

program reasonably designed to assure and monitor compliance with the recordkeeping and recording requirements set forth in subchapter II of chapter 53 of title 31, United States Code and the implementing regulations issued by the Department of the Treasury at 31 CFR part 103. The compliance program must be written, approved by the credit union's board of directors, and reflected in the minutes of the credit union.

(2) *Customer identification program.* Each federally-insured credit union is subject to the requirements of 31 U.S.C. 5318(l) and the implementing regulation jointly promulgated by the NCUA and the Department of the Treasury at 31 CFR 103.121, which require a customer identification program to be implemented as part of the BSA compliance program required under this section.

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Dated: April 7, 2003.

Becky Baker,

Secretary of the Board, National Credit Union Administration.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47752, File No. S7-25-02]

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA32

Customer Identification Programs for Broker-Dealers

AGENCIES: Financial Crimes Enforcement Network, Treasury; Securities and Exchange Commission.

ACTION: Joint final rule.

SUMMARY: The Department of the Treasury, through the Financial Crimes Enforcement Network (FinCEN), and the Securities and Exchange Commission are jointly adopting a final rule to implement section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001. Section 326 requires the Secretary of the Treasury to jointly prescribe with the Securities and Exchange Commission a regulation that, at a minimum, requires brokers or dealers to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable; to

maintain records of the information used to verify the person's identity; and to determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to brokers or dealers by any government agency. This final regulation applies to brokers or dealers in securities except for brokers or dealers that register with the Securities and Exchange Commission solely because they effect transactions in securities futures products.

DATES: *Effective Date:* This rule is effective June 9, 2003.

Compliance Date: Brokers or dealers subject to this final regulation must comply with it by October 1, 2003.

FOR FURTHER INFORMATION CONTACT: *Securities and Exchange Commission:* Division of Market Regulation, (202) 942-0177 or marketreg@sec.gov.

Treasury: Office of the Chief Counsel (FinCEN), (703) 905-3590; Office of the General Counsel (Treasury), (202) 622-1927; or the Office of the Assistant General Counsel for Banking & Finance (Treasury), (202) 622-0480.

SUPPLEMENTARY INFORMATION:

I. Background

A. Section 326 of the USA PATRIOT Act

On October 26, 2001, President Bush signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act or Act).¹ Title III of the Act, captioned "International Money Laundering Abatement and Anti-terrorist Financing Act of 2001," adds several new provisions to the Bank Secrecy Act (BSA).² These provisions are intended to facilitate the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Section 326 of the Act adds a new subsection (l) to 31 U.S.C. 5318 of the BSA that requires the Secretary of the Treasury (Secretary or Treasury) to prescribe regulations "setting forth the minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution."

Section 326 applies to all "financial institutions." This term is defined broadly in the BSA to encompass a variety of entities, including commercial banks, agencies and branches of foreign banks in the United States, thrifts, credit unions, private banks, trust companies, brokers and dealers in securities,

investment companies, futures commission merchants, insurance companies, travel agents, pawnbrokers, dealers in precious metals, check-cashers, casinos, and telegraph companies, among many others.³

The regulations implementing section 326 must require, at a minimum, financial institutions to implement reasonable customer identification procedures for (1) verifying the identity of any person seeking to open an account, to the extent reasonable and practicable; (2) maintaining records of the information used to verify the person's identity, including name, address, and other identifying information; and (3) determining whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency. In prescribing these regulations, the Secretary is directed to take into consideration the types of accounts maintained by different types of financial institutions, the various methods of opening accounts, and the types of identifying information that are available.

B. Overview of Comments Received

On July 23, 2002, Treasury and the SEC jointly proposed a rule to implement section 326 with respect to brokers or dealers in securities (broker-dealers).⁴ We received 20 comments in

³ See 31 U.S.C. 5312(a)(2), 5312(c)(1)(A). For any financial institution engaged in financial activities described in section 4(k) of the Bank Holding Company Act of 1956, the Secretary is required to prescribe the regulations issued under section 326 jointly with the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration (collectively, the "banking agencies"), the Securities and Exchange Commission (Commission or SEC), and the Commodity Futures Trading Commission (CFTC).

⁴ Customer Identification Programs for Broker-Dealers, Securities Exchange Act of 1934 Release No. 46192 (July 12, 2002), 67 FR 48306 (July 23, 2002) (Notice of Proposed Rulemaking or NPRM). Treasury simultaneously published (1) jointly with the banking agencies, a proposed rule applicable to banks (as defined in 31 CFR 103.11(c)) and foreign branches of insured banks; (2) a proposed rule applicable to credit unions, private banks and trust companies that do not have a federal functional regulator; (3) jointly with the SEC, a proposed rule applicable to mutual funds; and (4) jointly with the CFTC, a proposed rule applicable to futures commission merchants and introducing brokers. Customer Identification Programs for Banks, Savings Associations, and Credit Unions, 67 FR 48290 (July 23, 2002); Customer Identification Programs for Certain Banks (Credit Unions, Private Banks and Trust Companies) That Do Not Have a Federal Functional Regulator, 67 FR 48299 (July 23, 2002); Customer Identification Programs for Mutual Funds, IC-25657 (July 12, 2002), 67 FR 48318 (July 23, 2002); Customer Identification Programs for

Continued

¹ Pub. L. 107-56.

² 31 U.S.C. 5311 *et seq.*