

days after an account is opened, to secure and maintain a record of the taxpayer identification number of the customer involved. If the broker-dealer is unable to obtain the taxpayer identification number within 30 days (or a longer time if the person has applied for a taxpayer identification number), it need take no further action under section 103.35 concerning the account if it maintains a list of the names, addresses, and account numbers of the persons for which it was unable to secure taxpayer identification numbers, and provides that information to the Secretary upon request. In the case of a non-resident alien, the broker-dealer is required to record the person's passport number or a description of some other government document used to determine identification. These requirements conflicted with those in the proposed CIP rule, which required broker-dealers to obtain the name, address, date of birth and an identification number from any person opening a new account.

Section 103.35(a)(3) currently provides that a broker-dealer need not obtain a taxpayer identification number with respect to specified categories of persons<sup>141</sup> opening accounts. The proposed rule did not exempt any persons from the CIP requirements. As stated in the NPRM, Treasury believes that the requirements of section 103.35(a) are inconsistent with the intent and purpose of section 326 of the Act and incompatible with the proposed rule.

For these reasons, Treasury, under its own authority, proposed deleting the above referenced provisions in 103.35(a). Treasury and the Commission requested comments on whether any of the exemptions in Section 103.35(a)(3) should apply in the context of the proposed CIP requirements in light of the intent and purpose of section 326 of the Act. The comments we received requesting exemptions from the CIP requirements have been discussed above

in the section-by-section analysis of the final rule.

Treasury has determined that given the more comprehensive requirements of the final CIP rule, there is no longer a need for § 103.35 (a). A number of the exemptions formerly in § 103.35(a) have now been added to the final CIP rule. Other exemptions conflict with the language and intent of section 326 of the Act and thus are not adopted in the final rule. While 103.35(a) will no longer be needed once the final rule is fully effective, withdrawing the provision before October 1, 2003, would create a gap period during which broker-dealers would not be subject to a rule under the BSA requiring customers to be identified when opening brokerage accounts. Because Treasury and the Commission do not believe such a gap period would be appropriate, the final rule—rather than withdrawing 103.35(a)—amends the section to cut off its applicability on October 1, 2003, when 103.122 becomes fully effective.

#### IV. Paperwork Reduction Act

The new rule has certain provisions that contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Treasury submitted the proposed rule to the Office of Management and Budget (“OMB”) for review in accordance with 44 U.S.C 3507(d) and 5 CFR 1320.11. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The OMB has approved the collection of information requirements in today's rule under control number 1506-0034.

##### A. Collection of Information Under the Proposed Rule

The final rule contains recordkeeping and disclosure requirements that are subject to the Paperwork Reduction Act of 1995. In summary, the final rule, like the proposed rule, requires broker-dealers to implement reasonable procedures to (1) maintain records of the information used to verify the person's identity and (2) provide notice of the CIP procedures to customers. These recordkeeping and notice requirements are required under section 326 of the Act. However, the final rule reduces the paperwork burden attributable to these requirements, as described below.

##### B. Proposed Use of the Information

Section 326 of the Act requires Treasury and the Commission jointly to issue a regulation setting forth

minimum standards for broker-dealers and their customers regarding the identity of the customer that shall apply in connection with opening of an account at the broker-dealer. Furthermore, section 326 provides that the regulations, at a minimum, must require broker-dealers to implement reasonable 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.

The purpose of section 326, and the regulations promulgated thereunder, is to make it easier to prevent, detect and prosecute money laundering and the financing of terrorism. In issuing the final rule, Treasury and the Commission are seeking to fulfill their statutorily mandated responsibilities under section 326 and to achieve its important purpose.

The final rule requires each broker-dealer to establish a written CIP that must include recordkeeping procedures and procedures for providing customers with notice that the broker-dealer is requesting information to verify their identity. The final rule requires a broker-dealer to maintain a record of (1) the identifying information provided by the customer, the type of identification document(s) reviewed, if any, and the identification number of the document(s); (2) the means and results of any additional measures undertaken to verify the identity of the customer; and (3) the resolution of any discrepancy in the identifying information obtained.

The final rule also requires each broker-dealer to give customers “adequate notice” of the identity verification procedures. Depending on how an account is opened, a broker-dealer may satisfy this disclosure requirement by posting a sign in the lobby or providing customers with any other form of written or oral notice. If the account is opened electronically, the broker-dealer may provide the notice electronically. Accordingly, a broker-dealer may choose among a variety of methods of providing adequate notice and may select the least burdensome method, given the circumstances under which customers seek to open new accounts.

<sup>141</sup> The exemption applies to (i) agencies and instrumentalities of Federal, State, local, or foreign governments; (ii) aliens who are ambassadors; ministers; career diplomatic or consular officers; naval, military, or other attaches of foreign embassies and legations; and members of their immediate families; (iii) aliens who are accredited representatives of certain international organizations, and their immediate families; (iv) aliens temporarily residing in the United States for a period not to exceed 180 days; (v) aliens not engaged in a trade or business in the United States who are attending a recognized college or university, or any training program supervised or conducted by an agency of the Federal Government; and (vi) unincorporated subordinate units of a tax exempt central organization that are covered by a group exemption letter.