

analysis. The commenters that did discuss costs stated generally that they believed the Commission had underestimated them.

In light of the comments, the Commission re-examined its analysis, obtained further cost information and adjusted its cost estimate with respect to the one-time costs associated with implementing a CIP. The adjustment is reflected in the cost section below titled "Implementing the CIP." The Commission also adjusted certain of the burden totals to reflect updated figures (e.g., number broker-dealers doing a public business) obtained from more recent broker-dealer FOCUS reports. As discussed throughout this release, the burdens that would have been imposed by the proposed rule have been lessened as a result of changes to the final rule including (1) the narrowing of the definitions of "account" and "customer," (2) the elimination of need to make and retain certain records, and (3) the expansion of the reliance provision. The estimates below take these changes into account.

A. Benefits Associated With the Final Rule

The anti-money laundering provisions in the Act are intended to make it easier to prevent, detect and prosecute money laundering and the financing of terrorism. The final rule is an important part of this effort. It fulfills the statutory mandate of section 326 by specifying how a broker-dealer is to establish a program that will assist it in determining the identities of customers. Verifying identities, in turn, will reduce the risk of broker-dealers unwittingly aiding criminals, including terrorists, in accessing U.S. financial markets to launder money or move funds for illicit purposes. Additionally, the implementation of such programs should make it more difficult for persons to successfully engage in fraudulent activities involving identity theft or the placing of fictitious orders to buy or sell securities.

B. Costs Associated With the Final Rule

1. Implementing a CIP

Most broker-dealers, as a matter of prudent business practices, already should have procedures in place for verifying identities of customers. In addition, Exchange Act Rule 17a-3(a)(9) requires broker-dealers to obtain the name and address of each beneficial owner of a cash or margin account.¹⁴⁶ Similarly, the self-regulatory organizations have rules requiring

broker-dealers to obtain identifying information from customers.¹⁴⁷ Accordingly, firms should have written procedures for complying with these existing regulations.

Nonetheless, the Commission believes that some broker-dealers will have to update or establish a CIP. The proposed rule seeks to keep costs low by allowing for great flexibility in establishing a CIP. For example, the CIP should be based on factors specific to each broker-dealer, such as size, customer base and location. Thus, the analysis and detail necessary for a CIP will depend on the complexity of the broker-dealer and its operations. Given the considerable differences among broker-dealers, it is difficult to quantify a cost per broker-dealer. Highly complex firms will have more risk factors to consider, given, for example, their size, multiple offices, variety of services and products offered, and range of customers. However, most large firms already have some procedures in place for verifying customer identities. Smaller and less complex firms will not have as many risk factors.

The Commission estimates that establishing a written CIP could result in additional costs for some broker-dealers to the extent they do not have verification procedures that meet the minimum requirements in the rule. This includes broker-dealers that would need to augment their procedures to make them compliant. On average, the Commission estimates the additional cost per broker-dealer to draft CIP procedures to be approximately \$2,244, resulting in a one time overall cost to the industry of approximately \$12,225,312.¹⁴⁸

¹⁴⁷ See, e.g., NYSE Rule 405, NASD Rule 3110.

¹⁴⁸ The Commission estimates that it will take broker-dealers on average approximately 20 hours to draft a CIP. This estimate seeks to account for the fact that many firms already have customer identification and verification procedures and that discrepancies in size and complexity will result in differing time burdens. The Commission believes that broker-dealers will have senior compliance personnel draft their CIPs and that this will take an average of 16 hours. The Commission anticipates that in-house counsel will spend on average 4 hours reviewing the CIP. According to the Securities Industry Association ("SIA") *Management and Professional Earnings 2000* report ("SIA Earnings Report"), Table 051, the hourly cost of a compliance manager plus 35% overhead is \$101.25. The hourly cost for an in-house counsel plus 35% overhead is \$156.00 (SIA Earnings Report, Table 107 (Attorney)). Therefore, the Commission estimates that the total cost per broker-dealer to establish a CIP would be \$2,244 per broker-dealer [(16 × \$101.25) + (4 × \$156.00)]. As of September 30, 2002, there were approximately 5,448 broker-dealers that engaged in some form of a public business. Therefore, the Commission estimates that the total cost to the industry would be \$2,244 multiplied by 5,448 or \$12,225,312.

Previously, the Commission included, as part of the costs of establishing a CIP, a cost estimate associated with updating account opening applications or account opening websites. This was estimated as a one-time cost to the industry of \$563,760.¹⁴⁹ Several commenters stated that they believed the Commission had underestimated the burden of establishing a CIP. One commenter also identified steps that would need to be taken in addition to updating applications and websites. Accordingly, the Commission is now adjusting its estimate of the costs associated with revising or designing forms and other documentation (including applications and Web sites), and including costs associated with programming and testing automated systems. The Commission estimates the one-time costs associated with modifying account application materials to be \$8,274,150.¹⁵⁰ Further, the Commission estimates the one-time costs associated with programming and testing automated systems to be \$25,505,536.¹⁵¹

2. Obtaining Identifying Information

The Commission believes that broker-dealers already obtain from customers most, if not all, of the information required under the final rule.¹⁵² Rule

¹⁴⁹ The Commission estimated that it would take each broker-dealer, on average, one hour to update account opening applications or electronic account opening systems. The Commission believed broker-dealers would have a compliance manager implement the necessary changes. The hourly cost for a compliance manager is \$101.25 (SIA Earnings Report, Table 051 (Compliance manager)). Accordingly, the total cost to the industry was estimated to be: (\$101.25) × (the number of broker-dealers doing a public business or 5,568) or \$563,760.

¹⁵⁰ The Commission estimates that it will take each broker-dealer, on average, fifteen hours to modify account opening documentation or electronic account opening systems. The Commission believes broker-dealers will have a compliance manager implement the necessary changes. The hourly cost for a compliance manager is \$101.25 (SIA Earnings Report, Table 051 (Compliance manager)). Accordingly, the total cost to the industry was estimated to be: (\$101.25) × (15 hours) × (the number of broker-dealers doing a public business—5,448) or \$8,274,150.

¹⁵¹ The Commission estimates that it will take broker-dealers on average approximately 640 hours to program and test the automated systems that will need to be changed to comply with the rule. The Commission estimates computer programmers will do this work. The hourly cost of a computer programmer is \$66.20 (SIA Earnings Report, Table 158 (Senior Programmer)). The Commission estimates that generally systems changes will need to be made only by broker-dealers that carry or clear customer accounts. FOCUS report data indicates that there are approximately 602 such broker-dealers. Accordingly, the total cost to the industry is estimated to be (\$66.20) × (640 hours) × (602 broker-dealers) or \$25,505,536.

¹⁵² For example, the Anti-Money Laundering Committee of the SIA recommended in its *Preliminary Guidance for Deterring Money Laundering Activity* (February 2002) that broker-

¹⁴⁶ 17 CFR 240.17a-3(a)(9).