

Comments: Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Regulation S-P; SEC File No. 270-480; OMB Control No. 3235-0537.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• **Regulation S-P—Privacy of Consumer Financial Information**

On June 22, 2000, effective November 13, 2000, the Commission adopted Regulation S-P under the Securities Exchange Act of 1934 ("Exchange Act") to implement title V of the Gramm-Leach-Bliley Act ("G-L-B Act" or "Act"). Among other things, title V of the G-L-B Act requires that at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution shall provide a clear and conspicuous

disclosure to such consumer of such financial institution's policies and practices with respect to disclosing nonpublic personal information to affiliates and nonaffiliated third parties ("privacy notice"). Title V of the Act also provides that, unless an exception applies, a financial institution may not disclose nonpublic personal information of a consumer to a nonaffiliated third party unless the financial institution clearly and conspicuously discloses to the consumer that such information may be disclosed to such third party; the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and the consumer is given an explanation of how the consumer can exercise that nondisclosure option ("opt out notice").

The privacy notices required by the Act are mandatory. The opt out notices are not mandatory for financial institutions that do not share nonpublic personal information with nonaffiliated third parties except as permitted under an exception to the statute's opt out provisions. Regulation S-P implements the statute's requirements with respect to broker-dealers, investment companies, and registered investment advisers ("covered entities"). The Act and Regulation S-P also contain consumer reporting requirements. In order for consumers to opt out, they must respond to opt out notices. At any time during their continued relationship, consumers have the right to change or update their opt out status. Most covered entities do not share nonpublic personal information with nonaffiliated third parties and therefore are not required to provide opt out notices to consumers under Regulation S-P. Therefore, few consumers are required to respond to opt out notices under the rule.

Compliance with Regulation S-P is necessary for covered entities to achieve compliance with the consumer financial privacy notice requirements of title V of the G-L-B Act. The required consumer notices are not submitted to the Commission. Because the notices do not involve a collection of information by the Commission, Regulation S-P does not involve the collection of confidential information. Regulation S-P does not have a record retention requirement per se, although the notices to consumers it requires are subject to the recordkeeping requirements of rules 17a-3 and 17a-4.

Currently, there are approximately 18,500 covered entities (approximately 5,600 broker-dealers that conduct business with the general public, 5,100

investment companies, and 7,800 registered investment advisers) that must prepare or revise the annual and initial privacy notices they provide to their customers. To prepare or revise their privacy notices, each of the approximately 10,700 covered entities that is a broker-dealer or investment company requires an estimated 40 hours at a cost of \$5,248 (32 hours of professional time at \$160 per hour plus 8 hours of clerical or administrative time at \$16 per hour) and each of the approximately 7,800 covered entities that is a registered investment adviser requires an estimated 5 hours at a cost of \$656 (4 hours of professional time at \$160 per hour plus 1 hour of clerical or administrative time at \$16 per hour). Thus, the total compliance burden per year is 740,000 hours (40 hours for 10,700 broker-dealers and investment companies, and 5 hours for 7,800 registered investment advisers (40 × 10,700 = 428,000, 5 × 7,800 = 39,000, and 428,000 + 39,000 = 467,000), and \$57,401,600 (\$5,248 × 10,700 = \$56,153,600, \$160 × 7,800 = \$1,248,000, and \$56,153,600 + \$1,248,000 = \$57,401,600).

It is not anticipated that covered entities will need to incur any capital or start-up cost to comply with Regulation S-P. However, covered entities generally will include initial and annual privacy notices to customers with disclosure documents or account statements that they currently receive. These statements typically are assembled and sent by organizations that specialize in mailing and distribution. The additional material might result in an increase in total annual distribution costs of approximately \$2.6 million for all covered entities. This estimate is based on an average additional cost per mailing of \$0.02 for 130.7 million investor accounts. The number of investor accounts assumes there are 53 million brokerage accounts, 77.3 million individual investment company shareholders, and 400,000 customers of investment advisers.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or