DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9616]

RIN 1545–BK05; RIN 1545–BL47

Basis Reporting by Securities Brokers and Basis Determination for Debt Instruments and Options; Reporting for Premium

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations relating to reporting by brokers for transactions involving debt instruments and options. These final regulations reflect changes in the law made by the Energy Improvement and Extension Act of 2008 that require brokers when reporting the sale of securities to the IRS to include the customer's adjusted basis in the sold securities and to classify any gain or loss as long-term or short-term. These final regulations also implement the requirement that a broker report gross proceeds from a sale or closing transaction with respect to certain options. In addition, this document contains final regulations that implement reporting requirements for a transfer of a debt instrument or an option to another broker and for an organizational action that affects the basis of a debt instrument or an option. Moreover, this document contains final regulations relating to the filing of Form 8281, ''Information Return for Publicly Offered Original Issue Discount Instruments,'' for certain debt instruments with original issue discount and temporary regulations relating to information reporting for premium. The text of the temporary regulations in this document also serves as the text of the proposed regulations (REG–154563–12) set forth in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on April 18, 2013.

Applicability Dates: For dates of applicability, *see* §§ 1.1275–3(c)(4), 1.6045–1(a)(15)(i)(C) through 1.6045–1(a)(15)(i)(F), 1.6045–1(a)(18), 1.6045–1(c)(3)(vii)(C) and (D), 1.6045–1(c)(3)(x), 1.6045–1(c)(3)(xiii), 1.6045–1(d)(2), 1.6045–1(d)(5), 1.6045–1(d)(6)(ii)(A), 1.6045–1(m), 1.6045–1(n), 1.6045A–1(d), 1.6045B–1(j), and 1.6049–9T(a).

FOR FURTHER INFORMATION CONTACT: Pamela Lew of the Office of Associate Chief Counsel (Financial Institutions and Products) at (202) 622–3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations related to the furnishing of information in connection with the transfer of securities has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2186. The collection of information in these final regulations in §§ 1.6045–1(c)(3)(xi)(C) and 1.6045A–1 is necessary to allow brokers that effect sales of transferred covered securities to determine and report the adjusted basis of the securities and whether any gain or loss with respect to the securities is long-term or short-term in compliance with section 6045(g) of the Internal Revenue Code (Code). This collection of information is required to comply with the provisions of section 403 of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110–343 (122 Stat. 3765, 3854 (2008)) (the Act).

In addition, the collection of information contained in § 1.6045–1(n)(5) of these final regulations related to the furnishing of information in connection with the sale or transfer of a debt instrument that is a covered security is an increase in the total annual burden under control number 1545–2186. Under section 6045(g), a broker is required to determine and report the adjusted basis upon the sale or transfer of a debt instrument that is a covered security. If a sale has occurred, a broker must also determine and report whether any gain or loss with respect to the debt instrument is long-term or short-term in compliance with section 6045(g). The holder of a debt instrument is permitted to make a number of elections that affect how basis is computed. To minimize the need for reconciliation between information reported by a broker to both a customer and the IRS and the amounts reported on the customer's tax return, a broker is required to take into account certain specified elections in reporting information to the customer. A customer, therefore, must provide certain information concerning an election to the broker in a written notification, which includes a writing in electronic format. The adjusted basis information will be used for audit and examination purposes. The likely respondents are recipients of Form 1099–B.

Estimated total annual reporting burden is 1,417 hours.

Estimated average annual burden per respondent is 0.12 hours.

Estimated average burden per response is 7 minutes.

Estimated number of respondents is 11,500.

Estimated total frequency of responses is 11,500.

This collection of information is required to comply with the provisions of section 403 of the Act.

The burden for the collection of information contained in the amendment to § 1.1275–3 will be reflected in the burden on Form 8281, ''Information Return for Publicly Offered Original Issue Discount Instruments,'' when revised to request the additional information in the regulations. The burden for the collection of information contained in the other amendments to § 1.6045–1 will be reflected in the burden on Form 1099–B, ''Proceeds from Broker and Barter Exchange Transactions,'' when revised to request the additional information in the regulations. The burden for the collection of information contained in the amendments to § 1.6045B–1 will be reflected in the burden on Form 8937, ''Report of Organizational Actions Affecting Basis of Securities,'' when revised to request the additional information in the regulations. The burden for the collection of information contained in § 1.6049–9T will be reflected in the burdens on Form 1099–INT and Form 1099–OID when revised to request the additional information in the regulations. The information described in this paragraph is required to enable the IRS to verify that a taxpayer is reporting the correct amount of income or gain or claiming the correct amount of losses or deductions.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) relating to information reporting by brokers and others as required by section 6045 of the Code. This section

was amended by section 403 of the Act to require the reporting of adjusted basis for a covered security and whether any gain or loss upon the sale of the security is long-term or short-term if gross proceeds reporting is required with respect to such security. The Act also requires the reporting of gross proceeds for an option that is a covered security. In addition, the Act added section 6045A, which requires certain information to be reported in connection with a transfer of a covered security to another broker, and section 6045B, which requires an issuer of a specified security to file a return relating to certain actions that affect the basis of the security. Final regulations under these provisions relating to stock were published in the **Federal Register** on October 18, 2010, in TD 9504 (the 2010 final regulations).

On November 25, 2011, the Treasury Department and the IRS published in the **Federal Register** (76 FR 72652) proposed regulations (REG–102988–11) relating to information reporting by brokers, transferors, and issuers of securities under sections 6045, 6045A, and 6045B for debt instruments and options. Written and electronic comments responding to the notice of proposed rulemaking were received and are available for public inspection at *http://www.regulations.gov* or upon request. A public hearing was held on March 16, 2012.

After considering the comments, the Treasury Department and the IRS adopt the proposed regulations as amended by this Treasury decision. The comments and revisions are discussed in this preamble.

Summary of Comments

A. Effective Dates and Penalty Relief

The proposed regulations had a proposed effective date for both debt instruments and options of January 1, 2013. The Treasury Department and the IRS received numerous requests to delay the proposed effective dates for both debt instruments and options. Brokers and other interested parties maintained that the proposed effective date of January 1, 2013, did not provide them sufficient time to build and test the systems required to implement the reporting rules for debt instruments and options. In response to these requests, Notice 2012–34 (2012–21 I.R.B. 937) was issued to announce that the effective dates in the final regulations would be postponed to January 1, 2014.

A number of commenters also requested relief related to various aspects of reporting under sections 6045, 6045A, and 6045B. One commenter requested a 36-month general penalty relief period to allow brokers to test and refine their reporting systems.

In response to these comments, as was announced in Notice 2012–34, the effective date of these final regulations is postponed so that basis reporting is required for debt instruments and options no earlier than January 1, 2014. Moreover, these final regulations implement the reporting requirements for debt instruments in phases, as described in more detail later in this preamble. These final regulations also implement transfer reporting in phases. These features of the regulations are intended to give brokers ample time to develop and implement reporting systems.

Another commenter requested a safe-harbor for good faith reliance upon debt instrument data that is provided by third-party vendors for purposes of both basis and transfer reporting. With respect to information from third-party vendors, §§ 1.6045–1(d)(2)(iv)(B) and 1.6045A–1(b)(8)(ii) of the 2010 final regulations provide that a broker is deemed to rely upon the information provided by a third party in good faith if the broker neither knows nor has reason to know that the information is incorrect (§ 1.6045A–1(b)(8)(ii) is redesignated in these final regulations as § 1.6045A–1(b)(11)(ii)). Therefore, because the 2010 final regulations already address the concerns raised by these comments, no change on this issue is needed in these final regulations.

Several commenters requested a safe-harbor for purposes of both basis and transfer reporting for good faith reliance upon information received on a section 6045A transfer statement. With respect to basis reporting, § 1.6045–1(d)(2)(iv)(A) of the 2010 final regulations provides for penalty relief if a broker relies upon transferred information when preparing a return under section 6045. With respect to transfer reporting, § 1.6045A–1(b)(8)(i) of the 2010 final regulations (redesignated in these final regulations as § 1.6045A–1(b)(11)(i)) provides for penalty relief if a broker relies upon transferred information when preparing a transfer statement under section 6045A. Because the 2010 final regulations already address the concerns raised by these comments, no change on this issue is needed in these final regulations.

B. Debt Instruments

1. Scope of Debt Instrument Reporting and Phased Implementation

The proposed regulations required basis reporting for all debt instruments, other than a debt instrument subject to section 1272(a)(6) (in general, a debt instrument with principal subject to acceleration). Numerous commenters requested that the final regulations narrow the scope of basis reporting for debt instruments. Many commenters requested permanent exemptions from basis reporting for debt instruments that the commenters believe present data collection or computational difficulties, including convertible debt instruments, debt instruments denominated in non-U.S. dollar currencies, contingent payment debt instruments, variable rate debt instruments, municipal obligations, tax credit bonds, payment-in-kind (PIK) bonds, certificates of deposit, debt instruments issued by foreign persons, U.S. Treasury strips and other stripped debt instruments, inflation-indexed debt instruments, privately placed debt instruments, commercial paper, hybrid securities, investment units, debt instruments subject to put or call options, debt instruments with stepped interest rates, factored bonds, and short-term debt instruments. Alternatively, some commenters suggested that basis reporting be deferred for debt instruments until data is more readily available for some of the instruments described in the preceding sentence. One commenter renewed a request for exempting corporate trustees from basis reporting for registered debt instruments issued in a physical form. Some commenters asked for a permanent exemption or deferred reporting for debt instruments because, unlike the rules for equity, there are numerous rules in the Code and regulations, including holder elections, that affect the adjusted basis of a debt instrument, such as the rules relating to original issue discount (OID), bond premium, market discount, and acquisition premium.

Several commenters requested that the final regulations provide a specific list of the debt instruments subject to basis reporting rather than a list of the debt instruments not subject to basis reporting. Other commenters suggested limiting basis reporting to a debt instrument that has a fixed yield and fixed maturity date. One commenter indicated that fixed yield, fixed maturity date debt instruments comprise approximately 90% of the reportable debt instrument transactions.

Section 6045(g) by its terms requires basis reporting by brokers with respect to any note, bond, debenture, or other

evidence of indebtedness that is a covered security. After consideration of the comments, however, the Treasury Department and the IRS appreciate that the proper implementation of broker basis reporting for debt instruments will require time to build and implement reporting systems, especially for debt instruments with more complex features. Thus, to facilitate an orderly transition to basis reporting for debt instruments, these final regulations implement basis reporting for debt instruments in phases.

For a debt instrument with less complex features, these final regulations require basis reporting by a broker if the debt instrument is acquired on or after January 1, 2014, consistent with Notice 2012–34. This category of less complex debt instruments includes a debt instrument that provides for a single fixed payment schedule for which a yield and maturity can be determined for the instrument under § 1.1272–1(b), a debt instrument that provides for alternate payment schedules for which a yield and maturity can be determined for the instrument under § 1.1272–1(c) (such as a debt instrument with an embedded put or call option), and a demand loan for which a yield can be determined under § 1.1272–1(d). Commenters requested delayed reporting for any debt instrument with an embedded put or call option. The Treasury Department and the IRS believe that brokers should be able to implement reporting for a debt instrument with an embedded option that entitles the issuer to call or the holder to put the debt instrument prior to its scheduled maturity. Moreover, because an embedded put or call option is a common feature of debt instruments, delaying basis reporting for debt instruments with such a feature could delay basis reporting for an unduly large proportion of debt instruments.

Some debt instruments with a fixed yield and a fixed maturity date nevertheless pose challenges for information reporting. For these debt instruments and for more complex debt instruments that do not have a fixed yield and a fixed maturity date, these final regulations require basis reporting for debt instruments acquired on or after January 1, 2016. The Treasury Department and the IRS believe that brokers may need additional time to implement basis reporting for these debt instruments because of their more complex features or the lack of public information for the debt instruments. Fixed yield, fixed maturity debt instruments that are subject to reporting if they are acquired on or after January 1, 2016, include a debt instrument that provides for more than one rate of stated interest (such as a debt instrument with stepped interest rates), a convertible debt instrument, a stripped bond or coupon, a debt instrument that requires payment of either interest or principal in a non-U.S. dollar currency, certain tax credit bonds, a debt instrument that provides for a PIK feature, a debt instrument issued by a non-U.S. issuer, a debt instrument for which the terms of the instrument are not reasonably available to the broker within 90 days of the date the debt instrument was acquired by the customer, a debt instrument that is issued as part of an investment unit, and a debt instrument evidenced by a physical certificate unless such certificate is held (whether directly or through a nominee, agent, or subsidiary) by a securities depository or by a clearing organization described in § 1.1471–1(b)(18). Other debt instruments that do not have a fixed yield and fixed maturity date but are subject to reporting if they are acquired on or after January 1, 2016, include a contingent payment debt instrument, a variable rate debt instrument, and an inflation-indexed debt instrument.

As noted earlier in this preamble, due to the difficulties in implementing basis reporting, the proposed regulations provided that a debt instrument described in section 1272(a)(6) (in general, a debt instrument with principal subject to acceleration) would not be subject to basis reporting. In response to favorable comments on this exception, these final regulations retain this exception from basis reporting.

A number of commenters requested delayed reporting or no basis reporting for short-term debt instruments (that is, debt instruments with a fixed maturity date not more than one year from the date of issue). One commenter argued that the application of the OID, bond premium, market discount, and acquisition premium rules to a short-term debt instrument, including the numerous elections applicable to short-term debt instruments, is complicated, that the effects on the basis of a short-term debt instrument would be marginal, and that basis reporting for short-term debt instruments may impose a significant burden on brokers and provide little benefit to taxpayers or the IRS. Because the Treasury Department and the IRS agree with this comment, these final regulations except short-term debt instruments from basis reporting.

Another commenter requested that the rules pertaining to short-term debt instruments be extended to all debt instruments that are acquired with a remaining term of one year or less. This exemption from information reporting would apply to a debt instrument originally issued with a term of greater than one year and acquired in a secondary market purchase when there is a remaining term of one year or less. The request to extend the short-term debt instrument rules to a long-term debt instrument with one year or less until maturity is not adopted because the rules that govern a debt instrument with a term over one year do not change when the maturity has declined to one year or less. While the potential for significant gain or loss on the debt instrument usually diminishes in the final year, the reporting is useful to the customer and the IRS, and all information required for reporting will be available to the broker.

One commenter requested that the final regulations exempt from reporting securities issued in connection with a bankruptcy restructuring because it is not always clear if a particular security is a debt instrument. After consideration of the comment, this request was not adopted because these final regulations provide that a security is treated as debt for reporting purposes only if the issuer has classified the security as debt or, if the issuer has not classified the security, if the broker knows that the security is reasonably classified as debt under general Federal tax principles.

2. Lack of Industry Consistency Could Affect Reporting

A number of commenters raised concerns and suggestions about how to make reporting more consistent, both between transferring and receiving brokers and between brokers and customers. Many commenters expressed a strong desire to ensure that a customer who transfers a security from one broker to another will receive consistent reporting from the two brokers. Many commenters also asked for assistance in minimizing the amount of potential reconciliation between an amount reported by a broker to a customer and the IRS and the amount reported by that customer on a tax return.

a. Support of Taxpayer Elections

The proposed regulations attempted to simplify reporting requirements by specifying the elections brokers were to assume to compute OID, market discount, bond premium, and acquisition premium reported to holders, and not permitting brokers to support alternative customer elections. A number of commenters, however, indicated a desire by brokers to support debt instrument elections made by their customers rather than rely on assumptions provided in the

regulations. Some commenters stated that they already support some or all elections for debt as a service to their customers, and these commenters predict that similar customer service demands will eventually require all brokers to support customer elections, just as they support customer elections with respect to stock. Other commenters pointed out that the default assumptions in the proposed regulations might be preferred by most individual taxpayers, but other customers, such as trusts or partnerships, might not prefer the default assumptions. One commenter noted that the reporting rules provided in the proposed regulations would make computations by brokers simpler, but that educating customers about permissible elections, and the computations that each election would entail if an election is made, would become critical. This commenter recommended permitting a broker to support customer elections in the future as systems are upgraded.

However, other commenters indicated that some of the statutory defaults were generally simpler to apply and produced economic results that were only negligibly different than the defaults prescribed by the proposed regulations. For example, while the proposed regulations would have required reporting of market discount using a constant yield method, several commenters indicated a preference for reporting accrued market discount using a straight line method.

The Treasury Department and the IRS also received comments regarding the treatment of amortizable bond premium under section 171. One commenter requested that the section 171 election not be mandatory for reporting purposes because most taxpayers have not made the election, but suggested that a broker be required to support the section 171 election if a customer informs the broker that the election was or will be made.

After consideration of all the comments, the Treasury Department and the IRS have concluded that the best way to balance certainty and flexibility is to require brokers to report information using the default assumptions provided in the relevant statute and regulations, except in the case of the section 171 election, but to require brokers to accommodate elections by taxpayers that choose to depart from the defaults. Under these final regulations, upon written notification by a customer, a broker must take into account the following elections for basis reporting purposes: the election to accrue market discount using a constant yield; the election to include market discount in income currently; the election to treat all interest as OID; and the spot rate election for interest accruals with respect to a covered debt instrument denominated in a currency other than the U.S. dollar. The Treasury Department and the IRS do not anticipate that many taxpayers will make these elections. As a practical matter, by removing short-term debt instruments from the basis reporting rules, the number of elections available for a covered security has been reduced to a manageable number, and it is reasonable to require that the remaining debt instrument elections be supported.

These final regulations make an exception to the general rule requiring brokers to use the default elections provided in the statute and regulations in the case of bond premium. Section 171 generally requires taxpayers to affirmatively elect to amortize bond premium on taxable bonds, which then offsets interest income on the bond. Except in the rare case of a holder that prefers a capital loss, the election to amortize bond premium generally will benefit the holder of a debt instrument. Thus, consistent with the proposed regulations, these final regulations require brokers to assume that customers have made the election to amortize bond premium provided in section 171 when reporting basis, unless the customer has notified the broker otherwise.

The rules regarding basis reporting for bond premium in the proposed regulations prompted a number of commenters to request that the rules for reporting interest income associated with a bond acquired at a premium be conformed to the rules regarding basis reporting for these same debt instruments. In response to these commenters, this document contains temporary regulations addressing reporting of premium under section 6049. See Part H of this preamble for additional discussion of this issue.

The Treasury Department and the IRS considered making broker support of debt instrument elections a permitted, but not required, activity, but the additional administrative problems that can arise if a transferring broker supports certain elections while the receiving broker does not support the same elections made a permissive approach problematic. For example, if the receiving broker did not support the same elections as the transferring broker, and the customer properly made one of the elections permitted with respect to a debt instrument and notified the transferring broker of the election, the information provided by the receiving broker on the relevant Form 1099 would not reflect the customer's election, requiring the customer to provide a reconciliation on the customer's income tax return. These administrative problems lead to the conclusion that brokers should be required to support either all of the permitted elections for debt instruments or none of them. Given the numerous requests to support customer elections, coupled with requests to reduce the need for a customer to reconcile tax return data to the data provided by a broker, the Treasury Department and the IRS decided that support for customer debt instrument elections would be beneficial to taxpayers and would not impose an undue burden on brokers. It should be noted that supporting customer elections will require additional transfer statement information to advise a receiving broker of any elections that were used to compute the information provided.

b. Industry Conventions

Several commenters pointed out that brokers do not necessarily use common terms or conventions for debt instrument computations. For example, 30 days per month/360 days per year, actual days per month/360 days per year, and actual days per month/365 days per year are possible interest computation day count conventions. Different brokers may use different amortization and accretion assumptions, different accrual periods, and different rounding conventions.

The proposed regulations prescribed conventions to determine the accrual period to be used for reporting purposes. These final regulations generally adopt the conventions in the proposed regulations. Under these final regulations, a broker must use the same accrual period that is used to report OID or stated interest to a customer under section 6049. In any other situation, a broker is required to use a semi-annual accrual period unless the debt instrument provides for scheduled payments of principal or interest at regular intervals of less than six months over its term, in which case a broker must use an accrual period equal in length to this shorter interval. In response to a comment, these final regulations use a semi-annual accrual period rather than an annual accrual period as the default accrual period.

These final regulations do not prescribe a particular day count convention brokers must use for basis reporting. Instead, these final regulations provide that a broker may use any reasonable day count convention. The terms of a debt instrument, however, generally include

the day count convention that the issuer will use to compute interest payments. The Treasury Department and the IRS expect that a broker generally will choose to use this day count convention to determine the accruals of interest and OID on the debt instrument and the related basis adjustments, which will facilitate reconciliation of the accruals with the amount of cash received by a broker and distributed to a customer. These final regulations also do not prescribe a particular rounding convention.

Commenters also indicated disagreement on the effect of puts and calls on calculations associated with a debt instrument. One commenter asked for clarification about whether issuer choice or holder choice will govern the treatment of put and call dates and recommended amortizing all callable debt instruments to their maturity dates rather than call dates. Another commenter requested standardizing the deemed maturity date and limiting the application of the put/call rules to cases in which the broker has actual knowledge of payment terms that could result in a different maturity date if the put/call rules are applied.

These final regulations continue the approach taken in the proposed regulations. The basis reporting rules are not intended to, and do not, change the substantive rules applicable to debt instruments. Thus, when assessing the effect of an embedded put or call option on a debt instrument, a broker must apply the rules described in § 1.1272–1(c)(5) or § 1.171–3(c)(4), whichever is applicable, to determine the correct date to be used in accrual calculations. The rules described in § 1.1272–1(c)(5) have been in effect since 1994 and the rules described in § 1.171–3(c)(4) have been in effect since 1997. Both rules provide a clear and workable framework for determining the effect, if any, of an embedded put or call option on a debt instrument.

One commenter requested that, to the extent brokers are not required to report using a single set of assumptions and computation conventions, explicit language should be added to the regulations covering transfer statements to require transfer of all information needed for a receiving broker to compute adjustments in a manner consistent with the transferor broker, including payment terms and assumptions used by the transferor broker, as well as any taxpayer elections that were supported by the transferor broker. These final regulations adopt this comment by expanding the information that must be included in a transfer statement for a debt instrument.

3. Other Issues

One commenter stated that there could be problems tracking the adjustments for discount and premium if different measurement periods are used (for example, a daily period versus a period ending on payment dates), especially for a customer that has purchased debt from the same issue at a discount and at a premium. The commenter indicated that tracking OID, market discount, bond premium, and/or acquisition premium adjustments for multiple lots of a single issue will be complex.

One commenter, noting that reporting to the IRS and taxpayers is only required once a year, asked whether a duty exists to compute the debt instrument accruals and display them more frequently than once each year, such as for each accrual or payment period. Another commenter indicated that to facilitate the preparation of transfer statements at any time during a year, it may be necessary to compute all debt instrument accruals each day.

These final regulations generally continue the approach taken in the proposed regulations regarding computations that affect the basis of a debt instrument. In particular, these final regulations do not require a broker to compute debt instrument accruals more than once per year unless a transfer takes place during a tax year, in which case the transferring broker must provide a transfer statement to the receiving broker. If a broker's systems generate more frequent computations to support transfer statements, the broker is permitted to compute the accruals more than once per tax year.

The proposed regulations require accrued market discount to be reported upon the sale of a debt instrument. One commenter asked whether accrued market discount should be reported at the time of a call or at maturity. The commenter also noted that two rules in the proposed regulations relating to market discount may have required the filing of a Form 1099–INT and a Form 1099–B to report accrued market discount. The commenter recommended that accrued market discount be reported only on a Form 1099–B, ''Proceeds from Broker and Barter Exchange Transactions,'' and associated with a specific sale.

For purposes of section 6045, § 1.6045–1(a)(9) defines a sale to include any disposition of a debt instrument, which includes a retirement of a debt instrument at or prior to its stated maturity. These final regulations do not change this definition of a sale with respect to a debt instrument; however, these final regulations clarify that a sale for purposes of section 6045 includes a partial principal payment. Moreover, under these final regulations, in the case of a sale, accrued market discount will be reported only on the Form 1099–B, which would associate the accrued market discount with a specific sale of a single security. In connection with this comment, these final regulations amend the rule in § 1.6045–1(d)(3) for reporting accrued stated interest on a Form 1099–INT when a debt instrument is sold between interest payment dates to make it clear that the rule does not apply to accrued market discount.

A number of comments were received that address narrower issues. One commenter requested guidance about how to determine and translate interest income or expense (including OID) on certain non-functional currency debt. Rules regarding the determination and translation of interest income and expense on certain debt instruments denominated in a non-functional currency are explicitly addressed in the regulations under section 988. *See,* for example, § 1.988–2(b).

During the preparation of these final regulations, the Treasury Department and the IRS reviewed the existing reporting requirements for short-term debt instruments. Based on this review, these final regulations exempt from gross proceeds reporting all short-term debt instruments. This exemption is consistent with the existing exemption from reporting for certain short-term debt instruments in § 1.6045–1(c)(3)(vii)(C), and the provisions in these final regulations that exempt short-term debt instruments from basis reporting. Moreover, almost all income related to short-term debt instruments is captured through the income reporting rules under section 6049 and any capital gain or loss related to a short-term debt instrument is expected to be very small.

C. Comments on Option Transactions

1. Scope of Option Reporting

In general, under the proposed regulations, basis and gross proceeds reporting applied to the following options granted or acquired on or after January 1, 2013: an option on one or more specified securities, including an option on an index substantially all the components of which are specified securities; an option on financial attributes of specified securities, such as interest rates or dividend yields; and a warrant or a stock right on a specified security. The scope provisions in these final regulations are generally the same as the scope provisions in the proposed regulations, except that these final

regulations explicitly exclude a compensatory option. As announced in Notice 2012–34, these final regulations generally apply to an option granted or acquired on or after January 1, 2014.

One commenter asked for clarification of the concept of ''financial attributes'' in the scope provision. After reviewing the proposed language, the Treasury Department and the IRS believe that the list of items provided in § 1.6045–1(m)(2)(i)(B) provides adequate detail to describe the concept.

Commenters also requested that the regulations not apply to options that are subject to section 1256. As explained immediately below, this comment was not adopted in these final regulations.

2. Option Transactions Subject to Section 1256

Numerous comments were received related to nonequity options that are covered by section 1256(b)(1)(C) (''section 1256 options''), which includes a listed option on a stock index that is not a narrow-based security index. Several commenters noted that the substantive rules that apply to section 1256 options are different from the rules that apply to non-section 1256 options and asked for different reporting treatment for the two types of options. Some commenters requested an exemption from reporting for all section 1256 options. The commenters suggested that if a blanket exemption from reporting is not provided, the IRS should consider extending the reporting rules for regulated futures contracts described in § 1.6045–1(c)(5) to section 1256 options. One commenter noted that although the current rules only require reporting for regulated futures contracts on Form 1099–B, some brokers may already be reporting section 1256 options in a similar manner.

The Treasury Department and the IRS agree that there should be different reporting rules for section 1256 options and non-section 1256 options. In general, an option is subject to reporting under section 6045 only if the option references one or more specified securities. For a nonequity option described in section 1256(b)(1)(C) on one or more specified securities, a broker will apply the reporting rules that apply to a regulated futures contract, which are described in § 1.6045–1(c)(5). For an option on one or more specified securities that is not described in section 1256(b)(1)(C), a broker will report gross proceeds and basis in accordance with the rules in these final regulations for a non-section 1256 option, which are described later in this preamble.

a. Scope Issues Related to Section 1256 Options

A number of comments focused on potential difficulties in distinguishing between an option on a broad-based index, which would be covered by section 1256, and an option on a narrow-based index, which would be treated in the same manner as an option on a single equity. Commenters requested guidance about how to determine whether an index is broad-based or narrow-based, and some commenters requested that the IRS annually publish a list of what constitutes a section 1256 option. Alternatively, the commenters requested complete exclusion of all stock index options. These final regulations do not provide substantive rules on index options. Rather, to determine whether an index substantially all the components of which are specified securities is a broad-based index under section 1256(g)(6)(B), a broker must look to rules established by the Securities Exchange Commission and the Commodities Futures Trading Commission that determine which regulator has jurisdiction over an option on the index. An option on a broad-based index is a nonequity option described in section 1256(b)(1)(C).

Several commenters requested broker penalty relief for good faith determinations of section 1256 status for index options. The Treasury Department and the IRS appreciate the difficulty in making determinations of section 1256 status. Therefore, these final regulations grant relief under sections 6721 and 6722 if a broker determines in good faith that an index is, or is not, a narrow-based index described in section 1256(g)(6) and reports in a manner consistent with that determination.

One commenter asked for an exemption from basis reporting for options on foreign currency and suggested that foreign currency be treated as a commodity. Because commodities and foreign currency are not specified securities, basis reporting by a broker for an option on foreign currency or an option on a commodity is not currently required under section 6045. Accordingly, no change is made in these final regulations in response to this comment.

b. Other Issues Related to Section 1256 Options

A number of commenters asserted that neither the wash sale rules under section 1091 nor the short sale rules described in section 1233 should apply to a section 1256 option. One commenter asked for clarification about how holding period adjustments due to application of the wash sale provisions should be applied to section 1256 options. These comments have not been adopted because the changes requested are substantive in nature and outside the scope of the reporting rules.

3. Non-Section 1256 Options

Comments were also received on the rules in the proposed regulations relating to non-section 1256 options. Several commenters asserted that there are administrative issues involved in reporting over-the-counter (OTC) options and asked that OTC options be exempted from reporting. One commenter suggested that if exemptions were not granted, the IRS should create a ''best efforts'' safe harbor for OTC options. The Treasury Department and the IRS believe that it is reasonable to expect a broker to know the information required to report on an OTC option when it is entered into or when it is transferred into a customer's account. Moreover, the regulations under section 6045A require the transferor of an OTC option to provide detailed information to a receiving broker sufficient to describe the option. This could include data about the underlying asset, contract size, non-standardized strike price, and expiration date. These final regulations therefore apply to any OTC option on a specified security.

For a cash settled non-section 1256 option, the proposed regulations required a broker to adjust gross proceeds related to an option transaction by increasing gross proceeds by the amount of any payments received for issuing the option and decreasing gross proceeds by the amount of any payments made on the option. A number of commenters requested that, instead of decreasing gross proceeds by amounts paid out, brokers be permitted to report gross amounts paid and received with respect to the option. Under this approach, the gross proceeds box on Form 1099–B would include all payments received, and the basis box on Form 1099–B would reflect any payments made. These commenters noted that some broker systems already deal with equity options this way. This suggestion has not been adopted because it is not consistent with the overall concept of gross proceeds and basis reporting, which applies to all covered securities. The rules in these final regulations for a cash settled option are based upon the basic idea that costs related to the acquisition of a position affect basis, while the costs related to the sale or closeout of a position affect gross proceeds. This is consistent with the changes to the

definition of gross proceeds in the proposed regulations.

Under these final regulations, expenses related to the sale of an asset must be deducted from gross proceeds and may not be added to basis. For a purchased option, the basis in the option will include the premium paid as well as any commissions, fees, or other transaction costs related to the purchase. Gross proceeds on the cash settlement of the purchased option should be adjusted to account for any commissions, fees, or other transaction costs related to the cash settlement. In the case of a written option, a broker must determine the amount of reportable proceeds by subtracting from the amount of the premium received for writing the option any settlement payments, commissions, or other costs related to the close out or cash settlement. At the suggestion of several commenters, a clarification has been added that the basis under this scenario should be reported as $0.

One commenter requested that for cash-settled options, acquisition costs be treated as adjustments to gross proceeds and that no adjustments be made to basis for acquisition costs. This comment has not been adopted because it is contrary to the requirements of § 1.263(a)-4(c), which require that acquisition costs be treated as part of basis.

One commenter requested that if multiple option contracts are bundled into a single investment vehicle and the components cannot be separately exercised, the investment will be treated as a single instrument with a single basis. These final regulations do not adopt this comment because the basis of each financial instrument is required to be accounted for separately.

Another commenter asked that the regulations explicitly address whether a broker must take into account the straddle rules under section 1092, including the qualified covered call rules in section 1092(c)(4). Consistent with the approach taken for broker basis reporting for stock, these final regulations explicitly provide that a broker will not take section 1092 into consideration when determining basis of an option that is a covered security.

Several comments were received asking for guidance in determining which options would be considered substantially identical for the purpose of applying the wash sale rules under section 1091. The 2010 final regulations only require a broker to apply the wash sale rules when the transaction involves covered securities with the same CUSIP number, and these final regulations do not change this rule.

4. Stock Acquired Through the Exercise of a Compensatory Option

The proposed regulations provided that a broker was permitted, but not required, to increase a customer's initial basis in stock for income recognized upon the exercise of a compensatory option or the vesting or exercise of other equity-based compensation arrangement. The preamble to the proposed regulations also stated that the IRS might add a field to Form 1099–B to indicate when stock was acquired via the exercise of a compensatory option. In response, commenters asked that there be no change to the Form 1099–B to reflect compensation status or, alternatively, that using the indicator be permitted, but not required. These commenters indicated that compensation information is not accessible to most brokers, and extensive reprogramming for both the underlying database and the reporting process would be required. The commenters also expressed concerns that, in many situations, a broker would have to accept customer-provided information in order to track the compensation-related status.

After consideration of the comments, the Treasury Department and the IRS agree a compensation-related field should not be added to the Form 1099–B. The lack of a mechanism to communicate whether the basis of stock has been adjusted for the exercise of a compensatory option coupled with a system involving discretionary broker adjustments for compensatory options would, however, be unworkable. Therefore, these final regulations provide that brokers are not permitted to adjust basis to account for the exercise of a compensatory option that is granted or acquired on or after January 1, 2014. This approach will eliminate confusion and uncertainty for an employee who has exercised a compensatory option. Under the permissive adjustment rule in the proposed regulations, without an indicator on Form 1099–B, an employee would not necessarily know whether the basis of the stock acquired through the exercise of a compensatory option had been adjusted by a broker to account for any income recognized by the employee due to the option exercise. By prohibiting adjustment by a broker, an employee will know that the basis number reported by the broker only reflects the strike price paid for the stock and that a basis adjustment may be necessary to reflect the full amount paid by the employee.

5. Backup Withholding for Option Transactions

One commenter asked for guidance on how to implement backup withholding for option transactions. In particular, the commenter asked for clarification about whether a rule similar to § 31.3406(b)(3)–2(b)(4) applies, permitting a broker to withhold at either the time of sale or upon a closing transaction or lapse. The commenter also asked how to apply backup withholding to several situations involving physically settled options or when the taxpayer transfers an option or ends up closing out an option transaction at a loss. This comment is not adopted because backup withholding rules are outside the scope of these final regulations.

6. Stock Rights and Warrants Under Sections 305 and 307

Several commenters requested that stock rights and warrants be excluded from basis reporting. Several other commenters addressed issues under sections 305 and 307. One commenter pointed out some administrative problems with the taxpayer election to allocate basis under section 307, including the fact that the election to allocate basis can be made after a broker's Form 1099–B reporting window closes. This commenter recommended requiring basis adjustments to reflect the issuance of stock rights or warrants only when section 307 requires allocation of basis because the value of the stock right or warrant represents 15% or more of the fair market value of the old stock. Another commenter noted that distributions of stock rights or warrants representing 15% or more of the value of the old stock are uncommon and recommended that brokers should not make an adjustment for the effects of section 307.

One commenter requested a clarification of the rules for a stock right or warrant that terminates other than by exercise or actual sale, so that a closing transaction that results in $0 proceeds is not a sale subject to reporting on a Form 1099–B. The commenter was concerned that in many cases a broker would have to report a lapse of a stock right or warrant by reporting $0 as proceeds on the Form 1099–B, even in situations where there is no basis to report.

After consideration of the comments, these final regulations provide that a broker is permitted, but not required, to apply the rules of sections 305 and 307 when reporting the basis of a stock right or warrant or any stock related to a stock right or warrant. This rule will permit the industry to deploy its resources

most efficiently. A broker who already supports adjustments under sections 305 and 307 will not need to reprogram its systems, while a broker who does not currently support the adjustments can decide to do so later, or not at all. Note that, under these final regulations, a stock right or a warrant purchased from the original recipient is treated as an option.

D. Other Financial Instruments Subject to Reporting

One commenter asked for an explicit exemption from reporting for single stock futures that fall under section 1234B or for guidance on how to apply section 1234B. This request was not adopted; instead, these final regulations add section 1234B contracts to the definitions of specified security and covered security. The Treasury Department and the IRS believe that there is no reason to exclude single stock futures on a specified security from information reporting when information reporting is generally required on stock, options on stock, and regulated futures contracts.

E. Transfer Reporting Under Section 6045A

Numerous comments were received related to transfer reporting for debt instruments, as required by section 6045A. Many comments focused on the information that was to be included on the transfer statement. Some commenters argued for the transfer of original purchase information related to debt instruments because some brokers will recompute OID, market discount, bond premium, and acquisition premium through the transfer date and will use the recomputed numbers, instead of the numbers provided by the prior broker, to populate their data systems. Other commenters argued that only adjusted basis needs to be transferred to provide for subsequent accrual computations; these commenters point out that some adjustments, such as wash sale loss deferrals and holding period adjustments, will be reported accurately if adjusted basis is reported on a transfer statement, but may not be reflected if basis is recomputed based on original purchase information. Further, to the extent that a transferor broker might have used a computational method that is different from the method used by the receiving broker, as long as each broker is internally consistent in reporting income and adjusting basis, permitting the receiving broker to start from adjusted basis will help ensure that there is no duplication or omission of income and adjustments. Another commenter argued that the market discount, acquisition premium, and bond premium amounts should be implicit in the combination of adjusted issue price and adjusted cost basis, and transfer of the details is not needed. One commenter suggested treating each transfer as though it were a new purchase. This would entail comparing the reported adjusted basis to the adjusted issue price, determining new amounts of bond premium, market discount, or acquisition premium, and then basing all further accruals on these numbers.

After consideration of the comments, the Treasury Department and the IRS believe that brokers and customers are better served when all relevant information is provided when a security is transferred. These final regulations therefore generally require the information specified in the proposed regulations, and have expanded the list of information that must be provided to support the new requirement that a broker support customer debt instrument elections. It is not anticipated that a particular receiving broker will necessarily use all of the information received. For example, if a receiving broker's systems are set up to recompute debt instrument accruals from the issue date, that broker may not find the data for adjusted issue price as of the transfer date to be useful.

Several commenters also expressed concerns about transferring data purchased from third-party vendors. One commenter suggested that communicating the CUSIP identifier for a debt instrument might be sufficient to enable a receiving broker to retrieve information that applies to all debt instruments in a particular issue, such that some of the data described in the proposed regulations might not be necessary. Another commenter argued that data specific to a customer, such as initial purchase price and date, and the CUSIP should provide a receiving broker with all information needed to properly compute debt instrument accruals.

These final regulations, like the proposed regulations, require that a transferor broker provide all information necessary to allow a receiving broker to comply with its information reporting obligations. Consistent with the comments, if providing a CUSIP number or similar security identifier is adequate to enable the receiving broker to obtain some of the required information, a transferring broker is permitted to supply the CUSIP number or security identifier as a substitute for that information. For example, data that applies to all debt instruments in an issue, such as issuer name, issue date, coupon rate, coupon payment dates, or issue price, might be data that could be derived from a CUSIP or other security identifier. However, under these final regulations, like the proposed regulations, a receiving broker may request to receive the information specified in the regulations from the transferor broker. Further, data specific to a customer, such as price paid by the customer, the acquisition date, or yield, must be transmitted separately as these data will be different for each customer and cannot be derived from the CUSIP number.

A few commenters focused specifically on the list of debt instrument-specific data that was included in proposed § 1.6045A–1(b)(3). One commenter asked if the amount of acquisition premium already amortized should be added to the list, pointing out that accrued market discount and amortized bond premium are already reportable. One commenter asked that the date through which the transferor broker made adjustments be added to the list. These final regulations adopt these comments and add these data to the list of transfer statement items.

One commenter asked whether, when complying with the transfer statement rules under section 6045A for a section 1256 option, a broker may report the adjusted basis instead of the original basis for a position that has been marked to market. Section 1.6045A–1(b)(1)(vii) of the 2010 final regulations requires a broker to report the adjusted basis of a specified security. Therefore, no change is needed to address this comment.

One commenter asked for penalty relief for transfer reporting analogous to the relief that was provided for transfer reporting for stock in Notice 2010–67, 2010–43 I.R.B. 529. Under Notice 2010–67, although broker reporting for basis began for some stock acquired on or after January 1, 2011, transferring brokers were given penalty relief if they did not provide transfer statements for transfers occurring during 2011, and receiving brokers were instructed to treat a transfer during 2011 for which no transfer statement was received as the transfer of a noncovered security. Instead of penalty relief, the Treasury Department and the IRS believe that it is appropriate to provide additional time for brokers to phase in transfer reporting for transfers of debt instruments, options, and securities futures contracts, and the final regulations provide that transfer reporting for debt instruments, options, and securities futures contracts will be

applicable no earlier than January 1, 2015.

F. Issuer Reporting Under Section 6045B

A number of comments were received concerning returns relating to issuer actions affecting the basis of securities under section 6045B. Several commenters asked whether certain types of events would be reportable under section 6045B, including the issuance of a debt instrument, a reissuance of a debt instrument, and a reorganization in bankruptcy where new debt instruments are issued for old debt instruments. Section 6045B only applies to an issuer action that affects basis. The issuance of a debt instrument generally is not an issuer action affecting the basis of a debt instrument. Accordingly, in many cases, the issuance of a debt instrument is not subject to section 6045B. The legislative history, however, indicates that reorganizations, such as mergers and acquisitions, are among the organizational actions that can trigger reporting under section 6045B. Thus, for example, the issuance of a debt instrument in a recapitalization, including a recapitalization resulting from a significant modification or a bankruptcy reorganization, can be an issuer action affecting the basis of a debt instrument for purposes of section 6045B.

One commenter pointed out that a REMIC regular interest is excluded from being a covered security, but is not excluded from being a specified security. With respect to reporting under section 6045B, the commenter requested that if a specified security is not subject to basis reporting, issuer reporting under section 6045B should not be required. These final regulations clarify that a REMIC regular interest is not a specified security and, therefore, is not subject to reporting under section 6045B.

Section 1.6045B–1(a)(3) of the 2010 final regulations provides that an issuer may meet its reporting obligation under section 6045B by posting a copy of Form 8937 to its public Web site. One commenter renewed a request that the IRS permit an issuer to provide the information required by section 6045B on a Web site without posting a copy of Form 8937. The regulations do not adopt this suggestion because posting a copy of Form 8937 ensures consistent presentation of the reported information. Another commenter noted that posting a copy of Form 8937 could facilitate identity theft because the written signature of the certifying company official would be widely available. These final regulations allow an issuer to publicly post a Form 8937 with an electronic signature as an alternative to a written signature.

One commenter requested that a clearing organization involved in clearing exchange-traded options be treated as an issuer rather than a writer for purposes of section 6045B. Other commenters suggested language to clarify the identification of the party responsible for reporting in the case of an OTC option. In response to the commenters, these final regulations specify that a clearing organization that is the counterparty to an exchange-traded option is the issuer of the option for purposes of section 6045B, and the writer of an OTC option is the issuer for purposes of section 6045B.

One commenter pointed out that currently there is no safe harbor for modifications to non-debt instruments, so any modification of an option technically might result in a taxable event. The commenter recommended providing an assumption for brokers that changes to option terms do not result in a taxable event if section 1001 does not apply. This request is outside the scope of the current project and so no changes were made to these final regulations in response to this comment. It should be noted, however, that under these final regulations, an option issuer only needs to comply with § 1.6045B–1 if the change in the underlying asset results in a different number of option contracts. If the terms of the option are changed to reflect a corporate event, but the number of option contracts does not change, a section 6045B event has not occurred.

G. Foreign Intermediaries

One commenter requested that foreign entities that are not U.S. payors and are either qualified intermediaries or participating foreign financial institutions be excluded from basis reporting requirements. The Treasury Department and the IRS intend to issue future guidance coordinating the reporting requirements applicable to qualified intermediaries and participating foreign financial institutions under chapter 61 (including section 6045) with the applicable chapter 4 reporting requirements.

H. Temporary Regulations Related to Reporting of Bond Premium and Acquisition Premium

As noted earlier in this preamble, a number of commenters requested that the rules for reporting interest income associated with a debt instrument acquired at a premium be conformed to the rules regarding basis reporting for these same debt instruments. Under the current information reporting rules under section 6049, interest income is reported without adjustment for bond premium or acquisition premium.

Under section 171(e) (which was added to the Code in 1988) and § 1.171–1 (which was amended in 1997 to reflect the addition of section 171(e)), amortized bond premium offsets stated interest payments. As a result, only the portion of a stated interest payment that is not offset by the amortized premium is treated as interest for federal income tax purposes. Under section 6049(a), the Secretary can prescribe regulations to implement the reporting of interest payments, which includes the determination of the amount of a payment that is reportable interest. Similarly, notwithstanding section 6049(d)(6)(A)(i), under section 6049(a), the Secretary can prescribe regulations to implement the reporting of OID, which includes the determination of the amount reportable as OID (interest).

The Treasury Department and the IRS believe that the income reporting and basis reporting rules should be consistent. Therefore, to improve consistency between income reporting and basis reporting and to provide immediate guidance to brokers and investors, this document adds temporary regulations under section 6049 to require broker reporting of interest (OID) income to reflect amounts of amortized bond premium or acquisition premium for a covered debt instrument.

Under the temporary regulations, for purposes of section 6049, a broker will assume that a customer has elected to amortize bond premium unless the broker has been notified that the customer has not made the election. It should be noted that this change applies only to the information reported by the broker to its customer. Thus, a customer that does not prefer to make the section 171 election can report interest on the customer's income tax return unadjusted for bond premium because the information reporting rules do not change the substantive rules affecting bond premium (or any of the other rules pertaining to OID, market discount, or acquisition premium). Moreover, a customer can notify a broker that the customer has not made or has revoked a section 171 election, and the broker is required to reflect this fact on the Form 1099–INT and the Form 1099–B. If a broker is required to report amounts reflecting amortization of bond premium, the temporary regulations allow a broker to report either a gross amount for both stated interest and amortized bond premium or a net amount of stated interest that reflects the offset of the stated interest payment

by the amount of amortized bond premium allocable to the payment.

In addition, under the temporary regulations, for purposes of section 6049, a broker must report OID adjusted for acquisition premium in accordance with § 1.1272–2 by assuming that a customer has not elected to amortize acquisition premium based on a constant yield. However, if the broker has been notified that the customer has made an election to amortize acquisition premium based on a constant yield, the broker is required to reflect this fact on the Form 1099–OID and the Form 1099–B. The temporary regulations allow a broker to report either a gross amount for both OID and acquisition premium, or a net amount of OID that reflects the offset of the OID by the amount of amortized acquisition premium allocable to the OID.

I. Form 8281

Under § 1.1275–3(c) of the current final regulations, an issuer of a publicly offered debt instrument issued with OID must file a Form 8281, ''Information Return for Publicly Offered Original Issue Discount Instruments,'' within 30 days after the issue date of the debt instrument. The information from Form 8281 is used to develop the tables of OID information that are part of Publication 1212, ''Guide to Original Issue Discount (OID) Instruments.'' To be publicly offered, a debt instrument generally must be registered with the Securities and Exchange Commission as of the instrument's issue date. In many instances, a debt instrument issued in a private placement is registered with the Securities and Exchange Commission after the issue date. As a result, a Form 8281 is not required to be filed with the IRS and, therefore, the OID information generally does not appear in the Publication 1212 tables. A number of commenters on the proposed regulations asked that OID information on more debt instruments be provided in the tables to Publication 1212. In response to these comments, the regulations under § 1.1275–3(c) are amended to require the filing of a Form 8281 for a debt instrument that is part of an issue the offering of which is registered with the Securities and Exchange Commission after the issue date of the debt instrument. The Form 8281 is required to be filed within 30 days of the date the offering is registered with the Securities and Exchange Commission.

J. Consideration of Administrative Burdens Related to Basis Reporting

A number of commenters indicated that compliance with basis reporting requirements and the use of basis and other information reported by brokers will require considerable resources and effort on the part of return preparers and information recipients. The Treasury Department and the IRS are continuing to review all aspects of the information reporting process and are exploring ways to reduce the compliance burden for both brokers and for information recipients.

Effective/Applicability Dates

These regulations are effective when published in the **Federal Register** as final regulations. In general, the regulations regarding reporting of basis and whether any gain or loss on a sale is long-term or short-term under section 6045(g) apply to certain debt instruments acquired on or after January 1, 2014. *See* § 1.6045–1(n)(2). In general, for all other debt instruments, the regulations apply to debt instruments acquired on or after January 1, 2016. *See* § 1.6045–1(n)(3). The regulations regarding reporting of gross proceeds, basis, and whether gain or loss on a sale is long-term or short-term under section 6045(h) apply to options granted or acquired on or after January 1, 2014. The regulations regarding reporting of basis and whether any gain or loss on a sale is long-term or short-term apply to securities futures contracts entered into on or after January 1, 2014. In general, the regulations regarding transfer reporting for certain debt instruments, options, and securities futures contracts apply to transfers occurring on or after January 1, 2015. The regulations regarding transfer reporting for more complex debt instruments apply to transfers occurring on or after January 1, 2017. *See* § 1.6045A–1(d). The regulations regarding reporting for issuer actions that affect the basis of certain debt instruments, options, and securities futures contracts apply to issuer actions occurring on or after January 1, 2014. The regulations regarding reporting for issuer actions that affect the basis of more complex debt instruments apply to issuer actions occurring on or after January 1, 2016. *See* § 1.6045B–1(j). The final regulations regarding the filing of Form 8281 apply to a debt instrument that is part of an issue the offering of which is registered with the Securities and Exchange Commission on or after January 1, 2014. The temporary regulations under section 6049 relating to the reporting of premium apply to covered securities acquired on or after January 1, 2014.

Special Analyses

It has been determined that this rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the temporary regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to the temporary regulations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the final regulations in this document will not have a significant economic impact on a substantial number of small entities. Any effect on small entities by the rules in the final regulations flows directly from section 403 of the Act.

Section 403(a) of the Act modifies section 6045 to require that, when reporting the sale of a covered security, brokers report the adjusted basis of the security and whether any gain or loss with respect to the security is long-term or short-term. The Act also requires gross proceeds reporting for options. It is anticipated that these statutory requirements will fall only on financial services firms with annual receipts greater than $7 million and, therefore, on no small entities. Further, in implementing the statutory requirements, the final regulations generally limit reporting to information required under the Act.

Section 403(a) of the Act requires a broker to report the adjusted basis of a debt instrument that is a covered security. The holder of a debt instrument is permitted to make a number of elections that affect how basis is computed. To minimize the need for reconciliation between information reported by a broker to both a customer and the IRS and the amounts reported on the customer's tax return, the final regulations require a broker to take into account certain specified elections in reporting information to the customer. Therefore, under the final regulations, a customer must provide certain information concerning an election to the broker in a written notification, which includes a writing in electronic format. It is anticipated that this collection of information will not fall on a substantial number of small entities. Further, the final regulations generally implement the statutory requirements for reporting adjusted

basis. Moreover, any economic impact is expected to be minimal because it should take a customer no more than seven minutes to satisfy the information-sharing requirement in these final regulations.

Section 403(c) of the Act added section 6045A, which requires applicable persons to furnish a transfer statement in connection with the transfer of custody of a covered security. The modifications to § 1.6045A–1 effectuate the Act by giving the broker who receives the transfer statement the information necessary to determine and report adjusted basis and whether any gain or loss with respect to a debt instrument or option is long-term or short-term as required by section 6045 when the security is subsequently sold. Consequently, the final regulations do not add to the impact on small entities imposed by the statutory scheme. Instead, it limits the information to be reported to only those items necessary to effectuate the statutory scheme.

Section 403(d) of the Act added section 6045B, which requires issuer reporting by all issuers of specified securities regardless of size and even when the securities are not publicly offered. The modifications to § 1.6045B–1 limit reporting to the additional information for debt instruments and options necessary to meet the Act's requirements. Additionally, the final regulations, as modified, retain the rule that permits an issuer to report each action publicly instead of filing a return and furnishing each nominee or holder a statement about the action. The final regulations therefore do not add to the statutory impact on small entities but instead eases this impact to the extent the statute permits.

Therefore, because the final regulations in this document will not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required.

Pursuant to section 7805(f) of the Code, the proposed regulations preceding the final regulations in this document were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business, and no comments were received. In addition, the proposed regulations accompanying the section 6049 temporary regulations in this document have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Pamela Lew, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6049–9T also issued under 26 U.S.C. 6049(a). * * *

■ Par. 2. Section 1.1271–0(b) is amended by adding an entry for § 1.1275–3(c)(4) to read as follows:

§ 1.1271–0 Original issue discount; effective date; table of contents.

* * * * *

(b) * * *

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§ 1.1275–3 OID information reporting requirements.

* * * * *

(c) * * *

(4) Subsequent registration.

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■ Par. 3. Section 1.1275–3 is amended by adding paragraph (c)(4) to read as follows:

§ 1.1275–3 OID information reporting requirements.

* * * * *

(c) * * *

(4) *Subsequent registration.* Except as provided in paragraph (c)(3) or (d) of this section, the information reporting requirements of paragraph (c)(1) of this section apply to any debt instrument that has original issue discount if the instrument is part of an issue the offering of which is registered with the Securities and Exchange Commission (SEC) after the issue date of the debt instrument. For example, this paragraph (c)(4) applies to a newly issued debt instrument (B bond) exchanged for an otherwise identical non-SEC-registered debt instrument (A bond) if the B bond is part of an issue the offering of which is registered with the SEC and the B bond has an issue date that is the same as the issue date of the A bond for federal tax purposes because the exchange is not a realization event under § 1.1001–3. If a debt instrument is subject to this paragraph (c)(4), the prescribed form (Form 8281 or any successor) must be filed with the Internal Revenue Service within 30 days after the date the offering is registered with the SEC. This paragraph (c)(4) applies to a debt instrument that is part of an issue the offering of which is registered with the SEC on or after January 1, 2014.

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■ Par. 4. Section 1.6045–1 is amended by:

■ 1. Revising paragraphs (a)(3)(v) and (a)(3)(vi) and adding paragraphs (a)(3)(vii) and (a)(3)(viii).

■ 2. Revising paragraphs (a)(8) and (a)(9).

■ 3. Revising paragraphs (a)(14) and (a)(15)(i)(A).

■ 4. Redesignating paragraph (a)(15)(i)(C) as paragraph (a)(15)(i)(G) and adding new paragraphs (a)(15)(i)(C) through (a)(15)(i)(F).

■ 5. Adding a new sentence at the end of paragraph (a)(15)(ii).

■ 6. Adding new paragraphs (a)(17) and (a)(18).

■ 7. Adding two new sentences at the end of paragraph (c)(3)(vii)(C) and adding a new sentence at the end of paragraph (c)(3)(vii)(D).

■ 8. Adding a new sentence at the end of paragraph (c)(3)(x) and revising the first two sentences in paragraph (c)(3)(xi)(C).

■ 9. Adding new paragraph (c)(3)(xiii).

■ 10. Revising the last sentence of paragraph (c)(4) *Example 9* (i).

■ 11. Adding two new sentences at the end of paragraph (d)(2)(i) and revising paragraph (d)(2)(ii) and the first sentence of paragraph (d)(2)(iii).

■ 12. Revising paragraph (d)(3).

■ 13. Removing the first four sentences of paragraph (d)(5) and adding six sentences in their place.

■ 14. Revising the second sentence and adding two new sentences at the end of paragraph (d)(6)(i).

■ 15. Removing the first three sentences of paragraph (d)(6)(ii)(A) and adding five sentences in their place.

■ 16. Revising the heading for paragraph (d)(6)(ii)(B).

■ 17. Revising the last sentence of paragraph (d)(6)(iii)(A).

■ 18. Revising paragraph (d)(6)(iv).

■ 19. Revising paragraph (d)(6)(vii) *Example 4.*

■ 20. Revising the second sentence of paragraph (d)(7)(i).
■ 21. Removing the first sentence of paragraph (d)(8)(i)(A) and adding a sentence and a parenthetical phrase in its place.
■ 22. Adding paragraphs (m) and (n).

The additions and revisions read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

(a) * * *

(3) * * *

(v) An interest in or right to purchase any of the foregoing in connection with the issuance thereof from the issuer or an agent of the issuer or from an underwriter that purchases any of the foregoing from the issuer;

(vi) An interest in a security described in paragraph (a)(3)(i) or (iv) of this section (but not including executory contracts that require delivery of such type of security);

(vii) An option described in paragraph (m)(2) of this section; or

(viii) A securities futures contract.

* * * * *

(8) The term *closing transaction* means a lapse, expiration, settlement, abandonment, or other termination of a position. For purposes of the preceding sentence, a position includes a right or an obligation under a forward contract, a regulated futures contract, a securities futures contract, or an option.

(9) The term *sale* means any disposition of securities, commodities, options, regulated futures contracts, securities futures contracts, or forward contracts, and includes redemptions of stock, retirements of debt instruments (including a partial retirement attributable to a principal payment received on or after January 1, 2014), and enterings into short sales, but only to the extent any of these actions are conducted for cash. In the case of an option, a regulated futures contract, a securities futures contract, or a forward contract, a sale includes any closing transaction. When a closing transaction for a contract described in section 1256(b)(1)(A) involves making or taking delivery, there are two sales, one resulting in profit or loss on the contract, and a separate sale on the delivery. When a closing transaction for a contract described in section 988(c)(5) involves making delivery, there are two sales, one resulting in profit or loss on the contract, and a separate sale on the delivery. For purposes of the preceding sentence, a broker may assume that any customer's functional currency is the U.S. dollar. When a closing transaction in a forward contract involves making or taking delivery, the broker may treat the delivery as a sale without separating the profit or loss on the contract from the profit or loss on the delivery, except that taking delivery for United States dollars is not a sale. The term *sale* does not include entering into a contract that requires delivery of personal property or an interest therein, the initial grant or purchase of an option, or the exercise of a purchased call option for physical delivery (except for a contract described in section 988(c)(5)). For purposes of this section only, a constructive sale under section 1259 and a mark to fair market value under section 475 or 1296 are not sales.

* * * * *

(14) The term *specified security* means:

(i) Any share of stock (or any interest treated as stock, including, for example, an American Depositary Receipt) in an entity organized as, or treated for Federal tax purposes as, a corporation, either foreign or domestic (provided that, solely for purposes of this paragraph (a)(14)(i), a security classified as stock by the issuer is treated as stock, and if the issuer has not classified the security, the security is not treated as stock unless the broker knows that the security is reasonably classified as stock under general Federal tax principles);

(ii) Any debt instrument described in paragraph (a)(17) of this section, other than a debt instrument subject to section 1272(a)(6) (certain interests in or mortgages held by a REMIC, certain other debt instruments with payments subject to acceleration, and pools of debt instruments the yield on which may be affected by prepayments) or a short-term obligation described in section 1272(a)(2)(C);

(iii) Any option described in paragraph (m)(2) of this section; or

(iv) Any securities futures contract.

(15) * * *

(i) * * *

(A) A specified security described in paragraph (a)(14)(i) of this section acquired for cash in an account on or after January 1, 2011, except stock for which the average basis method is available under § 1.1012–1(e).

* * * * *

(C) A specified security described in paragraphs (a)(14)(ii) and (n)(2)(i) of this section (not including the debt instruments described in paragraph (n)(2)(ii) of this section) acquired for cash in an account on or after January 1, 2014.

(D) A specified security described in paragraphs (a)(14)(ii) and (n)(3) of this section acquired for cash in an account on or after January 1, 2016.

(E) An option described in paragraph (a)(14)(iii) of this section granted or acquired for cash in an account on or after January 1, 2014.

(F) A securities futures contract described in paragraph (a)(14)(iv) of this section entered into in an account on or after January 1, 2014.

* * * * *

(ii) * * * Acquiring a security in an account includes granting an option and entering into a short sale.

* * * * *

(17) For purposes of this section, the terms *debt instrument, bond, debt obligation,* and *obligation* mean a debt instrument as defined in § 1.1275–1(d) and any instrument or position that is treated as a debt instrument under a specific provision of the Internal Revenue Code (for example, a regular interest in a REMIC as defined in section 860G(a)(1) and § 1.860G–1). Solely for purposes of this section, a security classified as debt by the issuer is treated as debt. If the issuer has not classified the security, the security is not treated as debt unless the broker knows that the security is reasonably classified as debt under general Federal tax principles or that the instrument or position is treated as a debt instrument under a specific provision of the Internal Revenue Code.

(18) For purposes of this section, the term *securities futures contract* means a contract described in section 1234B(c) whose underlying asset is described in paragraph (a)(14)(i) of this section and which is entered into on or after January 1, 2014.

* * * * *

(c) * * *

(3) * * *

(vii) * * *

(C) * * * The preceding sentence does not apply to a debt instrument issued on or after January 1, 2014. For a short-term obligation issued on or after January 1, 2014, see paragraph (c)(3)(xiii) of this section.

(D) * * * The preceding sentence does not apply to a debt instrument issued on or after January 1, 2014.

* * * * *

(x) *Certain retirements.* * * * The preceding sentence does not apply to a debt instrument issued on or after January 1, 2014.

(xi) * * *

(C) *Short sale obligation transferred to another account.* If a short sale obligation is satisfied by delivery of a security transferred into a customer's account accompanied by a transfer statement (as described in § 1.6045A–1(b)(7)) indicating that the security was borrowed, the broker receiving custody of the security may not file a return of information under this section. The

receiving broker must furnish a statement to the transferor that reports the amount of gross proceeds received from the short sale, the date of the sale, the quantity of shares, units, or amounts sold, and the Committee on Uniform Security Identification Procedures (CUSIP) number of the sold security (if applicable) or other security identifier number that the Secretary may designate by publication in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter). * * *

* * * * *

(xiii) *Short-term obligations issued on or after January 1, 2014.* No return of information is required under this section with respect to a sale (including a retirement) of a short-term obligation, as described in section 1272(a)(2)(C), that is issued on or after January 1, 2014.

(4) * * *

Example 9. (i) * * * N indicates on the transfer statement that the transferred stock was borrowed in accordance with § 1.6045A–1(b)(7).

* * * * *

(d) * * *

(2) *Transactional reporting*—(i) *Required information.* * * * In addition, for a sale of a covered security on or after January 1, 2014, a broker must report on Form 1099–B whether any gain or loss is ordinary. See paragraph (m) of this section for additional rules related to options and paragraph (n) of this section for additional rules related to debt instruments.

(ii) *Specific identification of securities.* Except as provided in § 1.1012–1(e)(7)(ii), for a specified security described in paragraph (a)(14)(i) of this section sold on or after January 1, 2011, or for a specified security described in paragraph (a)(14)(ii) of this section sold on or after January 1, 2014, a broker must report a sale of less than the entire position in an account of a specified security that was acquired on different dates or at different prices consistently with a customer's adequate and timely identification of the security to be sold. *See* § 1.1012–1(c). If the customer does not provide an adequate and timely identification for the sale, the broker must first report the sale of securities in the account for which the broker does not know the acquisition or purchase date followed by the earliest securities purchased or acquired, whether covered securities or noncovered securities.

(iii) *Sales of noncovered securities.* A broker is not required to report adjusted basis and the character of any gain or loss for the sale of a noncovered security if the return identifies the sale as a sale of a noncovered security. * * *

* * * * *

(3) *Sales between interest payment dates.* For each sale of a debt instrument prior to maturity with respect to which a broker is required to make a return of information under this section, a broker must show separately on Form 1099 the amount of accrued and unpaid qualified stated interest as of the sale date that must be reported by the customer as interest income under § 1.61–7(d). *See* § 1.1273–1(c) for the definition of qualified stated interest. Such interest information must be shown in the manner and at the time required by Form 1099 and section 6049.

* * * * *

(5) *Gross proceeds.* For purposes of this section, *gross proceeds* on a sale are the total amount paid to the customer or credited to the customer's account as a result of the sale reduced by the amount of any qualified stated interest reported under paragraph (d)(3) of this section and increased by any amount not paid or credited by reason of repayment of margin loans. In the case of a closing transaction (other than a closing transaction related to an option) that results in a loss, gross proceeds are the amount debited from the customer's account. For sales before January 1, 2014, a broker may, but is not required to, reduce gross proceeds by the amount of commissions and transfer taxes, provided the treatment chosen is consistent with the books of the broker. For sales on or after January 1, 2014, a broker must reduce gross proceeds by the amount of commissions and transfer taxes related to the sale of the security. For securities sold pursuant to the exercise of an option granted or acquired before January 1, 2014, a broker may, but is not required to, take the option premiums into account in determining the gross proceeds of the securities sold, provided the treatment chosen is consistent with the books of the broker. For securities sold pursuant to the exercise of an option granted or acquired on or after January 1, 2014, or for the treatment of an option granted or acquired on or after January 1, 2014, see paragraph (m) of this section. * * *

(6) *Adjusted basis*—(i) *In general.* * * * A broker is not required to consider transactions or events occurring outside the account except for an organizational action taken by an issuer during the period the broker holds custody of the security (beginning with the date that the broker receives a transferred security) reported on an issuer statement (as described in § 1.6045B–1) furnished or deemed furnished to the broker. Except as otherwise provided in paragraph (n) of this section, a broker is not required to consider customer elections. For rules related to the adjusted basis of a debt instrument, see paragraph (n) of this section.

(ii) *Initial basis*—(A) *Cost basis.* For a security acquired for cash, the initial basis generally is the total amount of cash paid by the customer or credited against the customer's account for the security, increased by the commissions and transfer taxes related to its acquisition. A broker may, but is not required to, take option premiums into account in determining the initial basis of securities purchased or acquired pursuant to the exercise of an option granted or acquired before January 1, 2014. For rules related to options granted or acquired on or after January 1, 2014, see paragraph (m) of this section. A broker may, but is not required to, increase initial basis for income recognized upon the exercise of a compensatory option or the vesting or exercise of other equity-based compensation arrangements, granted or acquired before January 1, 2014. A broker may not increase initial basis for income recognized upon the exercise of a compensatory option or the vesting or exercise of other equity-based compensation arrangements, granted or acquired on or after January 1, 2014.

* * *

(B) *Basis of transferred securities*

* * *

* * * * *

(iii) *Adjustments for wash sales*—(A) *In general.* * * * The broker must increase the basis of the purchased security by the amount of loss disallowed on the sale transaction.

* * * * *

(iv) *Certain adjustments not taken into account.* A broker is not required to apply section 1259 (regarding constructive sales), section 475 (regarding the mark-to-market method of accounting), section 1296 (regarding the mark-to-market method of accounting for marketable stock in a passive foreign investment company), or section 1092 (regarding straddles) when reporting adjusted basis.

* * * * *

(vii) * * *

Example 4. R, an employee of C, a corporation, participates in C's stock option plan. On April 2, 2014, C grants R a nonstatutory option under the plan to buy 100 shares of stock. The option becomes substantially vested on April 2, 2015. On October 2, 2015, R exercises the option and purchases 100 shares. On December 2, 2015,

R sells the 100 shares. Under paragraph (d)(6)(ii)(A) of this section, C is required to determine adjusted basis from the amount R pays under the terms of the option. Under paragraph (d)(6)(ii)(A) of this section, C is not permitted to adjust basis for any amount R must include as wage income with respect to the October 2, 2015, stock purchase.

(7) *Long-term or short-term gain or loss*—(i) *In general.* * * * A broker is not required to consider transactions, elections, or events occurring outside the account except for an organizational action taken by an issuer during the period the broker holds custody of the security (beginning with the date that the broker receives a transferred security) reported on an issuer statement (as described in § 1.6045B–1) furnished or deemed furnished to the broker.

* * * * *

(8) *Conversion into United States dollars of amounts paid or received in foreign currency*—(i) *Conversion rules*—(A) When a payment other than a payment of interest is made in a foreign currency, a broker must determine the U.S. dollar amount of the payment by converting the foreign currency into U.S. dollars on the date it receives, credits, or makes the payment, as applicable, at the spot rate (as defined in § 1.988–1(d)(1)) or pursuant to a reasonable spot rate convention. (For interest payments, see paragraph (n)(4)(v) of this section concerning a customer's spot rate election.) * * *

* * * * *

(m) *Additional rules for option transactions*—(1) *In general.* This paragraph (m) provides rules for a broker to determine and report the information required under this section for an option that is a covered security under paragraph (a)(15)(i)(E) of this section.

(2) *Scope*—(i) *In general.* Paragraph (m) of this section applies to the following types of options granted or acquired on or after January 1, 2014:

(A) An option on one or more specified securities (which includes an index substantially all the components of which are specified securities);

(B) An option on financial attributes of specified securities, such as interest rates or dividend yields; or

(C) A warrant or a stock right.

(ii) *Delayed effective date for certain options.* Notwithstanding paragraph (m)(2)(i) of this section, if an option, stock right, or warrant is issued as part of an investment unit described in § 1.1273–2(h), paragraph (m) of this section applies to the option, stock right, or warrant if it is acquired on or after January 1, 2016.

(iii) *Compensatory option.* Notwithstanding paragraphs (m)(2)(i) and (m)(2)(ii) of this section, paragraph (m) of this section does not apply to compensatory options.

(3) *Option subject to section 1256.* If an option described in paragraph (m)(2) of this section is also described in section 1256(b), a broker must apply the rules described in paragraph (c)(5) of this section by treating the option as if it were a regulated futures contract and must report the information required under paragraph (c)(5) of this section. A broker is permitted, but not required, to report the amounts for options and the amounts for regulated futures contracts determined under paragraph (c)(5) of this section as a net amount for each reportable item.

(4) *Option not subject to section 1256.* The following rules apply to an option that is described in paragraph (m)(2) of this section but is not also described in paragraph (m)(3) of this section:

(i) *Physical settlement.* For purposes of paragraph (d) of this section, if a specified security (other than an option) is acquired or disposed of pursuant to the exercise of an option, the broker must adjust the basis of the acquired asset or the gross proceeds amount as appropriate to account for any payment related to the option, including the premium.

(ii) *Cash settlement.* For purposes of paragraph (d) of this section, for an option that is settled for cash, a broker must reflect on Form 1099–B all payments made or received on the option. For a purchased option, a broker must report as basis the premium paid plus any costs (for example, commissions) related to the acquisition of the option and must report as proceeds the gross proceeds from settlement minus any costs related to the settlement of the option. For a written option, a broker must report as proceeds the premium received decreased by any amounts paid on the option and report $0 as the basis of the option.

(iii) *Rules for warrants and stock rights acquired in a section 305 distribution.* For a right (including a warrant) to acquire stock received in the same account as the underlying security in a distribution that is described in section 305(a), a broker is permitted, but not required, to apply the rules described in sections 305 and 307 when reporting or accounting for the basis of the option and the underlying equity. If a stock right or warrant is acquired from the initial distributee, the buyer or transferee must treat it as an option covered by either paragraph (m)(4)(i) or (m)(4)(ii) of this section.

(iv) *Examples.* The following examples illustrate the rules in this paragraph (m)(4):

Example 1. (i) On January 15, 2014, C, an individual who is neither a dealer nor a trader in securities, writes a 2-year exchange-traded option on 100 shares of Company X through Broker D. C receives a premium for the option of $100 and pays no commission. In C's hands, the option produces capital gain or loss and Company X stock is a capital asset. On December 16, 2014, C pays $110 to close out the option.

(ii) D is required to report information about the closing transaction because the option is a covered security as described in paragraph (a)(15)(i)(E) of this section and was part of a closing transaction described in paragraph (a)(8) of this section. Under paragraph (m)(4)(ii) of this section, D must report as gross proceeds on C's Form 1099–B -$10 (the $100 received as option premium minus the $110 C paid to close out the option) and report $0 in the basis box on the Form 1099–B. Under section 1234(b)(1) and paragraph (d)(2) of this section, D must also report the loss on the closing transaction as a short-term capital loss.

Example 2. (i) On January 15, 2014, E, an individual who is neither a dealer nor a trader in securities, buys a 2-year exchange-traded option on 100 shares of Company X through Broker F. E pays a premium of $100 for the option and pays no commission. In E's hands, both the option and Company X stock are capital assets. On December 16, 2014, E receives $110 to close out the option.

(ii) F is required to report information about the closing transaction because the option is a covered security as described in paragraph (a)(15)(i)(E) of this section and was part of a closing transaction described in paragraph (a)(8) of this section. Because the option is on the shares of a single company, it is an equity option described in section 1256(g)(6) and is not described in section 1256(b)(1)(C). Therefore, the rules of paragraph (m)(3) of this section do not apply, and F must report under paragraph (m)(4) of this section. Under paragraph (m)(4)(ii) of this section, F must report $110 as gross proceeds on the Form 1099–B for the gross proceeds E received and $100 in the basis box on the Form 1099–B to reflect the $100 option premium paid. Under section 1234(b)(1) and paragraph (d)(2) of this section, F must also report the gain on the closing transaction as a short-term capital gain.

(5) *Multiple options documented in a single contract.* If more than one option described in paragraph (m)(2) of this section is documented in a single contract, a broker must separately report the required information for each option as that option is sold.

(6) *Determination of index status.* Penalties will not be asserted under sections 6721 and 6722 if a broker in good faith determines that an index is, or is not, a narrow-based index described in section 1256(g)(6) and

reports in a manner consistent with this determination.

(n) *Reporting for debt instrument transactions*—(1) *In general.* For purposes of this section, this paragraph (n) provides rules for a broker to determine and report information for a debt instrument that is a covered security under paragraph (a)(15)(i)(C) or (D) of this section. Neither a debt instrument subject to section 1272(a)(6) nor a short-term obligation described in section 1272(a)(2)(C) is subject to this paragraph (n) because neither is a specified security under paragraph (a)(14)(ii) of this section (a requirement for a debt instrument to be a covered security).

(2) *Debt instruments subject to January 1, 2014, reporting*—(i) *In general.* For purposes of paragraph (a)(15)(i)(C) of this section, except as provided in paragraph (n)(2)(ii) of this section, a debt instrument is described in this paragraph (n)(2)(i) if the debt instrument is one of the following:

(A) A debt instrument that provides for a single fixed payment schedule for which a yield and maturity can be determined for the instrument under § 1.1272–1(b);

(B) A debt instrument that provides for alternate payment schedules for which a yield and maturity can be determined for the instrument under § 1.1272–1(c); or

(C) A debt instrument for which the yield of the debt instrument can be determined under § 1.1272–1(d).

(ii) *Exceptions.* A debt instrument is not described in paragraph (n)(2)(i) of this section if the debt instrument is one of the following:

(A) A debt instrument that provides for more than one rate of stated interest (including a debt instrument that provides for stepped interest rates);

(B) A convertible debt instrument described in § 1.1272–1(e);

(C) A stripped bond or stripped coupon subject to section 1286;

(D) A debt instrument that requires payment of either interest or principal in a currency other than the U.S. dollar;

(E) A debt instrument that, at one or more times in the future, entitles a holder to a tax credit;

(F) A debt instrument that provides for a payment-in-kind (PIK) feature (that is, under the terms of the debt instrument, a holder may receive one or more additional debt instruments of the issuer);

(G) A debt instrument issued by a non-U.S. issuer;

(H) A debt instrument for which the terms of the instrument are not reasonably available to the broker within 90 days of the date the debt instrument was acquired by the customer;

(I) A debt instrument that is issued as part of an investment unit described in § 1.1273–2(h); or

(J) A debt instrument evidenced by a physical certificate unless such certificate is held (whether directly or through a nominee, agent, or subsidiary) by a securities depository or by a clearing organization described in § 1.1471–1(b)(18).

(iii) *Remote or incidental.* For purposes of paragraphs (n)(2)(i) and (n)(2)(ii) of this section, a remote or incidental contingency (as determined under § 1.1275–2(h)) is ignored.

(iv) *Penalty rate.* For purposes of paragraph (n)(2)(ii)(A) of this section, a debt instrument does not provide for more than one rate of stated interest merely because the instrument provides for a penalty interest rate or an adjustment to the stated interest rate in the event of a default or similar event.

(3) *Debt instruments subject to January 1, 2016, reporting.* For purposes of paragraph (a)(15)(i)(D) of this section, a debt instrument is described in this paragraph (n)(3) if it is described in paragraph (n)(2)(ii) of this section or it otherwise is not described in paragraph (n)(2)(i) of this section. For example, this paragraph (n)(3) applies to variable rate debt instruments, inflation-indexed debt instruments, and contingent payment debt instruments because these instruments are not described in paragraph (n)(2)(i) of this section.

(4) *Holder elections.* For purposes of this section, a broker is required to take into account an election described in this paragraph (n)(4), and the broker must take the election into account in accordance with the rules in paragraph (n)(5) of this section. A broker, however, may not take into account any other election.

(i) *Election to amortize bond premium.* An election under section 171 and § 1.171–4 to amortize bond premium on a taxable debt instrument (this election applies to all taxable debt instruments held by a taxpayer during the taxable year the election is effective and thereafter; this election may be revoked with the consent of the Commissioner).

(ii) *Election to currently include accrued market discount.* An election under section 1278(b) to include market discount in income as it accrues (this election applies to all debt instruments acquired by a taxpayer during the taxable year the election is effective and thereafter; this election may be revoked with the consent of the Commissioner).

(iii) *Election to accrue market discount based on a constant yield.* An election under section 1276(b)(2) to compute accruals of market discount using a constant yield method (this election is generally made on an instrument-by-instrument basis and must be made for the earliest taxable year for which the taxpayer is required to determine accrued market discount on the debt instrument; this election may not be revoked).

(iv) *Election to treat all interest as OID.* An election under § 1.1272–3 to treat all interest on a taxable debt instrument (adjusted for any acquisition premium or premium) as original issue discount (this election is generally made on an instrument-by-instrument basis and must be made for the taxable year the debt instrument is acquired by the taxpayer; this election may be revoked with the consent of the Commissioner).

(v) *Election to translate interest income and expense at the spot rate.* An election under § 1.988–2(b)(2)(iii)(B) to translate interest income and expense at the spot rate on the last day of the interest accrual period or, in the case of a partial accrual period, the last day of the taxable year (this election applies to all taxable debt instruments held by a taxpayer during the taxable year the election is effective and thereafter; this election may be revoked with the consent of the Commissioner).

(5) *Broker assumptions and customer notice to brokers*—(i) *Broker assumptions if the customer does not notify the broker.* Except as provided in paragraph (n)(5)(ii)(A) of this section, a broker must report the information required under paragraph (d) of this section by assuming that a customer has made the election to amortize bond premium described in paragraph (n)(4)(i) of this section. In addition, except as provided in paragraph (n)(5)(ii)(B) of this section, a broker must report the information required under paragraph (d) of this section by assuming that a customer has not made an election described in paragraph (n)(4)(ii), (n)(4)(iii), (n)(4)(iv), or (n)(4)(v) of this section.

(ii) *Effect of customer notification of an election or revocation*—(A) *Election to amortize bond premium.* If a customer notifies a broker in writing that the customer does not want the broker to take into account the election to amortize bond premium, the broker must report the information required under paragraph (d) of this section without taking into account the election to amortize bond premium. The customer must provide this notification to the broker by the end of the calendar year for which the customer does not want to amortize bond premium. If for a subsequent calendar year, the

customer wants the broker to take into account the election to amortize bond premium, the customer must notify the broker in writing by the end of the calendar year that the customer wants to amortize bond premium. If the customer provides such notification, the broker must report the information required under paragraph (d) of this section as if the customer made the election to amortize bond premium for that year.

(B) *Other debt elections.* If a customer notifies a broker in writing that the customer has made or will make an election described in paragraph (n)(4)(ii), (iii), (iv), or (v) of this section, the broker must report the information required under paragraph (d) of this section by taking into account the election. A customer must notify the broker in writing of the election by the end of the calendar year in which a debt instrument subject to the election is acquired in, or transferred into, an account with the broker or, if later, by the end of the calendar year for which the election is effective. If a customer has revoked or will revoke an election described in paragraph (n)(4)(ii), (n)(4)(iv), or (n)(4)(v) of this section for a calendar year, the customer must notify the broker of the revocation in writing by the end of the calendar year for which the revocation is effective. If the customer provides such notification, the broker must report the information required under paragraph (d) of this section by taking into account the revocation.

(iii) *Electronic notification.* For purposes of paragraph (n)(5)(ii) of this section, the written notification to the broker includes a writing in electronic format.

(6) *Reporting of accrued market discount.* In addition to the information required to be reported under paragraph (d) of this section, if a debt instrument is subject to the market discount rules in sections 1276 through 1278, a broker also must report the information described in paragraph (n)(6)(i) or (n)(6)(ii) of this section, whichever is applicable. Such information must be shown in the manner and at the time required by Form 1099 and section 6045.

(i) *Sale.* A broker must report the amount of market discount that has accrued on a debt instrument as of the date of the instrument's sale, as defined in paragraph (a)(9) of this section. See paragraph (n)(5) of this section to determine whether the amount reported should take into account a customer election under section 1276(b)(2). See paragraph (n)(8) of this section to determine the accrual period to be used to compute the accruals of market discount. This paragraph (n)(6)(i) does not apply if the customer notifies the broker under the rules in paragraph (n)(5) of this section that the customer elects under section 1278(b) to include market discount in income as it accrues.

(ii) *Current inclusion election.* If a customer notifies a broker under the rules in paragraph (n)(5) of this section that the customer elects under section 1278(b) to include market discount in income as it accrues, the broker is required to report to the customer the amount of market discount that accrued on a debt instrument during a taxable year while held by the customer in the account. The broker also must adjust basis in accordance with section 1278(b)(4). If a customer notifies a broker under the rules in paragraph (n)(5) of this section that the customer is revoking its election under section 1278(b), the broker will not report the market discount accrued during the taxable year of the revocation and thereafter and will cease to adjust basis in accordance with section 1278(b)(4). See paragraph (n)(8) of this section to determine the accrual period to be used to compute the accruals of market discount.

(7) *Adjusted basis.* For purposes of this section, a broker must use the rules in paragraph (n) of this section to determine the adjusted basis of a debt instrument.

(i) *Original issue discount.* If a debt instrument is subject to the original issue discount rules in sections 1271 through 1275, section 1286, or section 1288, a broker must increase a customer's basis in the debt instrument by the amount of original issue discount that accrued on the debt instrument while held by the customer in the account. See paragraph (n)(8) of this section to determine the accrual period to be used to compute the accruals of original issue discount.

(ii) *Amortizable bond premium*—(A) *Taxable bond.* A broker is required to adjust the customer's basis for any taxable bond acquired at a premium and held in the account in accordance with § 1.1016–5(b). If a customer, however, informs a broker under the rules in paragraph (n)(5)(ii)(A) of this section that the customer does not want to amortize bond premium, the broker must not adjust the customer's basis for any premium.

(B) *Tax-exempt bonds.* A broker is required to adjust the customer's basis for any tax-exempt obligation acquired at a premium and held in the account in accordance with § 1.1016–5(b).

(iii) *Acquisition premium.* If a debt instrument is acquired at an acquisition premium (as determined under § 1.1272–2(b)(3)), a broker must decrease the customer's basis in the debt instrument by the amount of acquisition premium that is taken into account each year to reduce the amount of the original issue discount that is otherwise includible in the customer's income for that year. *See* § 1.1272–2(b)(4) to determine the amount of the acquisition premium taken into account each year. However, if a customer informs a broker under the rules in paragraph (n)(5) of this section that the customer elects under § 1.1272–3 to use a constant yield to amortize the acquisition premium, then the broker must decrease the customer's basis in the debt instrument by the amount of acquisition premium that is taken into account each year to reduce the amount of the original issue discount that is otherwise includible in the customer's income for that year in accordance with § 1.1272–2(b)(5) and § 1.1272–3.

(iv) *Market discount.* See paragraph (n)(6) of this section for rules to determine the adjusted basis of a debt instrument with market discount.

(v) *Principal and certain other payments.* A broker must decrease the customer's basis in a debt instrument by the amount of any payment made to the customer during the period the debt instrument is held in the account, other than a payment of qualified stated interest as defined in § 1.1273–1(c).

(8) *Accrual period.* For purposes of this section, a broker generally must use the same accrual period that is used to report any original issue discount or stated interest to a customer under section 6049 for a debt instrument. In any other situation, a broker must use a semi-annual accrual period or, if a debt instrument provides for scheduled payments of principal or interest at regular intervals of less than six months over the entire term of the debt instrument, a broker must use an accrual period equal in length to this shorter interval. For example, if a debt instrument provides for monthly payments of interest over the entire term of the debt instrument, the broker must use a monthly accrual period. The rules in § 1.1272–1(b)(4)(iii) apply for purposes of an initial short accrual period. In computing the length of an accrual period, any reasonable counting convention may be used (for example, 30 days per month/360 days per year, or actual days per month/365 days per year).

(9) *Premium on convertible bond.* If a customer acquires a convertible bond (as defined in § 1.171–1(e)(1)(iii)(C)) at a premium (as determined under § 1.171–1(d)), then, solely for purposes of this section and § 1.6049–9T, a broker must

assume that the premium is attributable to the conversion feature. Based on this assumption, no portion of the premium is amortizable for purposes of this section and § 1.6049–9T.

(10) *Effect of broker assumptions on customer.* The rules in this paragraph (n) only apply for purposes of a broker's reporting obligation under section 6045. A customer is not bound by the assumptions that the broker uses to satisfy the broker's reporting obligations under section 6045. In addition, a notification to the broker under paragraph (n)(5) of this section does not constitute an effective election or revocation under the applicable rules for the election.

* * * * *

■ **Par. 5.** Section 1.6045A–1 is amended by:

■ 1. Adding new paragraph (a)(1)(vi) and revising paragraph (b)(1) introductory text and paragraph (b)(1)(v).

■ 2. Revising the second sentence of paragraph (b)(1)(vii).

■ 3. Redesignating paragraphs (b)(2) through (b)(9) as paragraphs (b)(5) through (b)(12) respectively.

■ 4. Redesignating paragraph (b)(1)(viii) as paragraph (b)(2).

■ 5. Revising the introductory text to newly redesignated paragraph (b)(2).

■ 6. Adding new paragraphs (b)(3) and (b)(4).

■ 7. Revising newly redesignated paragraph (b)(5).

■ 8. Revising the first and last sentences of newly redesignated paragraph (b)(6).

■ 9. Revising newly redesignated paragraph (b)(8)(ii).

■ 10. Revising the first sentence of newly redesignated paragraph (b)(9)(ii).

■ 11. Revising the introductory text to newly redesignated paragraph (b)(9)(iii), the fifth sentence of paragraph (b)(9)(iii) *Example 1,* and the second sentence of paragraph (b)(9)(iii) *Example 2.*

■ 12. Revising the last sentence of newly redesignated paragraph (b)(10).

■ 13. Redesignating the text of newly redesignated paragraph (b)(12) as paragraph (b)(12)(i), adding a heading for newly redesignated paragraph (b)(12)(i), and adding new paragraph (b)(12)(ii).

■ 14. Revising paragraph (d).

The additions and revisions read as follows:

§ 1.6045A–1 Statements of information required in connection with transfers of securities.

(a) * * *

(1) * * *

(vi) *Section 1256 options.* A transferor of an option described in § 1.6045–1(m)(3) is not required to furnish a transfer statement.

(b) *Information required*—(1) *In general.* For all specified securities, each transfer statement must include the information described in this paragraph (b)(1).

* * * * *

(v) *Security identifiers.* The Committee on Uniform Security Identification Procedures (CUSIP) number of the security transferred (if applicable) or other security identifier number that the Secretary may designate by publication in the **Federal Register** or in the Internal Revenue Bulletin (*see* § 601.601(d)(2) of this chapter), quantity of shares, units, or amounts, and classification of the security (such as stock or debt).

* * * * *

(vii) *Adjusted basis and acquisition date.** * * The transferor must determine this information as provided under §§ 1.6045–1(d), 1.6045–1(m), and 1.6045–1(n), including reporting the adjusted basis of the security in U.S. dollars.* * *

(2) *Examples.* The following examples illustrate the rules of paragraph (b)(1) of this section:

* * * * *

(3) *Additional information required for a transfer of a debt instrument.* In addition to the information required in paragraph (b)(1) of this section, for a transfer of a debt instrument that is a covered security, the following additional information is required:

(i) A description of the payment terms used by the broker to compute any basis adjustments under § 1.6045–1(n);

(ii) The issue price of the debt instrument;

(iii) The issue date of the debt instrument (if different from the original acquisition date of the debt instrument);

(iv) The adjusted issue price of the debt instrument as of the transfer date;

(v) The customer's initial basis in the debt instrument;

(vi) Any market discount that has accrued as of the transfer date (as determined under § 1.6045–1(n));

(vii) Any bond premium that has been amortized as of the transfer date (as determined under § 1.6045–1(n));

(viii) Any acquisition premium that has been amortized as of the transfer date (as determined under § 1.6045–1(n)); and

(ix) Whether the transferring broker has computed any of the information described in this paragraph (b)(3) by taking into account one or more elections described in § 1.6045–1(n), and, if so, which election or elections were taken into account by the transferring broker.

(4) *Additional information required for option transfers.* In addition to the information required in paragraph (b)(1) of this section, for a transfer of an option that is a covered security, the following additional information is required:

(i) The date of grant or acquisition of the option;

(ii) The amount of premium paid or received; and

(iii) Any other information required to fully describe the option, which may include a security identifier used by option exchanges, or details about the underlying asset, quantity covered, exercise type, strike price, and maturity date.

(5) *Format of identification.* An applicable person furnishing a transfer statement and a broker receiving the transfer statement may agree to combine the information required in paragraphs (b)(1), (b)(3), and (b)(4) of this section in any format or to use a code in place of one or more required items. For example, a transferor and a receiving broker may agree to use a single code to represent the broker instead of the broker's name, address, and telephone number, or may use a security symbol or other identification number or scheme instead of the security identifier required by paragraphs (b)(1), (b)(3), and (b)(4) of this section. As another example, a transferor and a receiving broker may agree to use a security identifier for an exchange-traded option if that information would be sufficient to inform the receiving broker of the terms for that option.

(6) *Transfers of noncovered securities.* The information described in paragraphs (b)(1)(vii), (b)(3), (b)(4), (b)(8), and (b)(9) of this section is not required for a transfer of a noncovered security if the transfer statement identifies the security as a noncovered security. * * * For purposes of this paragraph (b)(6), a transferor must treat a security for which a broker makes a single-account election described in § 1.1012–1(e)(11)(i) as a covered security.

* * * * *

(8) * * *

(ii) *Transfers of securities to satisfy a cash legacy.* If a security is transferred from a decedent or a decedent's estate to satisfy a cash legacy, paragraphs (b)(1), (b)(3), and (b)(4) of this section apply and paragraph (b)(8)(i) of this section does not apply.

* * * * *

(9) * * *

(ii) *Subsequent transfers of gifts by the same customer.* If a transferor transfers to a different account of the same customer a security that a prior transfer statement reported as a gifted security, the transferor must include on the

transfer statement the information described in paragraph (b)(9)(i) of this section for the date of the gift to the customer. * * *

(iii) *Examples.* The following examples illustrate the rules of this paragraph (b)(9):

Example 1. * * * Under paragraph (b)(9)(i) of this section, S must provide a transfer statement to T that identifies the securities as gifted securities and indicates X's adjusted basis and original acquisition date. * * *

Example 2. * * * Under paragraph (b)(9)(ii) of this section, T must provide a transfer statement to U that identifies the securities as gifted securities and indicates X's adjusted basis and original acquisition date of the stock. * * *

(10) * * * If the customer does not provide an adequate and timely identification for the transfer, a transferor must first report the transfer of any securities in the account for which the transferor does not know the acquisition or purchase date followed by the earliest securities purchased or acquired, whether covered securities or noncovered securities.

* * * * *

(12) *Failure to receive a complete transfer statement*—(i) *In general.* * * *

(ii) *Transition rules for transfers of debt instruments, options, and securities futures contracts.* If an option described in § 1.6045–1(a)(14)(iii), a securities futures contract described in § 1.6045–1(a)(14)(iv), or a debt instrument described in § 1.6045–1(a)(15)(i)(C) is transferred in 2014 and no transfer statement is received, the receiving broker is not required to request a transfer statement from the transferor and may treat the security as a noncovered security. If a debt instrument described in § 1.6045–1(a)(15)(i)(D) is transferred in 2016 and no transfer statement is received, the receiving broker is not required to request a transfer statement from the transferor and may treat the security as a noncovered security.

* * * * *

(d) *Effective/applicability dates.* This section applies to:

(1) A transfer on or after January 1, 2011, of stock other than stock in a regulated investment company within the meaning of § 1.1012–1(e)(5);

(2) A transfer on or after January 1, 2012, of stock in a regulated investment company;

(3) A transfer on or after January 1, 2015, of an option described in § 1.6045–1(a)(14)(iii), a securities futures contract described in § 1.6045–1(a)(14)(iv), or a debt instrument described in § 1.6045–1(a)(15)(i)(C); and

(4) A transfer on or after January 1, 2017, of a debt instrument described in § 1.6045–1(a)(15)(i)(D).

■ **Par. 6.** Section 1.6045B–1 is amended by:

■ 1. Adding two new sentences at the end of paragraph (a)(3).

■ 2. Redesignating paragraph (h) as paragraph (j), adding new paragraph (h), adding and reserving paragraph (i), and revising newly-designated paragraph (j).

The additions and revisions read as follows:

§ 1.6045B–1 Returns relating to actions affecting basis of securities.

(a) * * *

(3) *Exception for public reporting.* * * * An issuer may electronically sign a return that is publicly reported in accordance with this paragraph (a)(3). The electronic signature must identify the individual who attests to the declaration in the jurat.

* * * * *

(h) *Rule for options*—(1) *In general.* For an option granted or acquired on or after January 1, 2014, if the original contract is replaced by a different number of option contracts, the following rules apply:

(i) If the option is an exchange-traded option, any clearinghouse or clearing facility that serves as a counterparty is treated as the issuer of the option for purposes of section 6045B.

(ii) If the option is not an exchange-traded option, the option writer is treated as the issuer of the option for purposes of section 6045B.

(2) *Examples.* The following examples illustrate the rules of paragraph (h)(1) of this section:

Example 1. On January 15, 2014, F, an individual, purchases a one-year exchange-traded call option on 100 shares of Company X stock, with a strike price of $110. The call option is cleared through Clearinghouse G. Company X executes a 2-for-1 stock split as of April 1, 2014. Due to the stock split, the terms of F's option are altered, resulting in two option contracts, each on 100 shares of Company X stock with a strike price of $55. All other terms remain the same. Under paragraph (h)(1)(i) of this section, Clearinghouse G is required to prepare an issuer report for F.

Example 2. On January 31, 2014, J, an individual, purchases from K a non-exchange traded 7-month call option on 100 shares of Company X stock, with a strike price of $110. Company X executes a 2-for-1 stock split as of April 1, 2014. Due to the stock split, the terms of J's option are altered, resulting in one option contract on 200 shares of Company X stock with a strike price of $55. All other terms of the option remain the same. Under paragraph (h)(1) of this section, because the number of option contracts did not change, K is not required to prepare an issuer report for J.

(i) [Reserved]

(j) *Effective/applicability dates.* This section applies to—

(1) Organizational actions occurring on or after January 1, 2011, that affect the basis of specified securities within the meaning of § 1.6045–1(a)(14)(i) other than stock in a regulated investment company within the meaning of § 1.1012–1(e)(5);

(2) Organizational actions occurring on or after January 1, 2012, that affect the basis of stock in a regulated investment company;

(3) Organizational actions occurring on or after January 1, 2014, that affect the basis of debt instruments described in § 1.6045–1(n)(2)(i) (not including the debt instruments described in § 1.6045–1(n)(2)(ii));

(4) Organizational actions occurring on or after January 1, 2016, that affect the basis of debt instruments described in § 1.6045–1(n)(3);

(5) Organizational actions occurring on or after January 1, 2014, that affect the basis of options described in § 1.6045–1(a)(14)(iii); and

(6) Organizational actions occurring on or after January 1, 2014, that affect the basis of securities futures contracts described in § 1.6045–1(a)(14)(iv).

■ **Par. 7.** Section 1.6049–9T is added to read as follows:

§ 1.6049–9T Premium subject to reporting for a debt instrument acquired on or after January 1, 2014 (temporary).

(a) *General rule.* Notwithstanding § 1.6049–5(f), for a debt instrument acquired on or after January 1, 2014, if a broker (as defined in § 1.6045–1(a)(1)) is required to file a statement for a debt instrument under § 1.6049–6, the broker generally must report any bond premium (as defined in § 1.171–1(d)) or acquisition premium (as defined in § 1.1272–2(b)(3)) for the calendar year. This section, however, only applies to a debt instrument that is a covered security as defined in § 1.6045–1(a)(15).

(b) *Reporting of bond premium amortization.* Unless a broker has been notified in writing in accordance with § 1.6045–1(n)(5) that a customer does not want to amortize bond premium under section 171, the broker must report the amount of any amortizable bond premium allocable to a stated interest payment made to the customer during the calendar year. See §§ 1.171–2 and 1.171–3 to determine the amount of amortizable bond premium allocable to a stated interest payment. Instead of reporting a gross amount for both stated interest and amortizable bond premium, a broker may report a net amount of stated interest that reflects the offset of the stated interest payment by the

amount of amortizable bond premium allocable to the payment. In this case, the broker must not report the amortizable bond premium as a separate item. This paragraph (b) also applies to amortizable bond premium on a tax-exempt obligation, which is required to be amortized under section 171.

(c) *Reporting of acquisition premium amortization.* A broker must report the amount of any acquisition premium that reduces the amount of original issue discount includible in income by the customer during a calendar year. Unless a broker has been notified in writing in accordance with § 1.6045–1(n)(5) that a customer has made an election under § 1.1272–3 to use a constant yield to amortize the acquisition premium, the broker must use the rules in § 1.1272–2(b)(4) to determine the amount of acquisition premium. Instead of reporting a gross amount for both original issue discount and acquisition premium, a broker may report a net amount of original issue discount that reflects the offset of the original issue discount includible in income by the customer for the calendar year by the amount of acquisition premium allocable to the original issue discount. In this case, the broker must not report the acquisition premium as a separate item. This paragraph (c) does not apply to a tax-exempt obligation.

(d) *Expiration date.* The applicability of this section expires on or before April 15, 2016.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 8.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 9.** In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.6045–1(n)(5)	1545–2186
* * * * *	

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: April 11, 2013.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–09085 Filed 4–17–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 48

Training and Retraining of Miners

CFR Correction

In Title 30 of the Code of Federal Regulations, Parts 1 to 199, revised as of July 1, 2012, on page 246, in § 48.6, paragraph (b)(10) is corrected to read as follows:

§ 48.6 Experienced miner training.

* * * * *

(b) * * *

(10) *Health.* The course must include instruction on the purpose of taking dust, noise, and other health measurements, where applicable; must review the health provisions of the Act; and must explain warning labels and any health control plan in effect at the mine.

* * * * *

[FR Doc. 2013–09269 Filed 4–17–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 48

Training and Retraining of Miners

CFR Correction

In Title 30 of the Code of Federal Regulations, Parts 1 to 199, revised as of July 1, 2012, on page 241, in § 48.3, paragraph (a) introductory text is corrected to read as follows:

§ 48.3 Training plans; time of submission; where filed; information required; time for approval; method of disapproval; commencement of training; approval of instructors.

(a) Except as provided in paragraphs (o) and (p) of this section, each operator of an underground mine shall have an MSHA approved plan containing programs for training new miners, training experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

* * * * *

[FR Doc. 2013–09264 Filed 4–17–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0223]

Drawbridge Operation Regulations; Townsend Gut, Boothbay Harbor and Southport, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard is issuing a temporary deviation from the regulation governing the operation of the Southport SR27 Bridge across Townsend Gut, mile 0.7, between Boothbay Harbor and Southport, Maine. The bridge owner, Maine Department of Transportation, will be performing structural repairs at the bridge. This deviation allows the bridge to operate on a temporary schedule for eight weeks to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from April 27, 2013 through June 28, 2013.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2013–0223 and are available online at *www.regulations.gov*, inserting USCG–2013–0223 in the ''Keyword'' and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this deviation, call or email Mr. John McDonald, Project Officer, First Coast Guard District, telephone (617) 223–8364, *john.w.mcdonald@uscg.mil*. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Southport SR27 Bridge, across Townsend Gut, mile 0.7, between Boothbay Harbor and Southport, Maine,