

C. Respondents

The final rule will apply to approximately 5,448 broker-dealers, which is the approximate number of firms that conduct business with the general public.¹⁴²

D. Total Annual Reporting and Recordkeeping Burden

1. Providing Notice to Customers

The requirement to provide notice to customers generally will be a one-time burden in terms of drafting and posting or implementing the notices. The Commission estimates that broker-dealers will take two hours each to draft and post the required notices. There are approximately 5,448 broker-dealers that will have to undertake this task. Therefore, in complying with this requirement, the Commission estimates that the industry as a whole will spend approximately 10,896 hours.

2. Recordkeeping

The requirement to make and maintain records related to the CIP will be an annual time burden. The total burden to the industry will depend on the number of new accounts added each year. The Commission estimates that broker-dealers, on average, will spend two minutes per account making and maintaining the required records.¹⁴³ Therefore, in complying with this requirement, the Commission estimates that the industry as a whole will spend approximately 140,833 hours in 2003, 620,000 hours in 2004 and 683,833 hours in 2005.¹⁴⁴

¹⁴² This figure is derived from financial information filed by broker-dealers on Form X-17a-5—Financial and Operational Combined Uniform Single (FOCUS) Reports—pursuant to section 17 of the Exchange Act and rule 17a-5 (17 CFR 240.17a-5).

¹⁴³ The Commission estimates that the number of new accounts per year will be: 16,900,000 in 2003, 18,600,000 in 2004, and 20,515,000 in 2005. The Commission arrived at this estimate by considering: (1) The total number of accounts at the 2001 year-end (102,700,000) as reported by broker-dealers on their FOCUS Reports; and (2) the annualized growth rate in total accounts for the years 1990 through 2001 (ten percent). The Commission also estimates that the number of accounts that are closed each year equals five percent of the total number of accounts. Accordingly, the Commission estimates that the total annualized growth rate for new accounts each year is fifteen percent. Therefore, starting with the 2001 total of 102,700,000 and using an annualized growth rate of fifteen percent, the Commission estimates that 16,900,000 new accounts will be added in 2003, 18,600,000 in 2004 and 20,515,000 in 2005.

¹⁴⁴ The Commission derived these estimates by taking the number of new accounts projected for each upcoming year and multiplying the number by two minutes and then dividing that number by 60 to convert minute totals into hour totals. The final rule will be effective only for the last quarter of 2003. Therefore, while the total burden for a twelve-month effective period would be 563,333 hours, the

We believe that there is a nominal burden associated with the new recordkeeping requirement. Under the final rule, a broker-dealer may rely on another financial institution to perform some or all its CIP under certain conditions, including that the financial institution must enter into a contract requiring the financial institution to certify annually to the broker-dealer that it has implemented its anti-money laundering program and that it will perform (or its agent will perform) the specified elements of the broker-dealer's CIP. Not all broker-dealers will choose to rely on a third party. The minimal burden of retaining the certification described above should allow a broker-dealer to reduce its net burden under the rule by relying on another financial institution to perform some or all of its CIP.

3. Request for Comment

Treasury and the Commission invite comments on the accuracy of the burden estimates and suggestions on how to further reduce these burdens. Comments should be sent (preferably by fax (202-395-6974)) to Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506-0034), Washington, DC 20503 (or by the Internet to jlackeyj@omb.eop.gov), with a copy to FinCEN by mail or the Internet at the addresses previously specified.

E. Collection of Information Is Mandatory

These recordkeeping and disclosure (notice) requirements are mandatory.

F. Confidentiality

The collection of information pursuant to the proposed rule would be provided by customers and other sources to broker-dealers and maintained by broker-dealers. In addition, the information may be used by federal regulators, self-regulatory organizations, and authorities in the course of examinations, investigations, and judicial proceedings. No governmental agency regularly would receive any of the information described above.

G. Record Retention Period

The final rule requires that the documentation of the identifying information obtained from the customer be retained until five years after the date the account of the customer is closed and that the other records relating to the

actual burden being allocated to the rule is 140,833 (or 1/4 of 563,333).

verification of the customer be retained until five years after the record is made.

V. SEC's Analysis of the Costs and Benefits Associated With the Final Rule

Section 326 of the Act requires Treasury and the Commission to prescribe regulations setting forth minimum standards for broker-dealers regarding the identities of customers that shall apply in connection with the opening of an account. The statute also provides that the regulations issued by Treasury and the Commission must, at a minimum, require financial institutions to implement reasonable procedures for: (1) Verification of customers' identities; (2) determination of whether a customer appears on a government list; and (3) maintenance of records related to customer verification. The final rule implements this statutory mandate by requiring broker-dealers to (1) establish a CIP; (2) obtain certain identifying information from customers; (3) verify the identifying information; (4) check customers against lists provided by federal agencies, (5) provide notice to customers that information may be requested in the process of verifying their identities; and (6) make and maintain records. The Commission believes that these requirements are reasonable and practicable, as required by the section 326 and, therefore, that the costs associated with them are attributable to the statute. Moreover, while the final rule specifies certain minimum requirements, broker-dealers are able to design their CIPs in a manner most appropriate to their business models and customer bases. This flexibility should be beneficial to broker-dealers in helping them to tailor their CIPs appropriately, while still meeting the statutory requirements of section 326.

Even though the Commission believes the costs associated with the final rule are attributable to the statute, it considered preliminarily the costs and benefits associated with the proposed rule and requested comment on all aspects of its cost-benefit analysis.¹⁴⁵ The Commission sought comment on all aspects of the rule, including whether the establishment of minimum requirements creates a benefit or, conversely, imposes costs because broker-dealers will not be able to choose for themselves the minimum procedures they wish to use to meet the requirements of the statute. The Commission also sought comment on whether the costs are attributable to the statute. Most commenters did not address the Commission's cost-benefits

¹⁴⁵ NPRM, Section VI, 67 FR at 48313.