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The Commission and Treasury believe that the requirements in the final rule are reasonable and practicable and that, accordingly, the costs to mutual funds and fund families of compliance with the rule's requirements are attributable to the statute. In the proposed rule, we requested comment and specific data regarding the costs and benefits of the proposed rule. We did not receive any data in comment letters concerning the costs and benefits of the proposed rule.

A. Benefits Associated With the Final Rule

We anticipate that mutual funds, fund customers, and the nation as a whole will benefit from the new rule. The anti-money laundering provisions of the USA PATRIOT Act are intended to facilitate the prevention, detection, and prosecution of money laundering and terrorist financing. Today's rule implements an important part of those provisions. By requiring that mutual funds establish CIPs, section 326 and the rule will limit the ability of criminals, including terrorists, to use mutual fund accounts to finance their activities, or shelter the proceeds of criminal conduct. Moreover, mutual fund CIPs should deter criminals from using mutual fund accounts to perpetrate fraud on the fund complex (by placing fictitious buy and sell orders) and identity theft of legitimate mutual fund customers. We also believe that the rules provide greater certainty to the private sector on how to comply with the USA PATRIOT Act because they are consistent with and comparable to the rules adopted by the other federal functional regulators. Finally, in order to reduce compliance burdens, the final rule allows mutual funds flexibility to adopt CIPs and to distribute notices that are best suited to the funds' businesses and needs. These benefits are difficult to quantify. We received no data from commenters quantifying the value of these benefits.

B. Costs Associated With the Final Rule

Section 326 of the USA PATRIOT Act, and the new rule, allow for great flexibility in the development of CIPs. Differences in the ways that mutual fund accounts are opened, fund shares

are distributed, and fund purchases, sales and exchanges are effected; differences in the various types of accounts maintained by mutual funds; and differences among mutual fund customer bases make it difficult to quantify accurately a universally applicable cost per mutual fund. Most mutual funds currently have some procedures in place for collecting information about and verifying the identities of their customers, and for detecting fraud in the account opening process by looking for inconsistencies in the information provided by customers and/or checking customer names against certain databases. We anticipate that the requirements of section 326 as implemented by today's rule nonetheless will impose initial, one-time costs and ongoing costs on mutual funds and fund families in connection with formulating and implementing programs that comply with today's rule, and modifying existing procedures to conform to those new programs. Initial one-time costs associated with establishment of CIPs would include: (1) The development, adoption, and implementation of a CIP; (2) the creation or modification of computer systems and account applications (both paper and web-based applications) to collect required information and disseminate required notices; (3) the modification of electronic recordkeeping systems to verify and retain the required information; and (4) personnel training. Ongoing costs for mutual funds and fund families will include: (1) Collecting the information required by the CIP; (2) verifying customers' identities; (3) determining whether customers appear on designated lists issued by federal government agencies; and (4) making and maintaining required records. As discussed above, the magnitude of these ongoing costs will, in large part, depend on the number of new accounts opened. From January 1, 1990 through December 31, 2001, approximately 16 million mutual fund accounts were opened annually.¹³⁰

¹³⁰ This estimate is derived from information reported in the Investment Company Institute's 2002 Mutual Fund Fact Book. It represents the net annual increase in the number of mutual fund accounts. The actual number of new accounts that were opened during this period is probably higher because this estimate is reduced by the number of accounts that were closed during the same period. No data are available regarding the number of accounts that were closed. The number of accounts with respect to which customers' identities will be required to be verified is, however, significantly lower than the aggregate number of new accounts that are created annually. A mutual fund will not be required to verify the identity of a customer who has an existing account with the mutual fund, provided that the mutual fund has a reasonable belief that it knows the true identity of the person.

1. Costs Associated With Establishing a CIP

Program Implementation. Section 326 of the Act and the new rule require mutual funds to develop written CIPs. Based on discussions with industry representatives, the Commission estimates that it will take approximately 50 hours for a fund, or fund family, to develop a CIP at a cost of approximately \$3,810.¹³¹ Based on these assumptions, we estimate that the aggregate cost of developing CIPs will be approximately \$3.4 million (\$3,810 per program × 890 fund families).

We believe this is a reasonable estimate of the cost of developing and implementing CIPs. We recognize that the actual development costs associated with establishing a CIP may vary from this estimate depending upon the size of the mutual fund or fund family, the distribution channels used by the fund or fund family, the fund's customer base, number of affiliates, and the extent to which a fund or fund family relies on third parties or allocates responsibilities under its CIP. For mutual funds that delegate implementation of their CIPs to unaffiliated service providers, the burden per mutual fund may be less because those service providers will likely use the same or similar software and systems for several different registrants. Similarly, the cost per fund for funds that use a CIP developed by their fund family may be less.

Systems Modifications. The Commission anticipates that the new rule will cause individual mutual funds and mutual fund families to incur costs to modify items such as account applications and websites, to create or modify electronic links to other databases, and to modify their electronic recordkeeping systems in order to

See note supra and accompanying text. A mutual fund may also, in certain circumstances, rely on the performance by another financial institution of any procedures of the mutual fund's CIP with respect to a customer. *See* notes 118–122 *supra* and accompanying text.

¹³¹ We estimate that it will take compliance personnel 45 hours at a cost of \$62 per hour, attorneys 4 hours at a cost of \$130 per hour, and directors 1 hour at \$500 per hour, to develop a CIP. We have revised this estimate since the proposal to more accurately reflect the hourly costs of the various types of persons who must be involved in the creation and implementation of a CIP. This estimate of the cost of developing a CIP includes the cost of the rule's requirement that the mutual fund's CIP include procedures for providing fund customers with notice that the fund is requesting information to verify their identities. A mutual fund may satisfy the notice requirement by generally notifying its customers about the procedures the fund must comply with to verify their identities. Depending on how accounts are opened, the mutual fund may post a notice on its website, or provide customers with any other form of written or oral notice.