are similarly limited to prevent regulatory overlap. Second, the required records are, for the most part, those of good business practice, and in the case of registered government securities brokers and dealers, conform to SEC requirements, with which many of these firms were previously familiar. Third, the forms have been modified and are, in essence, limited versions of existing SEC and bank regulatory forms, with which virtually all the registered and noticed entities are familiar.

Also, to reduce regulatory duplication, various sections of the regulations require compliance with SEC regulations with only minor modifications. In addition, several of the forms used are modifications or simplifications of the existing SEC forms. The recordkeeping and reporting requirements and forms are designed so that entities already filing similar information are

exempt from having to re-file the same information. The requirements are applicable to entities not otherwise reporting.

Treasury's risk assessment rules provide for an exemption from all of their requirements if the specialized government securities broker or dealer has an affiliated registered broker or dealer that is subject to, and in compliance with, the SEC's risk assessment rules, provided that all of the material associated persons of the specialized government securities broker or dealer are also material associated persons of the registered broker or dealer. Specialized government securities brokers and dealers are not otherwise required to provide the information required by the risk assessment rules. The SEC, therefore, would have no assurance of receiving the information, or comparable information, in the absence of Treasury's rules.

Also, certain associated persons of specialized government securities brokers or dealers that are within the scope of Treasury's risk assessment rules are under the regulatory supervision of the Commodity Futures Trading Commission, a Federal banking agency, a State Insurance Commissioner, or other regulators. The rules permit specialized government securities brokers or dealers to utilize, wherever possible, information required by other regulatory agencies in discharging their risk assessment recordkeeping and reporting obligations. For example, the rules permit associated persons of specialized government securities brokers or dealers that are supervised by a Federal banking agency to submit, without reformatting, copies of reports already made for the use of such banking agency. Similar provisions are provided for insurance companies that are associated with specialized government securities brokers or dealers.

In developing Treasury's large position rules, Treasury examined existing securities-related recordkeeping rules of the SEC, Treasury, and the bank regulatory agencies. Treasury concluded that reportable positions could be constructed relatively easily from these required records. Therefore, Treasury's large position rules do not provide for any new substantive recordkeeping rules for aggregating entities that are subject to existing federal recordkeeping requirements, and that are not designated filing entities.

On September 15, 2006, Treasury issued a technical amendment to the GSA regulations to state explicitly that Treasury deems over-the-counter ("OTC") derivatives dealers to be in compliance with the GSA regulations if they comply with the applicable SEC OTC derivatives dealer rules and other SEC applicable rules.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Treasury does not believe the information collections have had or will have a significant impact on a substantial number of small entities. At the time of implementation, the Department minimized the burden hours by including a series of exemptions in the regulations and the use of SEC-based forms Treasury believes that this minimized the burden on small entities.

Specifically, the large position reporting threshold will under no circumstances be less than 10 percent of the amount outstanding of the specified Treasury security (typically, more than \$4 billion). The recordkeeping requirements are not applicable until an entity's position in a recently-issued Treasury security equals or exceeds \$2 billion. The Department does not believe small entities control positions of such magnitude and thus, the rules are not applicable to small entities.

Further, regarding Treasury's risk assessment rules, Treasury estimates that all of the small entities that are specialized government securities brokers and dealers qualify for at least one of the recordkeeping and reporting exemptions in the regulations. For example, the rules provide for an exemption for specialized government securities brokers and dealers that do not carry customer accounts and maintain capital of less than \$20 million. There is also an exemption for firms that maintain capital of less than \$250,000 (regardless of whether they carry customer accounts).

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The required recordkeeping records are essential to responsible business operations by government securities brokers and dealers. Failure to maintain these records on a regular basis would most likely cause operational difficulties. Since the financial positions of government securities dealers can change quickly, monthly filing of financial reports is essential for identification of problems, enforcement, and investor protection. Regular reporting helps to avoid having to shut down or completely liquidate a dealer by early identification of potential problems. Less frequent, or no reporting is required for firms less at risk, such as, introducing brokers and financial institutions holding securities for customers.

Treasury's risk assessment rules parallel the SEC's risk assessment rules and enable the quarterly collection of timely and complete financial information concerning the activities of affiliates of specialized government securities brokers and dealers whose activities are reasonably likely to have a material impact on the broker or dealer for surveillance and other regulatory purposes. Timely and accurate information is an essential element of the rules. Less frequent collection of the required information would reduce the regulators' ability to assess the risks to the brokers and dealers, customers and the securities markets caused by affiliates of the broker or dealer.

Treasury's large position rules require reporting only on an infrequent basis (typically, once a year), primarily in response to pricing anomalies or market shortages in a specific Treasury security. When requested by Treasury, timely and accurate information, to be reported by holders of large positions, is essential. Large position reports are intended to provide regulators with information on concentrations of control for market surveillance purposes and for enforcement of the securities laws. The reported information will help the Treasury securities market remain liquid and efficient and facilitate government borrowing at the lowest possible

cost to taxpayers. If the collection of information is not conducted, Treasury may not be able to take appropriate action in response to possible attempts to manipulate the government securities market.

7. Explain any special circumstances. Is this collection of information conducted in a manner consistent with the guidelines of 5 CFR 1320.6?

The need for monthly reporting is described in response to Question 6. In some cases, record retention may be required for up to six years to enable any enforcement action to cover the full period under the applicable statute of limitations.

As previously described, regarding Treasury's large position rules, Treasury expects that an announcement which will require holders of large positions to file the appropriate report will be an infrequent event. This would only be in response to an unusual market occurrence or condition. Although it is possible that such an unusual market condition could occur more than once in a three-month period, it is expected that requests for large position reports will occur far less frequently. Treasury typically requests large position reports annually to ensure that market participants remain knowledgeable of the rules, specifically as to how to calculate and report a reportable position. Respondents will submit a report for each date that large position information is requested in an announcement by Treasury. It is possible that Treasury may need to occasionally conduct follow-up inquiries on some of the reported information.

When Treasury announces a call for large position reports, reports are typically received before 12:00 noon, Eastern Time, on the fourth business day following issuance of the Treasury press release. Since the call for reports is precipitated by an unusual market event or security pricing anomaly, this relatively short response time is necessary to enable Treasury to make better and more timely decisions regarding possible government actions that may be needed in response to market events to ensure the safety, liquidity, and efficiency of the Treasury market.

Large position information is by its very nature proprietary trade information of those firms that deal in government securities and as such will be treated as confidential by the SEC and Treasury and handled accordingly in a secure fashion. The GSA specifically provides that the Department shall not be compelled to disclose publicly any information required to be kept or reported for large position reporting. In particular, such information is exempt from disclosure under the Freedom of Information Act at 5 U.S.C. 552(b)(3)(B). Some of the information received by the SEC related to the risk assessment rules is also proprietary and is treated by the SEC as confidential and it is handled in a secure fashion.

8. Describe efforts to notify the general public about this collection of information.

On April 15, 2021, Treasury published in the *Federal Register* (86 FR 19950) a notice and request for comments concerning the extension of information collection under the regulations that were issued pursuant to the GSA (Attachment E). The 60-day comment period closed on June 14, 2021. No comments were received in response to the notice's request.

Treasury consults on a regular basis with other regulatory agencies that collect similar information and have jurisdiction over government securities brokers and dealers and over depository institutions, namely, the SEC, Board, OCC, and FDIC. The Department also consults with the relevant self-regulatory organizations, such as the Financial Industry Regulatory Authority (FINRA), government securities brokers and dealers of all types and sizes, trade associations, professional associations, and individual professionals serving government securities brokers and dealers. In addition, the Department has and will continue to solicit comments whenever it proposes changes to the recordkeeping and reporting requirements as part of proposed amendments to the regulations, which provide an opportunity for affected parties to comment on the information collection. As part of the development of the large position rules, the Department published an Advance Notice of Proposed Rulemaking (ANPR) on January 24, 1995, in order to involve market participants and interested parties at the earliest phase of the rulemaking process. As previously discussed, on December 10, 2014, Treasury published a final rule amending its large position reporting rules to improve the information reported so that Treasury can better understand supply and demand dynamics in certain Treasury securities. The rule became effective on March 10, 2015.

The Department has responded to inquiries, oral and written, concerning the regulations and continues to do so on an on-going basis.

9. Explain any decision to provide any payment or gift to respondents, other than contractors or grantees.

No payments or gifts have been or will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

With the exception of the submission of financial statements, no assurances of confidentiality beyond those outlined in the Freedom of Information Act and implemented in the Department's regulations at 31 CFR Part 1 are promised. Section 405.2 of the regulations adopts SEC Rule 17a-5 (17 CFR 240.17a-5(e)(3)), which assures the confidentiality of financial statements when filed separately.

The reports required under Treasury's risk assessment rules are made to the specialized government securities brokers' or dealers' appropriate regulatory agency, the SEC. The information required is specifically afforded confidentiality, notwithstanding any other provision of law.

The GSAA specifically provides that the Department shall not be compelled to disclose publicly any information required to be kept or reported for large position reporting and, in particular, such information is exempt from disclosure under the Freedom of Information Act at 5 U.S.C. 552(b)(3)(B).

11. Provide additional justification for any questions of a sensitive nature.

In implementing GSA regulations, Treasury requires associated persons to submit a Form G-FIN-4 (Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer). This form, which includes personally identifiable information, provides the relevant appropriate regulatory agencies with certain information concerning name, employment, and residence.

The Form G-FIN-4 is filed directly with the appropriate regulatory agency (SEC, Board, OCC, and FDIC). The appropriate regulatory agencies regard the information provided by each respondent on this form as confidential. Because the Form G-FIN-4 is submitted directly to the appropriate regulatory agency, Treasury does not handle any personally identifiable information associated with the form.

No questions of a sensitive nature, (e.g., such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private) have or will be asked.

12. Provide estimates of the hour burden of the collection of information.

The regulations contain several separate reporting and recordkeeping requirements, each of which is likely to be applicable to a different number of respondents. Based upon current counts and estimates of the number of respondents, plus SEC estimates of time and cost of filing, where available, for similar information and parallel forms, the burden is estimated as shown in Table 1 (Attachment F).

Based upon current information, there is one registered government securities broker and dealer subject to the full set of regulations and it is not subject to Treasury's risk assessment rules. There are approximately 1,048 registered broker-dealers who are required to comply with portions of the regulations relating to their government securities business. These broker-dealers report to, and are monitored by, the SEC therefore their hours are not counted in Treasury's totals. In addition, approximately 38 financial institutions are required to comply with portions of Subchapter A. There are approximately 907 depository institutions required to comply with Subchapter B.

The burden hours and costs for some sections in Table 1 are generally based on, and consistent with, SEC parallel paperwork submissions and Treasury's previous estimates. As shown in Table 1, we estimate that the total annual burden hours and cost to all respondents will be 215,111 hours and \$7,059,760 respectively. The total annual burden hours to all respondents decreased 9,481 hours from 224,592 burden hours in 2018 to the estimated 215,111 in 2021. The total annual costs to all respondents decreased \$223,750 from \$7,283,510 in 2018 to the estimated \$7,059,760 in 2021.

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from this collection of information.

The identified costs associated with burden hours are addressed in Questions 12 and 14. Estimates of associated costs are shown in Table 1.

Treasury estimates that there are no capital, start-up, or ongoing operation and maintenance costs associated with this information collection.

14. Provide estimate of annualized costs to the Federal government.

Based upon Treasury's estimates and data provided by the SEC in connection with its parallel paperwork submissions, the total annualized cost to the federal government is estimated to be \$126,095. The total annualized cost to the federal government increased \$5,475 from \$120,620 in 2018 to an estimated \$126,095 in 2021. This increase in cost is attributable to inflation since 2018. Cost estimates are shown in Table 1.

15. Explain any reasons for any program changes or adjustments reported in Items 13 or 14 of OMB Form 83-I.

The 9,481 annual burden hours decrease from 2018 is primarily due to the reduction in the number of government securities brokers and government securities dealers from two firms to one firm and fewer affected depository institutions since 2018.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

This is not applicable because there are no plans to publish this information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

It is not necessary to display an expiration date for regulations. The public interest will be better served by not displaying an expiration date on the series of forms used in this collection. The time period during which the current edition of the form will continue to be usable cannot be predicted and could easily span several cycles of review and OMB clearance renewal. Displaying the expiration date would make it necessary to update the electronic form and website where it is accessed after each renewal. Additionally, not displaying the expiration date on the form will avoid confusion among members of the public who may have identical forms with different expiration dates in their possession. By not displaying the expiration date, supplies of the form could continue to be used regardless of when the OMB approval has expired. This would reduce costs incurred through additional printing and desktop publishing.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

19. Does this collection employ statistical methods?

The regulations do not employ statistical methods.