

Overview

The Securities and Exchange SEC (“SEC”) adopted new Rule 13h-1 and Form 13H under Section 13(h) of the Securities Exchange Act of 1934 (“Exchange Act”), on July 27, 2011, to assist the SEC in both identifying, and obtaining trading information on, market participants that conduct a substantial amount of trading activity, as measured by volume or market value, in the U.S. securities markets.

There are many nuances to defining a large trader. For full details to see who is qualified see the SEC rule on Large Trader Reporting: <https://www.sec.gov/rules/final/2011/34-64976.pdf>.

Impact

Rule 13h-1 requires a “large trader,” defined as a person whose transactions in NMS securities equal or exceed 2 million shares or \$20 million during any calendar day, or 20 million shares or \$200 million during any calendar month, to identify itself to the SEC and make certain disclosures on Form 13H.

The Form 13H is required to be filed on the SEC filing website www.edgarfiling.sec.gov. To access this website, filers must have EDGAR access codes, including their Central Index Key (“CIK”) and Password. The codes can be obtained through the SEC <https://www.filermanagement.edgarfiling.sec.gov/>. The CIK and CIK Confirmation Code (“CCC”) are required for filing the Form 13H.

Background

The large trader reporting requirements are designed to provide the SEC with a valuable source of useful data to support its investigative and enforcement activities, as well as facilitate the SEC’s ability to assess the impact of large trader activity on the securities markets, to reconstruct trading activity following periods of unusual market volatility, and to analyze significant market events for regulatory purposes.

Key Dates

- **July 27, 2011:** Large Trader Reporting Approved
- **Aug 3, 2011:** Large Trader Reporting approved filing published in the Federal Register
- **October 3, 2011:** Effective Date of Rule
- **December 1, 2011:** Compliance Date for the requirement on large traders to identify to the SEC pursuant to Rule 13h-1(b)
- **April 30, 2012:** Compliance Date for broker-dealers to maintain records, report, and monitor large trader activity pursuant to Rule 13h-1(d), (e), and (f)

Steps To Take

Once an individual or an entity is defined as a Large Trader, they are required to submit a Form 13H to the SEC that includes basic identification information. Upon receipt of Form 13H, the SEC will assign to each large trader an identification number (“LTID”) that will uniquely and uniformly identify the trader, which must then be provided to its registered broker-dealers, who will use this number to track all the transactions for the Large Trader that can later be supplied to the SEC upon request. The number will also be required for all subsequent filings.

Such registered broker-dealers will then be required to maintain records of two additional data elements in connection with transactions effected through accounts of such large traders (the LTID and the time transactions in the account are executed).

In addition, the SEC is requiring that such broker-dealers report large trader transaction information upon request through the Electronic Blue Sheets systems currently used by broker-dealers for reporting trade information. Finally, certain registered broker-dealers subject to the Rule will be required to perform limited monitoring of their customers’ accounts for activity that may trigger the large trader identification requirements of Rule 13h-1.

Form 13H Filing Types - Sequence and Timing

- **Initial Filing** - to identify Large Trader to the SEC and for SEC to assign Large Trader Identification Number (LTID). More than one related within an entity can qualify as a large trader.
- **Annual Filing** - Required within 45 days after the end of each full calendar year, except that large traders on Inactive Status are not required to file Form 13H while they are on Inactive Status.

- **Amended Filing** - Required if any of the information contained in the initial or annual filing becomes inaccurate. An amended filing must be filed no later than the end of the calendar quarter in which the information was affected. Amended filings are not required for a trader on Inactive Status.
- **Inactive Filing (Status)** - A trader that has not affected aggregate transactions at any time during the previous full calendar year in an amount equal to or greater than the identifying activity level shall become inactive upon filing a Form 13H and thereafter shall not be required to file Form 13H or disclose its large trader status unless and until its transactions again are equal to or greater than the identifying activity level. A large trader that has ceased operations may elect to become inactive by filing an amended Form 13H to indicate its terminated status.
- **Reactivated Filing (Status)** - A trader on Inactive Status who effects aggregate transactions that are equal to or greater than the identifying activity threshold must file a "Reactivated Status" Form 13H promptly after effecting such transactions. Upon filing for Reactivated Status, the person once again would be subject to the filing requirements of Rule 13h-1 and must inform its broker-dealers of its reactivated status.
A trader may voluntarily elect to file for Reactivated Status prior to effecting aggregate transactions that are equal to or greater than the identifying activity threshold.

Termination Filing - A trader, under certain circumstances, may permanently end its large trader status by submitting a "Termination Filing." This filing is designed to allow a trader to inform the SEC that it has been dissolved, terminated operations, or been acquired, and therefore is a notification to the SEC not to expect future filings from that trader. Once terminated a trader may not requalify for large trader status in the future.

Items Contained within Form 13H

Item 1: Businesses of the Large Trader

- Indicate the types of businesses that it or any of its affiliates engage in
- A description of the nature of operations, including a general description of trading strategies

Item 2: SEC Filings

- Indicate whether it or any of its affiliates files any other forms with the SEC
- If so, identify each filing entity, the form(s) filed, and the CIK number

Item 3: CFTC Registration and Foreign Regulators

- Disclose whether it or any of its affiliates is registered with the Commodity Futures Trading SEC ("CFTC") or regulated by a foreign regulator
- If so, identify each entity and the CFTC registration number or primary foreign regulator, as applicable

Item 4: Organization Information

- (a) Attach an Organizational Chart that identifies the large trader, its parent company (if applicable), all Securities Affiliates, and all entities identified in Item 3
- (b) Requires that a large trader provide information about the Item 4 affiliates
- (c) Requires that a large trader identify all affiliates that file a separate Form 13H. Those affiliates will have a different LTID
- (d) Permits a large trader to assign LTID suffixes to one or more of its Securities Affiliates. The same suffix may not be assigned to more than one affiliate using the same LTID

Item 5: Governance of the Large Trader

- Captures basic information about the large trader organization

Item 6: Broker-Dealers list at which the Large Trader or its Securities Affiliates has an account

- Requires that a large trader identify each broker-dealer at which the large trader and any Securities Affiliate has an account
- Each such broker-dealer, the large trader must indicate the type(s) of services provided

How Toppan Merrill Can Assist

Due to the confidential nature of the information being collected in this form, these filings will remain confidential and will not disseminate. The SEC is encouraging filers to prepare and submit their 13H filings directly through the Online EDGAR Filing website (<https://www.edgarfiling.sec.gov/>). The SEC has designed this form type for use as a self-service filing. As always, we are here to assist you in successfully meeting your filing requirements. Feel free to contact your Toppan Merrill service team if you have any questions or would like a walk-through of the SEC's 13H system.

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