

on average, earned approximately \$82.00/per hour. Including 35% overhead, Commission staff estimates that the hourly pay rate for a compliance officer would be \$110.70 per hour. Therefore, the Commission estimates that the annual burden for broker-dealers in hours of complying with the notification requirements would be approximately 4,638 hours  $([2,650 \times 105 \text{ minutes}]/60)$ . The staff estimates that the annual burden for broker-dealers of complying with the notification requirements in dollars would be approximately \$513,427.00  $(4,638 \text{ hours} \times \$110.70)$ .

Therefore, the Commission estimates that the regulation would result in a total annual burden in hours of approximately 38,954 hours (22,930 hours for broker-dealers to comply with the research report requirements + 11,040 hours for investment advisers to comply with the research report requirements + 346 hours for broker-dealers to comply with the public appearance requirements + 4,638 hours for broker-dealers to comply with the notification requirements), for a total annual cost in dollars of approximately \$4,682,821 (\$2,785,995 for broker-dealers to comply with the research report requirements + \$1,341,360 for investment advisers to comply with research the report requirements + \$42,039 for broker-dealers to comply with the public appearance requirements + \$513,427 for broker-dealers to comply with the notification requirements).

#### IV. Costs and Benefits of Adopted Regulation Analyst Certification

To assist the Commission in evaluating the costs and benefits that may result from adopting Regulation AC, the Commission sought comment on any potential costs, as well as any potential benefits, resulting from the proposal for investors, issuers, broker-dealers, other securities industry professionals, SROs, or others. The Commission also requested that commenters provide analysis and data to support their views. Regulation AC is part of an ongoing process by the Commission to address conflicts of interest affecting the production and dissemination of research by securities firms, and to provide increased disclosure to investors. Regulation AC includes a requirement that broker-dealers and covered persons include in research reports they publish certain certifications and disclosures about the analyst's views expressed in the research reports and any relationship between the analyst's compensation and the specific recommendations or views

expressed. Regulation AC would also require broker-dealers to make, keep, and maintain records of research analyst certifications and disclosures in connection with public appearances. We are sensitive to the costs and benefits that result from our rules. The Commission initially identified certain costs and benefits relating to the proposals and encouraged commenters to discuss any additional costs or benefits. We discuss these costs and benefits below.

##### A. Costs

The Commission received letters from twenty-one commenters concerning Regulation AC. Only one commenter provided actual data to quantify the costs identified. This commenter believed that the estimates set forth in the proposing release were low primarily because the estimated number of research reports per year did not capture, among other things, reports by investment advisers and certain full-text reports.<sup>70</sup> The Commission modified its estimates in response to these comments.

The Commission also requested comment on how many public appearance certifications would likely be submitted to brokerage firms per quarter, and how many of those statements would be required to be provided to the firm's examining authority. One commenter believed that the estimate of the number of public appearances was too low, but did not provide specific data in support of its views.<sup>71</sup>

While Regulation AC may lead to some additional costs for brokers, dealers, and covered persons, we continue to believe that any costs should not be significant. In light of current requirements for broker-dealers under SRO rules, the Commission estimates that, beyond the paperwork costs described above, any additional costs to broker-dealers that would result from the required certifications and disclosures would be minimal. In the Proposing Release, the staff estimated that broker-dealers publish approximately 657,000 research reports per year. One commenter provided information that suggests that broker-dealers publish as many as 1,375,865 research reports per year.<sup>72</sup> Given the refined scope of Regulation AC, the staff believes that these two estimates represent a reasonable range with which to estimate research reports affected by

the rule. Accordingly, the Commission estimates the total direct costs to be approximately \$2.5 million to \$4.7 million.<sup>73</sup> In addition, because the rule is minimally burdensome, the Commission believes that, beyond the paperwork costs described above, any additional costs to associated persons that would result from certifications and disclosures would be minimal.

Moreover, with respect to the compensation certifications and disclosures that are required by Regulation AC, broker-dealers are already required to make certain disclosures regarding research analyst compensation under SRO rules. For example, SRO rules currently require that firms disclose in research reports if the associated person preparing the report received compensation that is based upon (among other factors) the member's overall investment banking revenues.<sup>74</sup> Further, SRO rules prohibit members from offering favorable research to a company as consideration or inducement for the receipt of business or for compensation.<sup>75</sup> Additionally, Exchange Act Rule 17a-3(a)(19) currently requires broker-dealers to maintain a record of all agreements pertaining to the relationship between each associated person and the broker-dealer, including a summary of each associated person's compensation arrangement or plan.

In response to commenters' concerns, we modified the proposed rule text to include a definition of "covered person," which limits the scope of the regulation's application. Rule 504 of Regulation AC requires broker-dealers to notify its associated persons that issue research reports as to whether the broker-dealer maintains and enforces written policies and procedures reasonably designed to prevent the broker or dealer or any of its controlling

<sup>73</sup> The total burden range of approximately \$2.5 million to \$4.7 million is obtained by applying both the low and the high research report estimates. Costs are proportionate to the number of research reports assumed to be issued each year. For purposes of the Paperwork Reduction Act analysis, we used the estimate of 1,375,865 research reports to obtain the high end of the burden range. If we instead substitute the low estimate of 657,000 research reports in place of the high estimate, the low end of the burden range is approximately \$2.5 million. The low research report estimate is approximately 48% of the high estimate and the resulting total annual cost burden is approximately \$2.5 million (\$1,337,278 for broker-dealers to comply with the research report requirements + \$643,853 for investment advisers to comply with the research report requirements + \$42,039 for broker-dealers to comply with the public appearance requirements + \$513,427 for broker-dealers to comply with the notification requirements = \$2,536,596).

<sup>74</sup> NASD 2711(h)(2)(A)(i); NYSE 472(k)(2).

<sup>75</sup> NASD Rule 2711(e); NYSE Rule 472(g).

<sup>70</sup> See Thomson Financial.

<sup>71</sup> *Id.*

<sup>72</sup> See Thomson Financial and footnote 63 for a discussion of revisions to the original estimate.