

be *de minimis*. This position is consistent with the views of one trade association commenter that characterized the expected additional costs for IBs to comply with this new rule as “insubstantial.”

Accordingly, pursuant to 5 U.S.C. 605(b), Treasury and the CFTC certify that the action taken herein will not have a significant economic impact on a substantial number of small entities. In this regard, Treasury and the CFTC note that they did not receive any comments expressing concern regarding the implications of the rule for small entities.

B. Paperwork Reduction Act

The collections of information in this rule have been reviewed and approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), under control number 1506-0022. 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.

Neither Treasury nor the CFTC received any comments on any potential paperwork burden associated with the NPRM. Treasury and the CFTC did receive comments concerning the information that would be collected under the proposed rule. The final rule, which addresses these concerns among others, reduces the paperwork burden of the rule as proposed.⁹³

Comments on the burden, and suggestions for how to further reduce it, may 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 (1506-0022), 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.

C. Cost-Benefit Analysis

Section 15(a) of the CEA requires the CFTC to consider the costs and benefits of its action before issuing a new rule. The CFTC understands that, by its terms, section 15(a) does not require the CFTC to quantify the costs and benefits of a new rule or to determine whether the benefits of the rule outweigh its costs. Nor does it require that each rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, section 15(a) simply requires the CFTC to

“consider the costs and benefits” of its action.

Section 15(a) further specifies that the costs and benefits of the rule shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The CFTC may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the CEA.

The NPRM contained an analysis of the CFTC’s consideration of these costs and benefits and solicited public comment thereon.⁹⁴ The CFTC invited commenters to submit any data that they might have to assist in quantifying the costs and benefits of the proposed rules. The CFTC did not receive any such data or related comments.

After considering the costs and benefits of the proposed rules, the CFTC has decided to adopt these rules, with revisions as discussed above.

D. Executive Order 12866

Treasury has determined that this rule is not a “significant regulatory action” for purposes of Executive Order 12866. As noted above, the final rule parallels the requirements of section 326 of the Act. Accordingly, a regulatory impact analysis is not required.

List of Subjects

17 CFR Part 42

Anti-money laundering, Brokers, Reporting and recordkeeping requirements, Terrorist financing.

31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks, Banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Law enforcement, Penalties, Reporting and recordkeeping requirements, Securities.

Commodity Futures Trading Commission

17 CFR Chapter I

Authority and Issuance

■ For the reasons articulated in the preamble, the CFTC amends chapter I of title 17 of the Code of Federal Regulations by adding a new part 42 to read as follows:

PART 42—ANTI-MONEY LAUNDERING, TERRORIST FINANCING

Subpart A—General Provisions

Sec.

42.1 [Reserved]

42.2 Compliance with Bank Secrecy Act

Authority: 7 U.S.C. 1a, 2, 5, 6, 6b, 6d, 6f, 6g, 7, 7a, 7a-1, 7a-2, 7b, 7b-1, 7b-2, 9, 12, 12a, 12c, 13a, 13a-1, 13c, 16 and 21; 12 U.S.C. 1786(q), 1818, 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, secs. 312-314, 319, 321, 326, 352, Pub. L. 107-56, 115 Stat. 307.

Subpart A—General Provisions

§ 42.1 [Reserved]

§ 42.2 Compliance with Bank Secrecy Act.

Every futures commission merchant and introducing broker shall comply with the applicable provisions of the Bank Secrecy Act and the regulations promulgated by the Department of the Treasury under that Act at 31 CFR Part 103, and with the requirements of 31 U.S.C. 5318(l) and the implementing regulation jointly promulgated by the Commission and the Department of the Treasury at 31 CFR 103.123, which require that a customer identification program be adopted as part of the firm’s Bank Secrecy Act compliance program.

Dated: April 28, 2003.

Jean A. Webb,

Secretary of the Commodity Futures Trading Commission.

Department of the Treasury

31 CFR Chapter I

Authority and Issuance

■ For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

■ 1. The authority citation for part 103 is revised to read as follows:

Authority: 12 U.S.C. 1786(q), 1818, 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, secs. 312, 313, 314, 319, 321, 326, 352, Pub. L. 107-56, 115 Stat. 307.

⁹³ See NPRM, 67 FR at 48335.

⁹⁴ See NPRM, 67 FR at 48336-48337.