

Fiduciaries would be entitled to receive the quarterly reports upon request.

Finally, BGI requested that the proposed exemption be amended and expanded to include a new affiliate, Barclays Global Investors Services Canada Limited (BGIS Canada), as an additional Borrower.

In this regard, BGI requested that the following be added to Item 1 of the Summary of Facts and Representations of the Notice with regard to BGIS Canada:

BGIS Canada is a broker-dealer located in Toronto, Ontario, Canada. BGIS Canada is subject to regulation in Canada by the Ontario Securities Commission (OSC) and the oversight of the Investment Dealers Association (IDA). BGIS Canada anticipates that in the future it will borrow securities in the ordinary course of its business.

BGI also requested the following representation be added to Item 27 of the Summary of Facts and Representations of the Notice:

BGIS Canada is subject to regulation in Canada by the OSC and the oversight of the IDA, a self-regulatory organization, and is, therefore, authorized to conduct an investment banking business in and from Canada as a broker-dealer. The applicants note that the Department has previously concluded, in connection with PTE 99-04 issued to Salomon Smith Barney, Inc. that the regulatory scheme applicable to broker-dealers in Canada is sufficiently similar to the regulatory scheme applicable to broker-dealers in the United States. The applicants make the following representation, substantially similar to the representation set forth in paragraph (2) of the Summary of Facts and Representations of the published application number D-10288 (63 FR 53703, October 6, 1998) submitted to the Department by Salomon Brothers, Inc. and granted to Salomon Smith Barney, Inc. as PTE 99-04.

The applicants represent that BGIS Canada is subject to regulation by the OSC, a Canadian governmental agency and the oversight of the IDA, which oversees BGIS Canada's operation on a day to day basis and monitors compliance with capital adequacy and record keeping requirements on a regular basis. The applicants further represent that registration of BGIS Canada with the OSC addresses regulatory concerns similar to those concerns addressed by registration of a broker-dealer with the SEC under the 1934 Act. The rules and regulations set forth by the OSC and the SEC share a common objective: the protection of the investor by the regulation of securities markets. Canada has comprehensive financial resource and reporting/disclosure rules concerning broker-dealers. Broker-dealers are required to demonstrate their capital adequacy. The reporting/disclosure rules impose requirements on broker-dealers with respect to risk management, internal controls, and records relating to counterparties. All such records must be produced at the request of the OSC or IDA at any time. The OSC's registration requirements for broker-dealers

are enforced by fines and penalties and thus constitute a comprehensive disciplinary system for the violation of such rules.

BGI further requests that the Department amend the first two sentences of Item 28 of the Summary of Facts and Representations of the Notice to read as follows:

In addition to the protections afforded by registration with the SFA or the OSC, as applicable, the applicants represent that BC UK and BGIS Canada will comply with the applicable provisions of Rule 15a-6 (described below). The applicants represent that compliance by BC UK and BGIS Canada with the requirements of Rule 15a-6 will offer additional protections in lieu of registration with the SEC.

Finally, BGI requests that the Department reference BGIS Canada in the following sections of the proposed exemption: section II(a), section II(f), (k) and (r) and Items 1, 3, 12, 20, 21 and 29(e) and (g) of the Summary of Facts and Representations of the Notice. BGI states that in most cases this involves only the addition of "BGIS Canada" to the text. However, BGI requests that section II(r)(1) be amended to read as follows:

The foreign Borrower is registered as a broker-dealer subject to regulation by the Securities and Futures Authority of the United Kingdom (the SFA) or the Ontario Securities Commission of Ontario, Canada (the OSC);

BGI also requests that the reference to the SFA in Item 29(h) of the Summary of Facts and Representations of the Notice be modified to read "the SFA or the OSC, as applicable."

The Department concurs with BGI's comments with regard to BGIS Canada and has made the requested revisions to the language of the final exemption.

Accordingly, after giving full consideration to the entire record, including the comments, the Department has determined to grant the exemption as modified above. For further information regarding the comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D-10925) the Department is maintaining in this case. The complete application file, as well as the comments and all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N-1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

For Further Information Contact:
Karen Lloyd of the Department,

telephone (202) 693-8540. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th day of September, 2002.

Ivan Strasfeld,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
Department of Labor.*

[FR Doc. 02-24136 Filed 9-20-02; 8:45 am]

BILLING CODE 4510-29-P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 2002-1B]

Notice and Recordkeeping for Use of Sound Recordings Under Statutory Licenses

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice requesting written proposals and announcing status conference.

SUMMARY: The Copyright Office of the Library of Congress is requesting interested parties to submit written proposals governing data format and delivery for recordkeeping requirements to be established by the Copyright Office, under the authority of the Librarian of Congress, for the section 112 and section 114 statutory licenses. The Office will also conduct a status conference to discuss the formatting requirements.

DATES: Written proposals must be received in the Copyright Office by September 30, 2002. A status conference will be held on October 8, 2002 at 10 a.m.

ADDRESSES: An original and ten copies of written proposals should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE., Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. The October 8, 2002, status conference will be held in the CARP Hearing Room, Room LM-414, located on the fourth floor of the James Madison Memorial Building of the Library of Congress, First Street and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Act grants copyright owners of sound recordings the exclusive right to perform their works publicly by means of digital audio transmissions subject to certain limitations and exceptions. Among the limitations placed on the performance of sound recordings is a statutory license that permits certain eligible subscription, nonsubscription and satellite digital audio services to perform those sound recordings publicly by means of digital audio transmissions. 17 U.S.C. 114.

Similarly, copyright owners of sound recordings are granted the exclusive right to make copies of their works subject to certain limitations and exceptions. Among the limitations placed on the reproduction of sound recordings is a statutory license that permits certain eligible subscription, nonsubscription and satellite digital

audio services to make ephemeral copies of those sound recordings to facilitate their digital transmission under the section 114 license. 17 U.S.C. 112(e).

Both the section 114 and 112 licenses require services to, among other things, report to copyright owners of sound recordings on the use of their works. Both licenses direct the Librarian of Congress to establish regulations to give copyright owners reasonable notice of the use of their works and create and maintain records of the use for delivery to copyright owners. 17 U.S.C. 114(f)(4)(A) and 17 U.S.C. 112(e)(4). The purpose of the exchange of data is to enable copyright owners of sound recordings to distribute royalties collected under the statutory licenses to the correct recipients.

In 1998, the Copyright Office issued interim notice and recordkeeping regulations for subscription digital audio transmission services that, at the time, were the only services eligible for the statutory licenses. The Digital Millennium Copyright Act, Pub. L. No. 105-304, 112 Stat. 2860 (1998), expanded the pool of digital audio services eligible for the licenses making additional notice and recordkeeping regulations necessary. On February 7, 2002, the Office published a Notice of Proposed Rulemaking ("NPRM") using the 1998 interim regulations as the guidepost. The Office received public comments and, on May 10, 2002, the Office held a public meeting with representatives of copyright owners and users of the statutory licenses to assist in the formulation of regulations for notice and recordkeeping. Subsequently, the Office announced on the Copyright Office website that it would be announcing interim notice and recordkeeping regulations to establish transitional reporting requirements for services using the section 114 statutory license to perform sound recordings publicly by means of digital audio transmissions and the section 112 statutory license to make ephemeral recordings of sound recordings.

As the announcement on the Copyright Office website stated, these transitional requirements will require services using the statutory licenses to report the following information for a certain period of time during each calendar quarter:

1. The name of the service submitting the report;
2. The transmission category of the service [upon further analysis, the Office believes that the following categories need be designated: eligible nonsubscription services; preexisting

satellite digital audio radio services; new subscription services; non-Corporation for Public Broadcasting, noncommercial broadcasters making transmissions covered by 37 CFR 261.3(a)(2)(i) and (ii);¹ non-Corporation for Public Broadcasting, noncommercial broadcasters making transmissions covered by 37 CFR 261.3(a)(2)(iii);² and business establishment services making ephemeral phonorecords;³ and

3. For each sound recording transmitted by the service during the relevant period:

- a. The featured recording artist;
- b. The sound recording title;
- c. The name of the record album containing the sound recording, if in the possession of the service, or supplied to the service, at or before the time of the performance;
- d. The marketing label of the sound recording, if in the possession of the service, or supplied to the service, at or before the time of the performance; and
- e. The total number of performances of the sound recording (*i.e.*, the number of times the sound recording is performed multiplied by the number of recipients of each performance) during the relevant reporting period.

The transitional requirements will apply prospectively to reporting by qualified nonsubscription services (*e.g.*, webcasters), preexisting satellite digital audio radio services, new subscription services, and business establishment services making ephemeral phonorecords. Preexisting subscription services will continue to be governed by the existing reporting requirements found at 37 CFR 201.36.

It is anticipated that these interim requirements will be replaced after several months by final requirements, which are likely to require more comprehensive reporting. Moreover,

¹ Transmissions covered by these provisions include simultaneous Internet retransmission by non-Corporation for Public Broadcasting, noncommercial broadcasters of over-the-air AM or FM broadcasts by the same radio station and other Internet transmission of non-Corporation for Public Broadcasting, noncommercial broadcasters, including up to two side channels of programming consistent with the mission of the station, and are subject to a section 114 royalty of 0.02¢ per performance.

² Transmission covered by this provision include Internet transmissions on other side channels of programming by non-CPB, noncommercial broadcasters, and are subject to a section 114 royalty of 0.07¢ per performance.

³ The transmission categories noted here are not identical to the categories set forth in the announcement on the Copyright Office website. The current list of categories has been revised to take into account the various rates for different kinds of services established by the Order of the Librarian of Congress establishing rates and terms for the statutory license for eligible nonsubscription services. See 67 FR 45239 (July 8, 2002).

reporting requirements for the period commencing October 28, 1998 until the effective date of these interim regulations will be announced in the future. Until that announcement, services are cautioned that they should retain all records pertaining to performances of sound recordings during that period.

One of the issues that must be addressed in the interim regulations—and is the subject of today's request for written proposals—is the format in which recordkeeping data must be maintained by services using the statutory licenses, and the method or methods for delivery of the data to SoundExchange, which is the officially designated Receiving Agent for receiving section 114 and 112 royalty fees. See 37 CFR 261.4(b). As a preliminary matter, the Office has determined that data must be maintained in electronic format for delivery to SoundExchange; data in hard copy format is not acceptable. The issue, then, is the technical specifications of the electronic reports that will make the data stored therein usable.

By way of illustration, in the NPRM, the Office proposed the following format requirements, which included some data fields that are no longer being considered:

Format. Reports of Use should be provided on a standard machine-readable medium, such as a diskette, optical disc, or magneto-optical disc, and should conform as closely as possible to the following specifications:

- (1) * * * 4
- (2) * * *

(i) ASCII delimited format, using pipe characters as delimiter, with no headers or footers;

(ii) Field names should not be included as the first row of the file;

(iii) Carats (^) should surround strings;

(iv) No carats (^) should surround dates and numbers;

(v) Dates and times should be indicated by: DDMMYYYYhhmmss, where DD is the two-digit day of the log period; MM is the two-digit month of the log period; YYYY is the four-digit year of the log period; hh is the two-digit hour of the log period; mm is the two-digit minute of the log period; ss is the two-digit second of the period; single digit days, months, hours, minutes and seconds should be prepended with a zero; and times are local using a 24-hour clock;

(vi) A carriage return should be at the end of each line;

(vii) All data for one record should be on a single line;

(viii) All data for each month and each log type should be contained in a single file;

(ix) Files may be compressed in ZIP or GZ format; and

(x) Files should be named Service Name_Log Type_MMYYYY, where Log Type should be Play List, Listener or Ephemeral.

67 FR at 5766–5767. The Office received virtually no public comment on the proposed format requirements in either the written comments or the reply comments.

Formatting of recordkeeping data was addressed periodically at the May 10, 2002, public meeting, although mostly in the context of whether records have been maintained in electronic or hard copy format. The specifics of the proposed format regulation in the NPRM were not discussed.

Subsequent to the May 10 public meeting, the Office met with representatives of RIAA and SoundExchange and with representatives of broadcasters and webcasters to discuss format requirements in an effort to speed the process for issuing interim regulations that will begin reporting of data required by the section 114 and 112 licenses. It was apparent from both these meetings that the requirements proposed in the NPRM are not sufficiently detailed and will likely cause confusion and error in the reporting of recordkeeping data. Unfortunately, there was no consensus as to the specifics for formatting data.

Request for Written Proposals

In the interest of crafting data format regulations that are efficient, cost effective and reduce the incidences of reporting error, the Copyright Office is requesting both copyright owners and users of the section 114 and 112 licenses for digital audio transmissions to submit their written proposals for specifications to be included in regulations adopting the electronic format for recordkeeping data. Such proposals should include specific regulatory language along with a brief explanation of the reasons for adopting such language. Interested parties should also include in their written proposals acceptable means of data delivery (such as via e-mail attachment, delivery to an ftp site, physical delivery of a diskette, *etc.*) as well as any other technical requirements necessary to facilitate the effective exchange of data. The proposals should assume that the substantive reporting

requirements will be the requirements outlined above (name of service, transmission category of service, and the five categories of information identifying each sound recording performed).

Proposals should include requirements that are or can be compatible with software used by webcasters in connection with programming or reporting of performances of sound recordings. The interim regulations will also provide that webcasters be able to report on the use of sound recordings by recording the required information in spreadsheets in formats compatible with commonly used spreadsheet software. The Office intends to require that SoundExchange make templates for such spreadsheets available for downloading on its website and on the Copyright Office website. Proposals for formatting requirements should be compatible with this requirement and ideally should include samples of compatible spreadsheets.

Comments are also solicited on whether the reporting on the transmission category of the service should include only the categories set forth above,⁵ and whether there is any reason why the reports by services should identify whether the services are using only the section 114 statutory license or are also using the section 112 statutory license. Proponents of a requirement to identify whether a service is using the section 112 statutory license should take account of such a requirement in their proposals regarding formatting.

The Office encourages copyright owners, broadcasters and webcasters to work together to agree on formatting requirements that will serve all of their needs, and to submit joint proposals or comments if possible.

Written proposals are due by September 30, 2002.

Status Conference

The Office will hold a status conference on October 8, 2002, at 10:00 a.m. in the CARP Hearing Room, Room LM-414, located on the fourth floor of the James Madison Memorial Building of the Library of Congress, First Street and Independence Avenue, SE, Washington, DC. The purpose of the status conference will be to discuss the formatting requirements for the notice and recordkeeping regulations.

⁴ The provisions of this subsection apply to pre-existing subscription services and remain in effect. See 63 FR 34289 (June 24, 1998).

⁵ See the text accompanying footnote 3.

Dated: September 17, 2002.

David O. Carson,

General Counsel.

[FR Doc. 02-24017 Filed 9-20-02; 8:45 am]

BILLING CODE 1410-33-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02-109]

NASA Advisory Council, Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness (IOR).

DATES: Wednesday, October 16, 2002, 1 p.m.-2 p.m. Eastern Standard Time.

ADDRESSES: This meeting will be conducted via teleconference; hence participation will require contacting Mr. Lee Pagel (202/358-4621) before 12 Noon Eastern, October 15, 2002, and leaving your name, affiliation, and phone number.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Pagel, Code IH, National Aeronautics and Space Administration, Washington, DC 20546-0001, 202/358-4621.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capability of the teleconferencing system. The agenda for the meeting is as follows:

—To assess the operational readiness of the International Space Station to support the new crew and the American and Russian flight team's preparedness to accomplish the Expedition Six mission.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

June W. Edwards,

Advisory Committee Management Officer,
National Aeronautics and Space Administration.

[FR Doc. 02-24032 Filed 9-20-02; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 7, 2002. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740-6001. Requests also may be transmitted by FAX to 301-837-3698 or by e-mail to records.mgt@nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Larry Baume, Acting Director, Life Cycle Management Division (NWML), National Archives and Records

Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: 301-837-1505. E-mail: records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Forest Service (N1-95-02-1, 4 items, 2