

SUPPORTING STATEMENT REGARDING STUDY OF MARKETING AND DELIVERY OF FINANCIAL PRODUCTS TO INDIVIDUAL INVESTORS

This submission pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 et. seq., constitutes a request for approval of communications by a contractor retained by the Commission with selected individuals and entities regarding the marketing, sale and delivery of financial products, accounts, programs and services offered to individual investors by broker-dealers and investment advisers.

A. Justification

1. Necessity of Information Collection

On April 12, 2005, the Commission promulgated a rule that, among other things, permitted a broker-dealer to offer fee-based brokerage accounts without being required to register as an investment adviser under certain circumstances. In the release, the Commission recognized that the rulemaking raised a number of important issues, implicating policy concerns well beyond the scope of the rulemaking, and suggested consideration of a study to compare the levels of protection afforded individual customers of financial service providers under the Exchange Act and the Advisers Act so that the Commission could be better informed in considering how to address any investor protection concerns arising from material differences between the two regulatory regimes.

The Commission has engaged a contractor to undertake an empirical study that will involve collecting, categorizing, and analyzing data regarding the marketing, sale and delivery of financial products, accounts, programs and services offered to individual investors by broker-dealers and investment advisers. The information collection tasks to be performed by the contractor are described in Appendix A. The Commission intends to use the collected information as factual background for evaluating the current legal and regulatory environment for the provision of financial products and services to individual investors by broker-dealers and investment advisers and for determining, consistent with the Commission's investor protection mission, the most effective legal and regulatory approach to regulating investment professionals in today's marketplace.

2. Purposes of, and Consequences of Not Requiring, the Information Collection

The contractor will use the information it obtains through the proposed communications as an essential element in its analysis of the topics set forth under Task 1 of Appendix A. Without the information to be collected by the contractor, the empirical foundation for the contractor's analysis would be incomplete, and the Commission's evaluation of the most effective legal and regulatory approach to regulating investments professionals would be severely hampered.

3. Role of Improved Information Technology and Obstacles to Reducing Burden

The contractor will request that relevant business documents be submitted electronically. This request will be made by telephone in advance of interviews with broker-dealers and investment advisers and possibly in the interviews themselves. Wherever possible, the contractor will also collect business documents using the Internet. Beyond those technologically assisted efforts, technology may not significantly assist in the contractor's conduct of interviews of interested parties or focus group interviews of individual investors.

4. Efforts to Identify Duplication

The information to be collected by the contractor is not otherwise available. The contractor's information requests have been specifically designed to produce data to serve as the empirical foundation for the contractor's analysis. The Commission needs the contractor's analysis in order to evaluate the most effective legal and regulatory approach to regulating investment professionals.

5. Effect on Small Entities

Any entity's participation in the study is entirely voluntary. The contractor may seek to conduct interviews with broker-dealers and investment advisers that Commission rules categorize as small businesses. While any such broker-dealer or investment adviser could elect not to participate, the burden of providing the requested information will be minimal.

6. Consequences of Less Frequent Collection

The contractor's proposed interviews and inquiries are intended to be one-time events, with follow-up only when necessary. (See response to item 2 for effects of forgoing the proposed collection.)

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

Not applicable.

8. Consultations Outside the Agency

Other than in connection with the procurement of the contractor, the Commission has not consulted with others outside the agency regarding the availability of the data, frequency of collection, clarity of instructions and recordkeeping, disclosure, or reporting format, and the data elements to be recorded, disclosed, or reported. The Commission staff received one comment on the 60-day Federal Register Notice associated with this submission. The commenter suggested that the study results would be more meaningful

if at least a segregated part of the participation in the study was not voluntary. We considered the comment but do not plan to mandate participation in the study.

9. Payment or Gift to Respondents

Consistent with standard research practice, the contractor will pay a flat fee to investors participating in the focus group interviews to help ensure a sufficiently broad pool of participants and to compensate participants for their time.

10. Assurance of Confidentiality

A template the contractor will use to explain and obtain consent from all interviewees is attached as Appendix B. That template includes examples of the contractor's consent statement as well as standard data safeguarding procedures. The contractor also has a Human Subjects Protection Committee (HSPC), which serves as the contractor's Institutional Review Board to review research involving human subjects, as required by federal regulations. RAND's "Federalwide Assurance for the Protection of Human Subjects" (FWA00003425, effective through September 23, 2008) assures compliance with the regulations of 16 federal departments and agencies and makes the contractor's HSPC responsible for review of such research regardless of the funding source.

11. Sensitive Questions

Not applicable.

12. Estimate of Respondent Reporting Burden

The contractor estimates that each interview with an interested party, broker-dealer, or investment adviser, described in Tasks 1 and 2 of Appendix A, will last no longer than approximately 90 minutes. The contractor estimates that it should take a firm no more than approximately 1 hour to produce the documents described in Task 2 of Appendix A. These interviews and document requests are expected to be one-time events, with follow-up when necessary. The contractor estimates that each investor focus group, including questionnaires, described in Task 3 of Appendix A, will take no more than approximately 2 hours to complete. Given that the contractor intends to collect documents from no more than approximately 100 firms, interview no more than approximately 35 interested parties and 50 firms, and conduct no more than approximately 15 focus groups, the aggregate estimated burden totals 497.5 hours, or approximately 500 hours. The decision whether to participate in any interview or document collection will be wholly voluntary.

13. Estimate of Total Annualized Cost Burden

Not applicable.

14. Estimate of Cost to the Federal Government

The contractor, rather than the Commission, will collect and analyze the information and produce a final report pursuant to Contract No. SECHQ1-06-C-0177. The total contract price is \$787,035. The role of Commission staff under the contract will consist of periodic consultation with the contractor about study tasks, reviewing and approving contract deliverables, and administering the contract, none of which should occupy more than a fraction of the time of any Commission staff member.

15. Explanation of Change in Burden

Not applicable.

16. Information Collection Planned for Statistical Purposes

The contractor will produce a report under its own cover to the Commission. The report will summarize and evaluate, in non-attributable form, the data collected. The report will include both qualitative and quantitative analysis of the results of the research, including the Analysis of Variance technique to assess the difference between the different types of products; t-tests to assess differences between large and small firms and between broker-dealers and investment advisers; logistic probability models to examine the characteristics of the firms most likely to offer brokerage accounts, investment advisory accounts, or both; and ordinal logical regression models to evaluate the likelihood of each type of investor to opt for each type of account to determine the most influential characteristics that affect their decisions. Collection of information would begin as soon as possible and continue through approximately June 2007. It is estimated that qualitative and quantitative analysis would be completed by July 2007. After being prepared in draft form and submitted to the contractor's rigorous peer review process, we expect that the report would be finalized no later than March 2008.

17. Explanation as to Why the Expiration Date Will Not be Displayed

An expiration date will not be displayed because the information collection that is the subject of the request will not appear in a Commission rule or form.

18. Exception to Certification

Not applicable.

B. Collection of Information Employing Statistical Methods

The study's interviews of interested parties are intended to provide background and perspective for the other research tasks, and do not employ statistical methods. The study's collections of information from investment advisers, broker-dealers, and investors do employ statistical methods. There are approximately 6035 broker-dealer firms registered with the Commission and 10,650 investment adviser firms registered with the Commission. Task 2 of Appendix A estimates the number of firms from which the contractor will seek to collect business documents and with which it will seek to conduct interviews. Task 3 of Appendix A estimates the number of investor focus groups, consisting of from six to nine participants each, that the contractor plans to conduct preceded by completion of certain questionnaires. For purposes of gathering business documents, the contractor will employ intensity sampling to select a group of firms with the largest market shares and which are most representative of the industry, and heterogeneity sampling to randomly sample other investment adviser and broker-dealer firms. From these firms, the contractor will select a diverse subset of firms as candidates for interviews, including firms of varying sizes. For purposes of focus group interviews, the contractor's internal group of survey methodologists and specialists in the technical aspects of survey research will segment potential participants into sophisticated and non-sophisticated investors, using factors that include responses to a financial literacy questionnaire. The contractor has set targets for the number of firms to be contacted for documents and for the number of investment advisers, broker-dealers, and investors to be interviewed (including through investor questionnaires) to provide the data necessary to conduct the quantitative analysis discussed in answer to question 16 above. The contractor will attempt to maximize response rates and deal with issues of non-response through methods such as factoring a cushion for non-responses into the number of firms and investors it contacts; making multiple contacts with each firm, including headquarters and local branches, as necessary; contacting firms by letter describing the research, followed by a telephone call and additional follow-up calls as needed to schedule interviews; and choosing locations and facilities for focus group interviews that offer ample potential for recruiting each category of participants. The contractor designed the statistical aspects of the study and will collect and analyze the information for the Commission. The contractor's project leader is Dr. Angela Hung (703/413-1100).