

Part III—Administrative, Procedural, and Miscellaneous

Information Reporting for Securities Futures Contracts

Notice 2003-8

Until further notice, the Internal Revenue Service will not require information reporting under Code Section 6045 with respect to securities futures contracts.

Background

The Commodity Futures Modernization Act of 2000 (the "Act") authorized trading in securities futures contracts ("SFCs"). The Securities Exchange Act of 1934, as amended by the Act, defines a SFC generally as a contract of sale for future delivery of a single security or a narrow-based security index. See 15 U.S.C. § 78c(a)(55)(A) (2000).

Section 6045(a) of the Internal Revenue Code provides that brokers, when required by the Secretary, must make a return, in accordance with such regulations as the Secretary may prescribe, regarding each of the broker's customers, with such details regarding gross proceeds and other information as the Secretary may by forms or regulations require.

Deferral of Potential Information Reporting Obligations

The Service will issue published guidance identifying the circumstances, if any, in which brokers must file information returns under Section 6045 regarding SFC investments or transactions of the brokers' customers. Depending on the conclusions reached, this guidance may take the form of regulations, of a notice published in the *Federal Register*, or of a publication in the *Internal Revenue Bulletin*. Pending this guidance, the Service will not require information reporting under Section 6045 with respect to SFCs. Thus, to the extent current law can be interpreted as requiring brokers to prepare information returns under Section 6045 with respect to SFCs, no such returns will be required pending issuance of the guidance described above. This Notice 2003-8 does not affect information-reporting obligations, if any, with respect to SFCs under any other Code section.

For further information regarding this announcement, contact Nathan Rosen of the Office of the Associate Chief Counsel (Procedure & Administration), Administrative Provisions and Judicial Practice Division, at (202) 622-4910 (not a toll-free call).