

SUPPORTING STATEMENT
for the Paperwork Reduction Act New Information Collection Submission for
“Incentive-based Compensation Arrangements”

A. JUSTIFICATION

1. Necessity of Information Collection

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act” or the “Act”) (Pub. L. 111-203, section 956, 124 Stat. 1376, 2011-2018 (2010)), which was signed into law on July 21, 2010, requires the Securities and Exchange Commission (“SEC” or “Commission”) to jointly prescribe regulations or guidelines with six other Federal financial agencies (“Other Agencies”)¹ with respect to incentive-based compensation practices at covered financial institutions.

2. Purpose and Use of the Information Collection

The proposed rule (17 CFR 248.201 through 207) would require broker-dealers and investment advisers with assets of at least \$1 billion (“covered BDs and IAs”) to file an annual report with the Commission related to their incentive compensation arrangements, to establish and maintain policies and procedures related to incentive-based compensation, and maintain certain records related to the firm’s incentive-based compensation program. In addition, the proposal would require covered BDs and IAs with assets of at least \$50 billion to create and maintain records related to those persons designated by a firm’s board of directors that individually have the ability to expose the firm to possible losses that are substantial in relation to the institution’s size, capital, or overall risk tolerance.

The information will be used by SEC staff to determine compliance with Section 956 of the Act.

3. Consideration Given to Information Technology

Following the adoption of the proposed rule, each of the Other Agencies and the SEC, will assess whether it should prescribe a specific format for the report to be filed in. At that time, due consideration will be given to the appropriate use of information technology to facilitate the required annual reports.

¹ The Other Agencies include the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, and the Federal Housing Finance Agency.

4. Duplication

The SEC currently receives information about executive compensation from publicly traded companies, including many broker-dealers and investment advisers covered under the proposed rule. The staff of the Commission reviewed the relevant SEC form, (Item 402 of Regulation S-K), in connection with the joint proposal to minimize duplicative reporting.

The reports and policies and procedures required under the proposed rule for broker-dealers and investment advisers would be substantially the same reports, policies and procedures required by the Other Agencies. Some of the entities regulated by Other Agencies include bank holding companies, which often serve as the parent of broker-dealers and investment advisers covered by the SEC proposal. The Commission staff anticipates that this phenomenon will lead to certain economies in complying with the proposed rule as between broker-dealers/investment advisers and affiliated entities. To the extent that duplicative policies and procedures and reporting requirements do result, Section 956 of the Act determined this result.

5. Effect on Small Entities

The Commission solicited comment on whether small entities would be affected by the proposed rule. The Commission staff preliminarily does not believe that the proposed SEC rule would impact small entities, but sought comment on whether small entities would be covered, for example, as subsidiaries of other financial institutions such as bank holding companies.

6. Consequences of Not Conducting Collection

If the Commission does not adopt the proposal, it could be in violation of Section 956 of the Act, which requires the Other Agencies and the Commission to jointly adopt rules that provide for reports and standards related to the incentive-based compensation of certain people within broker-dealers and investment advisers.

7. Inconsistencies with Guidelines in 5 CFR 1320.8(d)

The Commission anticipates that it may receive some sensitive information from the broker-dealers and investment advisers that submit the reports required under the proposed rules. The Commission will protect trade secrets or other confidential information to the extent permitted by the Freedom of Information Act (“FOIA”).

8. Consultations Outside the Agency

The Commission has issued a release soliciting comment on the new “collection of information” requirements and associated paperwork burdens. A copy of the release is attached. Comments on Commission releases are generally received from registrants, investors, and other market participants. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings and informal exchanges. Any comments received on this proposed rulemaking will be posted on the Commission’s public website, and made available through <http://www.sec.gov/rules/proposed.shtml>. The Commission will consider all comments received

prior to publishing the final rule, and will explain in any adopting release how the final rule responds to such comments, in accordance with 5 C.F.R. 1320.11(f).

Section 956 of the Act requires the SEC to jointly adopt rules related to the incentive-based compensation of broker-dealers and investment advisers. The staff consulted extensively with representatives from the Other Agencies during the process of drafting the proposed rulemaking.

9. Payment or Gift

The Commission did not provide any payment or gift to respondents in connection with the proposed rulemaking.

10. Confidentiality

The confidentiality of the information submitted to the Commission in the reports required under the proposed rule will be protected only to the extent permitted by FOIA.

11. Sensitive Questions

The Commission's proposal does not include reporting requirements for the incentive-based compensation levels of individuals, which should minimize the Commission's receipt of certain types of sensitive information, including personally identifiable information. To the extent that the Commission receives information that is sensitive to the covered financial institution (such as the structure of its compensation of certain types of employees), the Commission will protect the confidentiality of such information to the extent permitted by FOIA.

12. Burden of Information Collection

Number of respondents: The proposed rule would establish additional reporting and recordkeeping burdens for covered BDs and IAs with assets of at least \$50 billion, as compared to covered BDs and IAs with assets between \$1 billion and \$50 billion. The Commission estimates that approximately 200 respondents (approximately 130 broker-dealers and approximately 70 investment advisers) would be affected generally by the proposed rules, but that only approximately 30 of the 200 respondents would be affected by proposed Section 248.204(c)(3) and Section 248.205(b)(3)(ii)(B).²

² Each other Agency and the SEC has proposed how to calculate a firm's "total consolidated assets." For broker-dealers, the determination of whether the broker-dealer had \$1 billion in assets would be made by reference to the broker-dealer's year-end audited consolidated statement of financial condition filed with the Commission pursuant to Rule 17a-5. For investment advisers, asset size would be determined by the adviser's total assets shown on the balance sheet for the adviser's most recent fiscal year end. Data from the SEC's Office of Risk, Strategy and Financial Innovation indicates that there are 132 registered broker-dealers with assets of \$1 billion or more and 18 broker-dealers with assets of at least \$50 billion. Most investment advisers currently do not report to the Commission the amount of their own assets, so the Commission is unable to determine how many have \$1 billion or more in assets and \$50 billion or more in total consolidated assets. See Form ADV, Part 1A, Item 12. The Commission estimates that advisers with assets under management of \$100 billion or more would have total consolidated assets of \$1 billion or more, and advisers with assets under management of \$500 billion or more would have total consolidated assets of \$50 billion or more. Based on data from the Investment Adviser Registration Depository

A) Proposed Section 248.204 (Required Reports)

The Commission, jointly with the Other Agencies, proposes that each covered BD and IA be required to describe the structure of the firms' incentive-based compensation arrangements for covered persons in a manner that is sufficient to allow an assessment of whether the structure or features of those arrangements provide or are likely to provide covered persons with excessive compensation, fees, or benefits to covered persons or could lead to material financial loss to the firm. Proposed Section 248.204(c)(1) would require a narrative description of the components of the incentive-based compensation arrangements applicable to covered persons, specifying the types of covered persons to which they apply. Proposed Section 248.204(c)(2) would require that covered BDs and IAs provide a succinct description of their incentive-based compensation policies and procedures. Proposed Section 248.204(c)(3) would require that covered BDs and IAs with total consolidated assets of \$50 billion or more provide the Commission with a succinct description of incentive-based compensation policies and procedures applicable to executive officers and other covered persons whom the board of directors, or a committee thereof, has identified as having the ability to expose the institution to possible losses that are substantial in relation to the firm's size, capital, or overall risk tolerance. Proposed Section 248.204(c)(4) would require covered BDs and IAs to describe the material changes to the firm's incentive based compensation arrangements. Proposed Section 248.204(c)(5) would require each covered BD and IA to describe the specific reasons why it believes the structure of its incentive-based compensation does not encourage inappropriate risks by the covered financial institution by providing covered persons with excessive compensation or incentive-based compensation that could lead to material financial loss to the covered financial institution.

Based on the initial and ongoing burden the Commission estimated in connection with the adoption of the executive compensation reporting requirements for public companies filing Form 10-Ks under the Exchange Act (i.e. Item 402 of Regulation S-K), the Commission estimates that the initial and ongoing annual burden for the covered BD and IA respondents imposed by the proposed reporting requirements would be 100 hours.³ Since the proposed rule does not provide for different reporting requirements for smaller covered BDs and IAs with assets between \$1 billion and \$50 billion and for larger firms with assets of at least \$50 billion, the Commission has not estimated separate reporting burdens for larger covered BDs and IAs. This estimate applies to all 200 of the estimated respondents. Therefore, the Commission estimates a collective initial and ongoing reporting burden of 20,000 hours for covered BDs and IAs.⁴

("IARD"), the SEC's Division of Investment Management estimates that 68 registered advisers with assets under management of at least \$100 billion would have assets of \$1 billion or more, and 7 registered advisers with assets under management of at least \$500 billion would have total consolidated assets of at least \$50 billion. The Commission has rounded these numbers to 70 and 10 for purposes of its analysis.

³ The Commission estimated that public company respondents would incur approximately 95 hours of annual burden in connection with the adoption of Item 402 of Regulation S-K. See Securities Act of 1933 Release No. 8432A and Securities Exchange Act Release No. 54302A.(August 29, 2006), 71 FR 53158, 53217 (September 8, 2006) (S7-03-06). The Commission is rounding this number up to 100 for the instant proposed rule estimate.

⁴ 200 covered BDs and IAs x 100 hours = 20,000 hours.

B) Documentation of Determining Designated Persons (Section 248.205(b)(3)(ii)(B))

For covered BDs and IAs with assets of at least \$50 billion, proposed Section 248.205(b)(3)(ii)(B) would require a firm's board of directors, or a committee thereof, to identify those covered persons (other than executive officers) that individually have the ability to expose the institution to possible losses that are substantial in relation to the institution's size, capital, or overall risk tolerance. These covered persons may include, for example, traders with large position limits relative to the institution's overall risk tolerance and other individuals that have the authority to place at risk a substantial part of the capital of the covered financial institution. The SEC and other Agencies propose that the compensation decisions applicable to such persons must be approved by the firm's board of directors or a committee of the board and that the covered BD or IA document the compensation decisions made by the board or its committee.

The Commission estimates that each covered BD and IA with assets of at least \$50 billion would incur 20 hours of burden initially, in the first year, to comply with the proposed recordkeeping requirements associated with the proposed rule and 10 hours per year of burden on an ongoing basis. Therefore, the Commission estimates an initial collective recordkeeping burden in connection with the documentation requirement provided in Section 248.205(b)(3)(ii)(B) is 600 hours for covered BDs and IAs with assets of at least \$50 billion.⁵ The Commission estimates the ongoing annual collective recordkeeping burden in connection with this requirement to be 300 hours for covered BDs and IAs with assets of at least \$50 billion.⁶

To derive an average annual estimate during the first three years of the effectiveness of the proposed rule, the staff multiplied the initial estimate of 20 by 1/3 (6.67 hours) and multiplied the ongoing estimate of 10 by 2/3 (6.67 hours) and added the two products together to arrive at a 13.33 (rounded to 13) hour average annual burden during the first three years following the proposed rule's effectiveness.

C) Required Policies and Procedures

Proposed Section 248.206(a) would require covered financial institutions to adopt and maintain policies and procedures reasonably designed to ensure and monitor compliance, commensurate with the size and complexity of the organization and the scope and nature of its use of incentive-based compensation. As described in further detail above, proposed Section 248.206(b) would require that the policies and procedures, at a minimum, are consistent with the disclosure requirements and prohibitions in other parts of the proposed rule, ensure that risk management or oversight personnel have a role in designing and assessing incentive-based compensation arrangements, provide for independent monitoring of the incentive-based compensation awards, risks taken and actual outcomes, require that a covered financial institution's board receive data and analysis from management and other sources sufficient to enable the board to assess whether the incentive-based compensation arrangements are consistent with 12 U.S.C. 5641, and require sufficient documentation of the covered financial institution's

⁵ 30 covered BDs and IAs with assets of at least \$50 billion x 20 hours = 600 hours.

⁶ 30 covered BDs and IAs with assets of at least \$50 billion x 10 hours = 300 hours.

incentive-based compensation arrangements to enable the Commission to determine the covered BDs or IAs compliance with 12 U.S.C. 5641. In addition, the proposal would require that the covered BDs' and IAs' policies and procedures include certain features when a firm uses deferral in connection with an incentive-based compensation arrangement, and that the policies and procedures subject incentive-based compensation arrangements to a corporate governance framework.

Many covered BDs and IAs are already conforming to the incentive-based compensation standards reflected in the Guidance because they are affiliated with banking organizations supervised by the FRB, OCC, OTS or FDIC that have already altered their incentive-based compensation arrangements and policies and procedures following the publication of the Guidance. The Guidance applies to all banking organizations supervised by the FRB, OCC, OTS or FDIC, including national banks, State member banks, State nonmember banks, savings associations, U.S. bank holding companies, savings and loan holding companies, the U.S. operations of foreign banks with a branch, agency or commercial lending company in the United States, and Edge and agreement corporations (collectively "banking organizations").⁷ Based upon information filed with the Commission and the staff's discussions with a number of BDs and its review of the public filings of covered BDs, IAs and certain parent companies, the Commission believes that covered BDs and IAs affiliated with banking organizations ("covered bank BDs and IAs") have already altered their incentive-based compensation policies and procedures and corresponding arrangements in conjunction with their affiliated banking organizations that are subject to the Guidance. Based on public filings with the Commission, the SEC estimates that there are approximately 25 covered bank BDs and IAs with total consolidated assets of at least \$50 billion and approximately 85 covered bank BDs and IAs with total consolidated assets between \$1 billion and \$50 billion.⁸ Therefore, covered bank BDs and IAs should bear significantly less burden than those covered BDs and IAs not already subject to the Guidance ("covered non-bank BDs and IAs") to develop and maintain policies and procedures as required in the proposed rules. The Commission requests comment on its estimated number of covered bank BDs and IAs.

The Commission believes that the covered bank BDs and IAs would incur approximately the same recordkeeping burden as the banking organizations. Based on the initial estimates of recordkeeping burden provided by FRB, OCC, FDIC and OTS for proposed Section 248.206, the Commission estimates an initial recordkeeping burden of 80 hours for each covered bank BD and IA with \$50 billion or more in total consolidated assets and 40 hours of initial recordkeeping burden for each covered bank BD and IA with total consolidated assets between \$1 billion and \$50 billion. Based on the ongoing estimates of recordkeeping burden provided by FRB, OCC, FDIC and OTS, the Commission believes that each covered bank BD and IA respondent with total consolidated assets of at least \$50 billion would incur approximately 30 hours of ongoing

⁷ See Guidance 75 FR at 36398.

⁸ The Commission estimates that there are approximately 20 covered bank BDs with assets of at least \$50 billion and 35 covered bank BDs with assets between \$1 billion and \$50 billion. The Commission bases the estimates for covered bank BDs upon data submitted to the Commission in FOCUS reports (i.e. Form X-17A-5 Part II). The Commission estimates that there are approximately 5 covered bank IAs with assets of at least \$50 billion and 50 covered bank IAs with assets between \$1 billion and \$50 billion. The estimates for covered bank IAs are based upon data submitted to the Commission in Form ADV (i.e. Form ADV Part 1A, Items 6.A.(6) and 7.A.(5)).

recordkeeping burden and each covered bank BD and IA respondent with total consolidated assets between \$1 billion and \$50 billion would incur approximately 10 hours of recordkeeping burden on an ongoing basis.

For covered non-bank BDs and IAs, the Commission estimates a significantly higher burden, namely the amount of burden that the banking agencies originally estimated in the Guidance (480 hours of initial burden, rounded up to 500 in the instant proposal and 40 hours of ongoing burden)⁹ in addition to the amounts that the FRB, OTS, FDIC and OCC estimated in connection with the instant proposed rule. The Commission estimates that there are approximately 75 covered non-bank BDs with assets between \$1 billion and \$50 billion, 10 covered non-bank IAs with assets between \$1 billion and \$50 billion and 5 covered non-bank IAs with assets of at least \$50 billion.¹⁰

Therefore, for covered non-bank BDs and IAs, the Commission estimates an initial recordkeeping burden estimate of 580 hours¹¹ for covered BDs and IAs with \$50 billion or more in total consolidated assets and 540 hours¹² of recordkeeping burden for covered BDs and IAs with total consolidated assets between \$1 billion and \$50 billion. The Commission estimates that covered non-bank BD and IA respondents with total consolidated assets of at least \$50 billion would incur approximately 70 hours¹³ of ongoing recordkeeping burden while those covered non-Bank BDs and IAs with total consolidated assets between \$1 billion and \$50 billion would incur approximately 50 hours¹⁴ of ongoing recordkeeping burden.

To derive an average annual estimate during the first three years of the effectiveness of the proposed rule, the staff subtracted the estimated total number of burden hours associated with the proposed rule (42,600) by the sum of the hours estimated in connection with the required reports (20,000 hours) and the required records that would be required under proposed Section 248.205(b)(3)(ii)(B) (390 hours) to derive an estimate of 22,200 hours of collective burden to comply with the policies and procedures requirements. Staff then divided that number by 200 (number of respondents) to come up with the average per respondent burden (111).

⁹ See Guidance, 75 FR at 36403.

¹⁰ The Commission estimates that there are approximately 75 covered non-bank BDs with assets between \$1 billion and \$50 billion. The Commission estimates that there are approximately 5 covered non-bank IAs with assets of at least \$50 billion and 10 covered non-bank IAs with assets between \$1 billion and \$50 billion. The Commission bases these estimates upon data submitted to the Commission in FOCUS reports (*i.e.* Form X-17A-5 Part II) and in Form ADV (*i.e.* Form ADV Part 1A, Items 6.A.(6) and 7.A.(5)). See *supra* note 8. It is difficult to determine whether any unregistered advisers are non-bank IAs that are not subject to the Guidance.

¹¹ 500 hours (from Guidance) + 80 hours (from the estimate provided by the Fed, OCC, FDIC and OTS in instant proposed rule) = 580 hours.

¹² 500 hours (from Guidance) + 40 hours (from the estimate provided by the Fed, OCC, FDIC and OTS in instant proposed rule) = 540 hours.

¹³ 40 hours (from Guidance) + 30 hours (from the estimate provided by the Fed, OCC, FDIC and OTS in instant proposed rule) = 70 hours.

¹⁴ 40 hours (from Guidance) + 10 hours (from the estimate provided by the Fed, OCC, FDIC and OTS in instant proposed rule) = 50 hours.

Detailed Estimated Hourly Burden

SEC estimated initial and annual recordkeeping and reporting burdens per respondent

	<u>Covered bank BDs and IAs (\$50B +) (25 respondents)</u>	<u>Covered bank BDs and IAs (\$1B-\$50B) (85 respondents)</u>	<u>Covered non-bank BDs and IAs (\$50B +) (5 respondents)</u>	<u>Covered non-bank BDs and IAs (\$1B-\$50B) (85 respondents)</u>
<u>Initial Reporting</u>	100 hours	100 hours	100 hours	100 hours
<u>Initial Recordkeeping</u>	100 hours ¹⁵	40 hours	600 hours ¹⁶	540 hours

	<u>Covered bank BDs and IAs (\$50B +) (25 respondents)</u>	<u>Covered bank BDs and IAs (\$1B-\$50B) (85 respondents)</u>	<u>Covered non-bank BDs and IAs (\$50B +)(5 respondents)</u>	<u>Covered non-bank BDs and IAs (\$1B-\$50B) (85 respondents)</u>
<u>Ongoing Reporting</u>	100 hours	100 hours	100 hours	100 hours
<u>Ongoing Recordkeeping</u>	40 hours ¹⁷	10 hours	80 hours ¹⁸	50 hours

Initial and annual estimated weighted average per respondent recordkeeping and reporting burdens for the first three years following adoption of the proposal

Reporting: 100 hours
Recordkeeping: 113 hours

Staff notes that the Commission estimated that each category of covered BDs and IAs (*ie.* covered bank BDs and IAs with assets above \$50B, covered bank BDs and IAs with assets between \$1B and \$50B, covered non-bank BDs and IAs with assets above \$50B, and covered non-bank BDs and IAs with assets between \$1B and \$50B) would incur approximately 100 hours per respondent per year of initial and ongoing reporting obligations.

For the estimated recordkeeping burdens, the staff developed its estimated annual burden during the first three years of effectiveness of the proposed rule, using a weighted average of the estimated initial burden and the estimated ongoing burden. The staff first estimated a weighted average per respondent of the *initial* recordkeeping burden and *ongoing* recordkeeping burden across all covered BDs and IAs. The staff calculated a 274 hour weighted average per

¹⁵ 80 hours in connection with proposed Section 248.206 + 20 hours in connection with proposed Section 248.205(b)(3)(ii)(B)) = 100 hours.

¹⁶ 580 hours in connection with proposed Section 248.206 + 20 hours in connection with proposed Section 248.205(b)(3)(ii)(B)) = 600 hours.

¹⁷ 30 hours in connection with proposed Section 248.206 + 10 hours in connection with proposed Section 248.205(b)(3)(ii)(B)) = 40 hours.

¹⁸ 70 hours in connection with proposed Section 248.206 + 10 hours in connection with proposed Section 248.205(b)(3)(ii)(B)) = 80 hours.

respondent initial recordkeeping burden estimate¹⁹ and a 32.5 hour weighted average per respondent ongoing recordkeeping burden estimate.²⁰ To estimate the average annual recordkeeping burden during the first three years that the proposal would be in effect, the staff multiplied the initial burden (274) by 1/3 (representing the first of three years) and multiplied the ongoing annual burden (32.5) by 2/3 (representing the second and third years) and added the two products together to derive 113.²¹

13. Costs to Respondents

The Commission also believes that the proposed rules would likely generate external costs to the covered BDs and IAs, particularly at the stage of preparing the initial reports required by Section 248.204 and initially developing and implementing the policies and procedures in compliance with Section 248.206. Covered BDs and IAs may elect to hire various types of professionals, including attorneys, benefits consultants, and accountants. The Commission estimates that the covered BDs and IAs would hire professionals to prepare the necessary reports and develop and maintain the necessary policies and procedures at approximately the same hourly level as the covered BDs and IAs assume internally (e.g. covered bank BDs and IAs with at least \$50 billion in assets would collectively use approximately the equivalent of 2,500 hours worth of professionals' time to prepare the required reports, in addition to the covered bank BDs' and IAs' internal burden to prepare them).

The Commission believes that there would be approximately an equal balance of attorneys,²² benefits consultants,²³ actuaries²⁴ and accountants²⁵ that are hired at each covered

¹⁹ $((25 \text{ respondents} \times 100 \text{ hours}) + (85 \text{ respondents} \times 40 \text{ hours}) + (5 \text{ respondents} \times 600 \text{ hours}) + (85 \text{ respondents} \times 540 \text{ hours})) / 200 = 274 \text{ hours.}$

²⁰ $((25 \text{ respondents} \times 40 \text{ hours}) + (85 \text{ respondents} \times 10 \text{ hours}) + (5 \text{ respondents} \times 80 \text{ hours}) + (85 \text{ respondents} \times 50 \text{ hours})) / 200 = 32.5 \text{ hours.}$

²¹ $274 \text{ hours} \times 1/3 + 32.5 \text{ hours} \times 2/3 = 113 \text{ hours.}$

²² An outside attorney's salary range is estimated at \$400 an hour based on industry sources. See Securities Exchange Act Release No. 62174 (May 26, 2010) at note 510, 75 FR 32556 (June 8, 2010) (S7-15-09). The Commission requests comment on this estimate.

²³ An outside management consultant's salary range (national averages) is available from www.payscale.com. Using their data from the 75th percentile, adjusting it for an 1800-hour work year, and multiplying by the 5.35 factor which normally is used to include benefits but here is used as an approximation to offset the fact that New York salaries are typically higher than the rest of the country, the result is \$596 per hour (rounded to \$600). The Commission requests comment on this estimate.

²⁴ An outside actuary's salary range (national averages) is available from www.payscale.com. Using their data from the 75th percentile, adjusting it for an 1800-hour work year, and multiplying by the 5.35 factor which normally is used to include benefits but here is used as an approximation to offset the fact that New York salaries are typically higher than the rest of the country, the result is \$330 per hour. The Commission requests comment on this estimate.

²⁵ An outside accountant's salary range is available from the U.S. Bureau of Labor Statistics, Occupational Employment Statistics website. Using their data for median salaries from New York State, which has the highest rates in the country, and multiplying by the 5.35 factor which is used to include benefits, the result is \$250 per hour. The Commission requests comment on this estimate.

BD or IA. The chart below summarizes the external costs that the Commission estimates covered BDs and IAs would assume collectively in connection with the proposed rule. The Commission requests comments on these external cost estimates, including the hourly rate that the Commission estimates for external attorneys, benefits consultants, actuaries and accountants.

Initial and annual estimated weighted average per respondent external costs for the first three years following adoption of the proposal

	<u>Covered bank BDs and IAs (\$50B +)</u> <u>(25 respondents)</u>	<u>Covered bank BDs and IAs (\$1B-\$50B)</u> <u>(85 respondents)</u>	<u>Covered non-bank BDs and IAs (\$50B +)</u> <u>(5 respondents)</u>	<u>Covered non-bank BDs and IAs (\$1B-\$50B)</u> <u>(85 respondents)</u>
<u>Initial Reporting</u>	\$39,500 ²⁶	\$39,500 ²⁷	\$39,500 ²⁸	\$39,500 ²⁹
<u>Initial Recordkeeping</u>	\$39,500 ³⁰	\$15,800 ³¹	\$237,000 ³²	\$213,300 ³³

	<u>Covered bank BDs and IAs (\$50B +)</u>	<u>Covered bank BDs and IAs (\$1B-\$50B)</u>	<u>Covered non-bank BDs and IAs (\$50B +)</u>	<u>Covered non-bank BDs and IAs (\$1B-\$50B)</u>
<u>Ongoing Reporting</u>	\$39,500 ³⁴	\$39,500 ³⁵	\$39,500 ³⁶	\$39,500 ³⁷

²⁶ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

²⁷ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

²⁸ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

²⁹ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

³⁰ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

³¹ 40 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$15,800.

³² 600 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$237,000.

³³ 540 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$213,300.

³⁴ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

³⁵ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

³⁶ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] =

<u>Ongoing Recordkeeping</u>	\$15,800 ³⁸	\$3,950 ³⁹	\$31,600 ⁴⁰	\$19,750 ⁴¹
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Estimated initial and ongoing estimated per respondent recordkeeping and reporting external costs for each of the first three years following adoption of the proposal

Reporting: \$39,500
Recordkeeping: \$44,635

Staff notes that the Commission estimated that each category of covered BDs and IAs (*ie.* covered bank BDs and IAs with assets above \$50B, covered bank BDs and IAs with assets between \$1B and \$50B, and covered non-bank BDs and IAs with assets above \$50B, covered non-bank BDs and IAs with assets between \$1B and \$50B) would incur approximately \$39,500 of initial and ongoing external reporting costs.⁴²

For the estimated recordkeeping burdens, the staff developed its estimated annual burden during the first three years of effectiveness of the proposed rule, using a weighted average of the estimated initial burden and the estimated ongoing burden. The staff first estimated a weighted average per respondent of the *initial* recordkeeping burden and *ongoing* recordkeeping burden across all covered BDs and IAs. The staff calculated a \$108,230 per respondent initial external cost estimate⁴³ and a \$12,838 per respondent ongoing recordkeeping external cost estimate.⁴⁴ To estimate the average annual recordkeeping burden during the first three years that the proposal would be in effect, the staff multiplied the initial estimated external cost per respondent (\$108,230) by 1/3 (representing the first of three years) and multiplied the ongoing annual burden (\$12,838) by 2/3 (representing the second and third years) and added the two products together to derive \$44,635.⁴⁵

\$39,500.

³⁷ 100 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

³⁸ 40 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$15,800.

³⁹ 10 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$3,950.

⁴⁰ 80 hours X [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$31,600

⁴¹ 50 hours X [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$19,750

⁴² 100 hours X [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$39,500.

⁴³ 274 x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$108,230.

⁴⁴ 32.5 hours x [(25% x \$400/hour) + (25% x \$600/hour) + (25% x \$330/hour) + (25% x \$250/hour)] = \$12,837.5.

⁴⁵ \$108,230 * 1/3 + \$12,838 * 2/3 = \$44,635.

14. Costs to Federal Government

We do not anticipate any costs to the Federal Government that result from the proposed rule.

15. Changes in Burden

We do not have any changes to report, as this is an initial proposal.

16. Information Collection Planned for Statistical Purposes

The Commission does not anticipate any complex analytical techniques to be used in connection with the proposed rule.

17. Display of OMB Approval Date

The Commission is not seeking approval to not display the OMB approval expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

Not applicable because no exceptions to certification are contained in the proposed rule.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods or analyze the information for the agency.