

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Regulation Best Interest
OMB No. 3235-0762

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 et seq.

A. JUSTIFICATION

1. Necessity of Information Collection

On June 5, 2019, the Commission adopted Rule 15l-1 under the Securities Exchange Act of 1934 (“Exchange Act”) establishing a standard of conduct for broker-dealers and natural persons who are associated persons of a broker-dealer (unless otherwise indicated, together referred to as “broker-dealer” or “BD”) when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer (“Regulation Best Interest”).¹ The Commission adopted Regulation Best Interest pursuant to its authority under Sections 913(f) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”)² and Section 15(l) of the Exchange Act.³

Section 913(f) of the Dodd-Frank Act provides the Commission with discretionary authority to “commence a rulemaking, as necessary or appropriate to the public interest and for the protection of retail customers (and such other customers as the Commission may by rule provide), to address the legal or regulatory standards of care for brokers, dealers. . . [and] persons associated with brokers or dealers. . . for providing personalized investment advice about securities to such retail customers.”⁴ Exchange Act Section 15(l) gives the Commission the authority to (1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and (2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the public interest and the protection of investors.”⁵

Rule 15l-1(a)(1) requires broker-dealers and natural persons who are associated persons of a broker-dealer, when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer, to act in the best interest of the retail customer

¹ See Securities Exchange Act Release No. 86031 (Jun. 5, 2019), __ FR ____ (. , 2019) (“Adopting Release”); see also Securities Exchange Act Release No. 83062 (Apr. 18, 2018) [83 FR 21574] (May 9, 2018) (“Proposing Release”).

² Pub. L. 111-203, 124 Stat. 1376, 1827 (2010).

³ 15 U.S.C. §78o.

⁴ Section 913(f) of the Dodd-Frank Act.

⁵ 15 U.S.C. §78o.

at the time the recommendation is made, without placing the financial or other interest of the broker-dealer or natural person who is an associated person making the recommendation ahead of the interest of the retail customer.

Rule 15l-1(a)(2) establishes four obligations that must be met to satisfy the best interest obligation set forth in Rule 15l-1(a)(1):

1. Disclosure Obligation: requires the broker-dealer or associated person, prior to or at the time of such recommendation, to provide the retail customer, in writing, full and fair disclosure of all material facts relating to the scope and terms of the relationship with the retail customer and all material facts relating to conflicts of interest associated with the recommendation;⁶
2. Care Obligation: requires the broker-dealer or associated person, in making the recommendation, to exercise reasonable diligence, care and skill;⁷
3. Conflict of Interest Obligations: require the broker-dealer⁸ to establish, maintain, and enforce written policies and procedures addressing conflicts of interest associated with its recommendations to retail customers.⁹
4. Compliance Obligation: requires the broker-dealer¹⁰ to also establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest as a whole.¹¹

Rule 15l-1(b)(1) defines “Retail Customer” as a natural person, or the legal representative of such natural person, who: (i) receives a recommendation of any securities transaction or investment strategy involving securities from a broker, dealer, or a natural person who is an associated person of a broker or dealer; and (ii) uses the recommendation primarily for personal, family, or household purposes.¹²

Rule 15l-1(b)(2) defines “Retail Customer Investment Profile” as including, but not limited to, “the retail customer’s age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk

⁶ Rule 15l-1(a)(2)(i).

⁷ Rule 15l-1(a)(2)(ii).

⁸ The Conflict of Interest Obligations and Compliance Obligation apply solely to the broker or dealer entity, and not to the natural persons who are associated persons of a broker or dealer. For purposes of discussing the Conflict of Interest Obligations and Compliance Obligation, the term “broker-dealer” refers only to the broker-dealer entity, and not to such individuals.

⁹ Rule 15l-1(a)(2)(iii).

¹⁰ See note 8, *supra*.

¹¹ Rule 15l-1(a)(2)(iv).

¹² Rule 15l-1(b)(1).

tolerance, and any other information the retail customer may disclose to the broker, dealer, or a natural person who is an associated person of a broker or dealer in connection with a recommendation.”¹³

Rule 15l-1(b)(3) defines “Conflict of Interest” as an interest that might incline a broker, dealer, or a natural person who is an associated person of a broker or dealer —consciously or unconsciously—to make a recommendation that is not disinterested.¹⁴

In addition, the Commission adopted new record-making and recordkeeping requirements on broker-dealers and associated persons. The addition of paragraph (a)(35) to Rule 17a-3 would impose new record-making obligations on broker-dealers subject to Regulation Best Interest. The Proposed Amendment to Rule 17a-4(e)(5) would impose new record retention obligations on broker-dealers subject to Regulation Best Interest.¹⁵

The information that must be collected pursuant to the foregoing proposed rules is intended to: (1) improve disclosure about the scope and terms of the broker-dealer’s relationship with the retail customer, which would foster retail customers’ understanding of their relationship with a broker-dealer; (2) enhance the quality of recommendations provided by establishing an express best interest obligation under the federal securities laws; (3) enhance the disclosure of a broker-dealer’s conflicts of interest; and (4) establish obligations that require mitigation, and not just disclosure, of conflicts of interest arising from financial incentives associated with broker-dealer recommendations. The information will therefore help establish a framework that protects investors and promotes efficiency, competition, and capital formation.

2. Purpose and Use of Information Collection

i. Disclosure Obligation

As noted above, the Disclosure Obligation under Rule 15l-1(a)(2)(i) requires a broker-dealer, prior to or at the time of recommending a securities transaction or investment strategy involving securities to a retail customer, to provide the retail customer, in writing, full and fair disclosure of: (1) all material facts relating to the scope and terms of the relationship with the retail customer, including (a) that the broker-dealer is acting as a broker-dealer with respect to the transaction; (b) the fees and costs that apply to the retail customer’s transactions, holdings, and accounts, and (c) the type and scope of services provided to the retail customer, including any material limitations on the securities or investment strategies involving securities that may be recommended to the retail customer; and (2) all material conflicts of interest that are associated with the recommendation.

The collection of information arising from the Disclosure Obligation will facilitate a

¹³ Rule 15l-1(b)(2).

¹⁴ Rule 15l-1(b)(3).

¹⁵ Because the record-making and recordkeeping obligations are being adopted under Rule 17a-3 and Rule 17a-4, which each have their own respective OMB Control Number, separate supporting statements are being submitted to address these components of Regulation Best Interest.

retail customer's understanding of the nature of his or her account, the broker-dealer's fees and costs, as well as the nature of services that the broker-dealer provides, and any limitations to those services. It will also reduce retail customers' confusion about the differences among certain financial service providers, such as broker-dealers, investment advisers, and dual-registrants. In addition, the obligation to disclose all material conflicts of interest associated with a recommendation will raise retail customers' awareness of the potential effects of conflicts of interest, and increase the likelihood that broker-dealers will make recommendations that are in the retail customer's best interest.

ii. Care Obligation

Under Rule 15l-1(a)(2)(ii), a broker-dealer would be required to make a reasonable effort to ascertain the potential risks and rewards associated with the recommendation, and to determine whether the recommendation could be in the best interest of at least some retail customers.

The Commission believes that any PRA burdens or costs associated with the Care Obligation are duplicative of costs associated with other obligations in Regulation Best Interest, including the Disclosure Obligation and the Record-making Obligation and Recordkeeping Obligation.

iii. Conflict of Interest Obligations

Rule 15l-1(a)(2)(iii)(A) requires a broker-dealer¹⁶ to establish, maintain, and enforce written policies and procedures reasonably designed to identify and at a minimum disclose, or eliminate, all conflicts of interest associated with a recommendation. Rule 15l-1(a)(2)(iii)(B) requires a broker-dealer to establish, maintain, and enforce written policies and procedures reasonably designed to identify and mitigate any conflicts of interest associated with a recommendation that create an incentive for a natural person who is an associated person of a broker or dealer to place the interest of the broker, dealer, or such natural person ahead of the retail customer. Rule 15l-1(a)(2)(iii)(C) requires a broker-dealer to establish, maintain, and enforce written policies and procedures reasonably designed to identify and disclose any material limitations placed on the securities or investment strategies involving securities that may be recommended to a retail customer and any conflicts of interest associated with such limitations and prevent such limitations and associated conflicts of interest from causing the broker-dealer to make recommendations that place the interest of the broker-dealer ahead of the interest of the retail customer. Finally, Rule 15l-1(a)(2)(iii)(D) requires a broker-dealer to establish, maintain, and enforce written policies and procedures reasonably designed to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific securities or specific types of securities within a limited period of time. The collection of information arising from the Conflict of Interest Obligations will help a broker-dealer develop a process, relevant to its retail customers and the nature of its business, for identifying material conflicts of interest, and then determining whether to eliminate, or disclose and/or mitigate, the material conflict and the appropriate means of eliminating, disclosing, and/or mitigating the conflict. As a result of a broker-dealer's eliminating, disclosing, and/or mitigating the effects of

¹⁶ See *supra* note 8.

conflicts of interest on broker-dealer recommendations, retail customers will be more likely to receive recommendations in their best interest. In addition, the retention of written policies and procedures under this section will generally: (1) assist a broker-dealer in supervising and assessing internal compliance with the Conflict of Interest Obligation; and (2) assist the Commission and self-regulatory organization staff in connection with examinations and investigations.

iv. Compliance Obligation

Rule 15c-1(a)(2)(iv) requires a broker-dealer, in addition to the policies and procedures required by paragraph (iii), to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest.

In addition, the retention of written policies and procedures under the Compliance Obligation will generally: (1) assist a broker-dealer in supervising and assessing internal compliance with Regulation Best Interest; and (2) assist the Commission and self-regulatory organization staff in connection with examinations and investigations.

3. Consideration Given to Information Technology

The rules do not prescribe particular forms or methods of compliance for broker-dealers or their associated person, to allow maximum flexibility with respect to new technologies as they develop.

4. Duplication

The Commission evaluates disclosure, recordkeeping, and record retention rule-based requirements for duplication, and re-evaluates them whenever it proposes a rule or a change in a rule. Although existing principles and obligations similar to those underlying Regulation Best Interest already apply to broker-dealers under other rules and regulations, no other Commission rule establishes an explicit standard of conduct that requires broker-dealers and their natural associated persons to comply with the express obligations imposed by Regulation Best Interest. We believe that requiring broker-dealers to explicitly act in the best interests of their retail customers – by satisfying the obligations underlying Regulation Best Interest, including the collection of information requirements – is necessary to improve investor protection by enhancing the professional standards of conduct that currently apply to broker-dealers when they make recommendations to retail customers.

5. Effect on Small Entities

The Regulatory Flexibility Act (“RFA”)¹⁷ requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities. Section 603(a)¹⁸ of the Administrative Procedure Act,¹⁹ as amended by the RFA, generally requires the Commission to undertake a regulatory flexibility analysis of all proposed rules, or proposed rule amendments, to determine the impact of such rulemaking on “small entities.”²⁰ For purposes of a Commission rulemaking in connection with the RFA, a broker-dealer will be deemed a small entity if it: (1) had total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a-5(d) under the Exchange Act,²¹ or, if not required to file such statements, had total capital (net worth plus subordinated liabilities) of less than \$500,000 on the last day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization.²²

Based on 2018 FOCUS Report data about the broker-dealer retail market, we believe that approximately 756 broker-dealers – with an estimated 5,281 retail customer accounts – would qualify as small entities subject to Regulation Best Interest. However, Regulation Best Interest does not distinguish between small entities and other broker-dealers. We recognize that different broker-dealers may require different amounts of time or external assistance in preparing for Relationship Best Interest. The Commission believes, however, that imposing different requirements on smaller firms would not be consistent with investor protection and the purposes of Regulation Best Interest. The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act, to identify methods to minimize recordkeeping or reporting requirements affecting small businesses.

6. Consequences of Not Conducting Collection

The information to be collected and recorded under Regulation Best Interest will allow the Commission, state securities regulatory authorities, and SROs to determine whether broker-dealers are in compliance with Regulation Best Interest, and to ensure that broker-dealers are not placing their interests ahead of the interests of their retail customers when making investment recommendations. If a broker-dealer does not make these records, or it makes these records less frequently, the level of investor protection will be reduced.

¹⁷ 5 U.S.C. 601 *et seq.*

¹⁸ 5 U.S.C. 603(a).

¹⁹ 5 U.S.C. 551 *et seq.*

²⁰ Although Section 601(b) of the RFA defines the term “small entity,” the statute permits agencies to formulate their own definitions. The Commission has adopted definitions for the term small entity for the purposes of Commission rulemaking in accordance with the RFA. Those definitions, as relevant to this proposed rulemaking, are set forth in Rule 0-10 under the Exchange Act, 17 CFR 240.0-10.

²¹ *See* 17 CFR 240.17a-5(d).

²² *See* 17 CFR 240.0-10(c).

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

There are no special circumstances. The collection is consistent with 5 CFR 1320.5(d)(2).²³

8. Consultations Outside the Agency

The Commission issued a release soliciting comment on the new “collection of information” requirements and associated paperwork burdens.²⁴ A copy of the release is attached. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings and informal exchanges. Comments received on this rulemaking were posted on the Commission’s public website, and made available through <http://www.sec.gov/rules/proposed.shtml>. The Commission considered all comments received prior to adopting the final rule and explained in the adopting release how the final rule responded to such comments, in accordance with 5 C.F.R. 1320.11(f).

We received several comments suggesting that our estimated burdens and costs for the rule as a whole were too low.²⁵ In addition, the Commission received some comments specifically addressing the costs to smaller broker-dealers.²⁶ Also, as discussed in the Economic

²³ Proposed Amendment to Rule 17a-4(e)(5) would impose new record retention obligations on broker-dealers subject to Regulation Best Interest, including a requirement for broker-dealers to preserve certain records for a period of not less than six years. This inconsistency with the Guidelines in 5 CFR 1320.5(d)(2) is discussed separately in the Supporting Statement for Rule 17a-4.

²⁴ See Proposing Release, *supra* note 1 at 21628-21629.

²⁵ See, e.g., Letter from Lisa D. Crossley, Executive Director, National Society of Compliance Professionals (“NSCP”) (Aug. 7, 2018) (“NSCP Letter”); see also Letters from Tom Quaadman, Executive Vice President, Center for Capital Markets Competitiveness, U.S. Chamber of Commerce (Aug. 7, 2018) (supplemented by letter dated Sep. 5, 2018) (costs to implement the proposal were underestimated and greater than 40% of firms surveyed anticipate having to spend a moderate or substantial amount to implement Regulation Best Interest and Form CRS); Letter from Paul C. Reilly, Chairman and CEO, Raymond James Financial (Aug. 7, 2018) (noting the significant implementation costs of Regulation Best Interest and Form CRS for the industry); Letter from Kenneth E. Bentsen, Jr., President and Chief Executive Officer, SIFMA (Aug. 7, 2018) (stating that implementation costs of Regulation Best Interest and Form CRS would be significant).

²⁶ See, e.g., Letter from Peter J. Chepucavage (May 31, 2018) (finding that the estimates in the proposal are severely understated unless they are excluding time needed for review of the proposal and final rule and suggesting the Commission reconsider the impact on small investors and small broker-dealers); NSCP Letter (requesting the Commission to consider the financial and operational impacts of the proposed rule, particularly on small firms, and to minimize those impacts, given that small firms do not have compliance departments adequate to deal with increasing regulatory demands). See also, e.g., Letter from Douglas M. Ommen, Iowa Insurance Commissioner (Aug. 6, 2018); Letter from David S. Addington, National Federation of Independent Business (May 30, 2018).

Analysis section of the Adopting Release, we received comments regarding the potential costs and burdens of proposed Regulation Best Interest on broker-dealers. In response, we have modified several substantive requirements to the rule by, among other things, providing more specificity in the rule text in the Disclosure and Conflict of Interest Obligations, which we believe will mitigate some of these burdens and costs relative to the Proposing Release. Additionally, in response to comments, we are adopting the Compliance Obligation described above.²⁷

9. Payment of Gift

No payment or gift is provided to respondents.

10. Confidentiality

The records required by Regulation Best Interest are available only to the examination staffs of the Commission, State regulatory authorities, and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”) and the Commission’s rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission generally does not publish or make available information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of any person or any other investigation.

11. Sensitive Questions

No questions of a sensitive nature are asked. The information collection does not collect any Personally Identifiable Information (“PII”).²⁸

12. Burden of Information Collection and Costs to Respondents

As noted above, Regulation Best Interest requires the collection of information in connection with new disclosure, conflict of interest, and compliance obligations. The

²⁷ Some commenters suggested broadening the policies and procedures requirement under the Conflicts of Interest Obligations to a general policies and procedures obligation that would be reasonably designed to ensure that recommendations are made in the customer’s best interest or reasonably designed to ensure compliance with Regulation Best Interest as a whole. *See* Letter from Barbara Roper, Director of Investor Protection, and Micah Hauptman, Financial Services Counsel, Consumer Federation of America (Aug. 7, 2018); Letter from Jason Chandler, Group Managing Director, Co-Head Investment Platforms and Solutions, and Michael Crowl, Group Managing Director, General Counsel, UBS (Aug. 7, 2018).

²⁸ The term “Personally Identifiable Information” refers to information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc.

Commission anticipates that the respondents will incur the following third-party disclosure and recordkeeping burdens in connection with the new regulation.

Summary of Hourly Burdens									
Name of Information Collection	Number of Entities Impacted	Small Business Entities Affected	Type of Burden	Ongoing or Initial Burden	Annual Responses per Entity	Burden per Entity per Response	Annual Burden Per Entity	Annual Industry Burden	Annual Responses per Information Collection
Disclosure Obligation (Rule 15l-1(a)(2)(i))									
(1) Disclosure of Capacity, Type, and Scope of Services									
Dually-registered BDs (Disclosure of Capacity)	563	133	3 rd -Party Discl.	Ongoing	1	7	7	5,816	563
				Initial One-Time	N/A ²⁹	10	3.333		
Small BDs (Disclosure of Type & Scope of Services)	756	756	3 rd -Party Discl.	Ongoing	1	4	4	5,544	756
				Initial One-Time	N/A	10	3.333		
Large BDs (Disclosure of Type & Scope of Services)	2010	0	3 rd -Party Discl.	Ongoing	1	20	20	53,601	2010
				Initial One-Time	N/A	20	6.667		
All BDs (Delivery of the Account Discl. Document)	2766	756	3 rd -Party Discl.	Initial One-Time	36,876 ³⁰	.02	245.84	679,994	101,999,016
All BDs (Delivery of the Account Discl. Document)	2766	756	3 rd -Party Discl.	Ongoing	7375	.02	147.5	407,985	20,399,250
Disclosure Obligation (Rule 15l-1(a)(2)(i))									
(2) Disclosure of Fees and Costs									
Small BDs (Disclosure of Fees and Costs)	756	756	3 rd -Party Discl.	Ongoing	1	2	2	2,772	756
				Initial One-Time burden	N/A	5	1.667		

²⁹ Because this is an initial, one-time burden, we entered N/A here because the response will occur only once and not each year.

³⁰ Because this is an initial, one-time burden, the 36,876 responses will occur only once. Thus, we have multiplied the number of responses by the burden per response divided by 3 ($.02/3 = 0.0067$) to obtain an annual burden per entity of 245.85.

Large BDs (Disclosure of Fees and Costs)	2010	0	3 rd -Party Discl.	Ongoing	1	4	4	14,739	2010
				Initial One-Time burden	N/A	10	3.333		
All BDs (Delivery of the Fee Schedule)	2766	756	3 rd -Party Discl.	Initial One-Time burden	36,876	.02	245.84	679,994	101,999,016
All BDs (Delivery of the Fee Schedule)	2766	756	3 rd -Party Discl.	Ongoing	14,750	.02	295	815,970	40,798,500
Disclosure Obligation 15I-1(a)(2)(i)									
(3) Disclosure of Conflicts of Interest									
Small BDs (Disclosure of Conflicts of Interest)	756	756	3 rd -Party Discl.	Ongoing	1	1	1	2,016	756
				Initial One-Time burden	N/A	5	1.667		
Large BDs (Disclosure of Conflicts of Interest)	2010	0	3 rd -Party Discl.	Ongoing	1	2	2	9,045	2010
				Initial One-Time burden	N/A	7.5	2.5		
All BDs (Delivery of the Conflict Disclosure)	2766	756	3 rd -Party Discl.	Initial One-Time burden	36,876	.02	245.84	679,994	101,999,016
All BDs (Delivery of the Conflict Disclosure)	2766	756	3 rd -Party Discl.	Ongoing	14,750	.02	295	815,970	40,798,500
Conflict of Interest Obligations 15I-1(a)(2)(iii)									
(1) Written Policies and Procedures									
Small BDs	756	756	Recordkeeping	Ongoing	1	5	5	6,300	756
				Initial One-Time	N/A	10	3.333		
Large BDs	2010	0	Recordkeeping	Ongoing	1	12	12	64,320	2010
				Initial One-Time	N/A	60	20		
Conflict of Interest Obligations 15I-1(a)(2)(iii)									
(2) Identification and Management of Conflicts of Interest									
All BDs	2766	756	Recordkeeping	Ongoing	1	10	10	50,709	2766
				Initial One-Time	N/A	25	8.333		

Compliance Obligation 15l-1(a)(2)(iv)									
(1) Written Policies & Procedures									
Small BDs (New IC)	756	756	Recordkeeping	Ongoing	1	5	5	5,292	756
				Initial One-Time	N/A	6	2		
Large BDs (New IC)	2010	0	Recordkeeping	Ongoing	1	12	12	50,919	2010
				Initial One-Time	N/A	40	13.333		
Compliance Obligation 15l-1(a)(2)(iv)									
(1) Training									
(a) Module Development									
All BDs	2766	756	Recordkeeping	Ongoing	N/A	N/A	N/A	3,687	2766
				Initial One-Time	N/A	4	1.333		
Compliance Obligation 15l-1(a)(2)(iv)									
(1) Training									
(b) Implement Training									
All BDs	2766	756	Recordkeeping	Ongoing	155	1	155	571,640	428,730
				Initial One-Time	155	1	51.67		
TOTAL ANNUAL BURDEN FOR ALL RESPONDENTS:								4,926,307	

Following is a more detailed discussion of the estimated burdens associated with broker-dealers' new obligations under Regulation Best Interest.

i. Disclosure Obligation- Rule 15l-1(a)(2)(i)

The Disclosure Obligation under Regulation Best Interest, which is a third-party disclosure burden, requires a broker-dealer, prior to or at the time of recommending a securities transaction or strategy involving securities to a retail customer, to provide the retail customer, in writing, full and fair disclosure of: (1) all material facts relating to the scope and terms of the relationship with the retail customer, including (a) that the broker, dealer, or such natural person is acting as a broker, dealer, or an associated person of a broker or dealer with respect to the recommendation, (b) the fees and costs that apply to the retail customer's transactions, holdings, and accounts, and (c) the type and scope of services provided to the retail customer, including any material limitations on the securities or investment strategies involving securities that may be recommended to the retail customer; and (2) all material facts relating to conflicts of interest that are associated with the recommendation. The Commission believes that requiring broker-dealers to disclose to a retail customer, in writing, all material facts relating to the scope and

terms of the relationship with the retail customer would facilitate the retail customer's understanding of the nature of his or her account, the broker-dealer's fees and costs, as well as the nature of services that the broker-dealer provides, as well as any limitations to those services. It would also provide retail customers with information to better understand the differences among certain financial service providers, such as broker-dealers, investment advisers, and dually registered firms and dually registered financial professionals. In addition, the obligation to disclose all material facts relating to conflicts of interest that are associated with a recommendation would raise retail customers' awareness of the potential effects of conflicts of interest, and increase the likelihood that broker-dealers would make recommendations that are in the retail customer's best interest.

We are explicitly requiring in the rule text of Regulation Best Interest, items that the Proposing Release had only provided as examples of "material facts relating to the scope and terms of the relationship with the retail customer" that must be disclosed, namely: (1) that the broker, dealer or such natural person is acting as a broker, dealer or an associated person of a broker-dealer with respect to the recommendation; (2) the material fees and costs that apply to the retail customer's transactions, holdings, and accounts; and (3) the type and scope of services provided to the retail customer, including: any material limitations on the securities or investment strategies involving securities that may be recommended to the retail customer. We generally believe that proposed burdens and costs identified in the Proposing Release were accurate but have updated estimates to reflect changes in the number of broker-dealers and costs of certain services since the last estimate.

The Commission assumes for purposes of this analysis that broker-dealers would meet the obligation to disclose to the retail customer, in writing, the material facts related to the scope and terms of the relationship with the retail customer through a combination of delivery of the Relationship Summary, creating account disclosures to include standardized language related to capacity and type and scope of services, and the development of fee schedules.

In addition, we assume that broker-dealers will satisfy the obligation to disclose all material facts relating to conflicts of interest through the use of: (1) a standardized, written disclosure document provided to all retail customers and (2) supplemental disclosure provided to certain retail customers for recommendations of specific products.

We also assume for purposes of this analysis that delivery of written disclosure will occur at the beginning of a relationship, such as together with the account opening agreement. For existing retail customers, the disclosure will need to occur "prior to or at the time" of a recommendation. Subsequent disclosures may be delivered or the broker-dealer may provide an oral update, under the circumstances outlined in Section II.C.I, in the event of a material change or if the broker-dealer determines additional disclosure is needed for certain types of products.

Disclosure of Capacity – Standalone and Dually Registered BDs

In terms of meeting the requirement to disclose the capacity in which the broker-dealer is acting (i.e., acting as a broker-dealer, not an investment adviser), burdens will differ depending on whether the firm is only registered as a broker-dealer (“standalone broker-dealer”) of if the firm is also registered as an investment adviser (“dually-registered BD”). For all other aspects of the Disclosure Obligation, the expected burdens will differ depending on whether the firm is small or large, as described below.

Standalone broker-dealers will satisfy the obligation to disclose capacity through the delivery to retail customers of the Relationship Summary. Accordingly, we estimate an initial one-time internal burden of zero hours for standalone broker-dealers to disclose capacity. We estimate that a dually-registered BD will incur an initial one-time internal burden of 10 hours for in-house counsel and in-house compliance³¹ to draft language regarding the capacity in which they are acting for inclusion in the standardized account disclosure that is delivered to the retail customer.³² We estimate that each dually registered broker-dealer will incur approximately five burden hours annually for in-house compliance and business-line personnel to review changes in the dual-registrant’s capacity,³³ and another two burden hours annually for in-house counsel to amend the account disclosure to disclose material changes to the dual-registrant’s capacity, for a total of seven burden hours. The estimated ongoing aggregate burden to amend dual-registrants’ account disclosures to reflect changes in capacity is therefore 3,941 hours per year.³⁴ **These estimates result in a total annual estimated third-party disclosure burden for Disclosure of Capacity for Dually-Registered BDs of 5,816 hours.**

³¹ The ten hour estimate includes five hours for in-house counsel to draft and review the standardized language, and five hours for consultation and review of compliance personnel.

³² The following estimates include the costs and burdens that broker-dealers would incur in drafting standardized account disclosure language related to the scope and terms of the relationship on behalf of their dually licensed representatives. For purposes of this analysis, the Commission assumes that broker-dealers will undertake these tasks on behalf of their registered representatives.

³³ In the Proposing Release, we referred to capacity *and* type and scope of services, however, we captured the ongoing costs and burdens relating to disclosure of type and scope of services separately, where we inadvertently referred to “small standalone broker-dealers” and “large standalone broker-dealers,” but where our calculations reflected the burdens on all “small broker-dealers” and all “large broker-dealers.” See Proposing Release, notes 600-601. We believe it is appropriate to distinguish between standalone and dually registered broker-dealers in assessing the costs and burdens relating to disclosure of capacity, and to distinguish between all small and all large firms in assessing the costs and burdens relating to disclosure of type and scope of services, as reflected in this analysis.

³⁴ This estimate is based on the following calculation: (7 burden hours per dually registered firm per year) x (563 dually registered broker-dealers) = 3,941 ongoing aggregate burden hours.

Disclosure of Type and Scope of Services – Small BDs

To comply with Regulation Best Interest, we believe that broker-dealers³⁵ will draft standardized language for inclusion in the account disclosure to provide the retail customer with more specific information regarding the type and scope of services that they provide. We expect that the associated costs and burdens will differ between small and large broker-dealers, as large broker-dealers generally offer more products and services and therefore will need to evaluate a larger number of products and services.

Given these assumptions, we estimate that a small broker-dealer will incur an internal initial one-time burden of 10 hours for in-house counsel and in-house compliance to draft this standardized language.³⁶ With respect to small broker-dealers, we estimate an internal burden of two hours for in-house compliance and business-line personnel to review and update changes in types or scope of services, and another two burden hours annually for in-house counsel to amend the account disclosure to disclose material changes to type and scope of services—for a total of four burden hours. The estimated ongoing aggregate burden for small broker-dealers to amend account disclosures to reflect changes in type and scope of services is therefore 3,024 hours per year.³⁷ **These estimates result in a total annual estimated third-party disclosure burden for Disclosure of Type and Scope of Services for Small BDs of 5,544 hours.**

Disclosure of Type and Scope of Services – Large BDs

Given the broader array of products and services offered, we estimate that a large broker-dealer will incur an initial one-time burden of twenty hours to draft the standardized language.³⁸ We estimate that large broker-dealers would incur ten burden hours annually for in-house compliance and business-line personnel to review and update changes the type and scope of services, and another ten burden hours annually for in-house counsel to amend the account disclosure to disclose material changes to the type and scope of services, for a total of twenty burden hours. We therefore believe the ongoing, aggregate burden is 40,200 hours per year for

³⁵ In the Proposing Release, we inadvertently referred to “standalone broker-dealers” in this discussion, but our subsequent references and estimates reflected our intent to capture initial costs and burdens relating to disclosure of type and scope of services on all broker-dealers (distinguishing between small and large).

³⁶ The 10-hour estimate includes 5 hours for in-house counsel to draft and review the standardized language, and 5 hours for consultation and review by in-house compliance.

³⁷ This estimate is based on the following calculation: (4 burden hours per broker-dealer per year) x (756 small broker-dealers) = 3,024 ongoing aggregate burden hours.

³⁸ The 20-hour estimate includes 10 hours for in-house counsel to draft and review the standardized language, and 10 hours for consultation and review by in-house compliance.

large broker-dealers.³⁹ For the estimated 2,010 large retail broker-dealers, we estimate an aggregate initial burden of 40,200 hours.⁴⁰ **These estimates result in a total annual estimated third-party disclosure burden for Disclosure of Type and Scope of Services for Large BDs of 53,601 hours.**

Disclosure of Capacity, Type and Scope of Services – Delivery of Account Disclosure Document for all BDs

We estimate that all broker-dealers will each incur an initial one-time burden of approximately 0.02 burden hours⁴¹ for delivery of the account disclosure document.⁴² Based on FOCUS data, we estimate that the 2,766 broker-dealers that report retail activity have approximately 139 million customer accounts, and that approximately 73.5%, or 102 million, of those accounts belong to retail customers.⁴³ Accordingly, we estimate that each broker-dealer will deliver the disclosure to 36,876 retail customer accounts.⁴⁴ Additionally, we estimate that broker-dealers will have an aggregate initial one-time burden of 2,040,000 hours, or approximately 738 hours⁴⁵ per broker-dealer for the first year after Regulation Best Interest is in

³⁹ This estimate is based on the following calculation: (20 burden hours per broker-dealer per year) x (2,010 large broker-dealers) = 40,200 ongoing aggregate burden hours.

⁴⁰ This estimate is based on the following calculation: (2,010 large broker-dealers) x (20 burden hours) = 40,200 aggregate initial burden hours.

⁴¹ This is the same estimate the Commission makes in the Relationship Summary Adopting Release. It is also the same estimate the Commission made in the Amendments to Form ADV Adopting Release, and for which we received no comment. *See* Amendments to Form ADV, 17 CFR Parts 275 and 279 at 49259. We expect that delivery requirements will be performed by a general clerk. The general clerk's time is included in the initial burden estimate.

⁴² For new retail customers, we expect delivery to occur at the inception of the relationship; for existing customers, we expect delivery to occur prior to or at the time of a recommendation.

⁴³ According to FOCUS Report data as of December 2018, the 2,766 broker-dealers (including dual-registrants) with retail customers report 139 million customer accounts. Assuming the amount of retail customer accounts is proportionate to the percentage of broker-dealers that have retail customers, or 73.5% of broker-dealers, then the number of retail customer accounts would be 73.5% of 139 million accounts = 102 million retail customer accounts. This number likely overstates the number of deliveries to be made due to the double-counting of deliveries to be made by dual-registrants to a certain extent, and the fact that one customer may own more than one account.

⁴⁴ This estimate is based on the following calculation: (102,000,000 retail customer accounts) / (2766 broker-dealers) = 36,876 retail customer accounts per broker-dealer.

⁴⁵ These estimates are based on the following calculations: (0.02 hours per customer account x (102 million retail customer accounts) = 2,040,000 aggregate burden hours. Conversely, (2,040,000 hours) / (2,766 broker-dealers) = approximately 738 burden hours per broker-dealer.

effect.⁴⁶ **These estimates result in an annual burden of 245.84 per respondent, and a total annual initial estimated third-party disclosure burden for Disclosure of Capacity, Type, and Scope of Services relating to the Delivery of the Account Disclosure Document for All BDs of approximately 679,994 hours.**

With respect to delivery of the amended account agreements in the event of material changes to the capacity disclosure or disclosure related to type and scope of services, we estimate that this would take place among 20% of a broker-dealer's retail customer accounts annually. **These estimates result in an annual burden of 147.5 hours per year per broker-dealer⁴⁷ and a total annual estimated third-party disclosure ongoing burden for Disclosure of Capacity, Type, and Scope of Services relating to the Delivery of the Account Disclosure Document for All BDs of approximately 407,985 hours.**

The Commission acknowledges that the types of services and offering of products vary greatly by broker-dealer, and therefore that the costs or burdens associated with updating the account disclosure might similarly vary.

Disclosure of Fees and Costs – Small BDs

We assume that, for purposes of this analysis, the associated costs and burdens will differ between small and large broker-dealers, as large broker-dealers generally offer more products and services and therefore will need to evaluate a wider range of fees in their fee schedules. As stated above, while we anticipate that many broker-dealers may already create fee schedules, we believe that small broker-dealers will initially spend five hours for in-house compliance to internally create a new fee schedule in consideration of the requirements of Regulation Best Interest. We estimate that reviewing and updating the fee schedule will require small broker-dealers to incur approximately two hours for in-house compliance per year. We estimate the recurring, aggregate, annualized burden will be 1,512 hours for small broker-dealers.⁴⁸ We therefore estimate the initial aggregate burden for small broker-dealers to be 3,780 burden

⁴⁶ We estimate that broker-dealers will not incur any incremental postage costs because we assume that they will make such deliveries with another mailing the broker-dealer was already delivering to retail customers.

⁴⁷ $(20\%) \times (102 \text{ million retail customer accounts}) \times (.02 \text{ hours for delivery to each customer account}) = 408,000 \text{ aggregate burden hours. Conversely, } 408,000 \text{ aggregate burden hours} / 2,766 \text{ broker-dealers} = 147.5 \text{ burden hours per broker-dealer.}$

⁴⁸ This estimate is based on the following calculation: $(2 \text{ burden hours per broker-dealer}) \times (756 \text{ small broker-dealers}) = 1,512 \text{ aggregate burden hours.}$

hours.⁴⁹ **These estimates result in a total annual estimated third-party disclosure burden for Disclosure of Fees and Costs for Small BDs of 2,772 hours.**

Disclosure of Fees and Costs – Large BDs

We believe that large broker-dealers will incur an initial one-time burden of ten hours for in-house compliance to internally create a new fee schedule in consideration of the requirements of Regulation Best Interest. We therefore estimate the initial one-time aggregate burden for large broker-dealers to be 20,100 burden hours.⁵⁰ In addition, we estimate that the recurring, annual burden for large broker-dealers to review and update the fee schedule will be four hours for in-house compliance for each large broker-dealer. Based on these estimates, we estimate that the recurring, aggregate, annualized burden will be 8,040 hours for large broker-dealers.⁵¹ **These estimates result in a total annual estimated third-party disclosure burden for Disclosure of Fees and Costs for Large BDs of 14,739 hours.**

Disclosure of Fees and Costs – All Broker Dealers, Delivery of the Fee Schedule

Similar to delivery of the account disclosure regarding capacity and type and scope of services, we estimate the burden for broker-dealers to make the initial delivery of the fee schedule to new retail customers, at the beginning of the relationship, and existing retail customers, prior to or at the time of a recommendation, will require approximately 0.02 hours to deliver to each retail customer. As stated above, we estimate that the 2,766 broker-dealers that report retail activity have approximately 139 million customer accounts, and that approximately 73.5%, or 102 million, of those accounts belong to retail customers.⁵² Accordingly, we estimate that each broker-dealer will deliver the disclosure to 36,876 retail customer accounts.⁵³ Additionally, we estimate that broker-dealers will have an aggregate initial one-time burden of approximately 2,040,000 hours, or approximately 738 hours per broker-dealer.⁵⁴ **These**

⁴⁹ This estimate is based on the following calculation: (5 burden hours of review per small broker-dealer) x (756 small broker-dealers) = 3,780 aggregate initial burden hours.

⁵⁰ This estimate is based on the following calculation: (10 burden hours of review per large broker-dealer) x (2,010 large broker-dealers) = 20,100 aggregate initial burden hours.

⁵¹ This estimate is based on the following calculation: (4 burden hours per broker-dealer) x (2,010 large broker-dealers) = 8,040 aggregate burden hours.

⁵² *See supra* note 43. For new retail customers, we expect delivery to occur at the inception of the relationship; for existing customers, we expect delivery to occur prior to or at the time of a recommendation.

⁵³ This estimate is based on the following calculation: (102,000,000 retail customer accounts) / (2766 broker-dealers) = 36,876 retail customer accounts per broker-dealer.

⁵⁴ This estimate is based on the following calculation: (102 million retail customer accounts) x (.02 hours for delivery to each customer account) = 2,040,000 aggregate burden hours. Conversely,

estimates result in an annual burden of 245.84 hours per respondent, and a total annual initial estimated third-party disclosure burden for Disclosure of Fees and Costs relating to the Delivery of Fee Schedule for All BDs of approximately 679,994 hours.

With respect to delivery of the amended fee schedule in the event of a material change, we estimate that this would take place among 40% of a broker-dealer's retail customer accounts annually, and that broker-dealers will require approximately 0.02 hours to deliver the amended fee schedule to each retail customer.⁵⁵ **We therefore estimate broker-dealers would incur a total ongoing annual aggregate burden for Disclosure of Fees and Costs relating to Delivery of the Fee Schedule for All BDs of approximately 815,970 hours, or 295 hours per broker-dealer.**⁵⁶

The Commission acknowledges that the type of fee schedule may vary greatly by broker-dealer, and therefore that the costs or burdens associated with updating the standardized fee schedule might similarly vary.

Disclosure of All Material Facts Relating to Conflicts of Interest—Small Broker-Dealers

The Disclosure Obligation provides broker-dealers with the flexibility to choose the form and manner of conflict disclosure. However, we believe that many or most broker-dealers will develop a standardized conflict disclosure document and deliver it to their retail customers.⁵⁷ We also assume for purposes of this PRA analysis that broker-dealers will update and deliver the standardized conflict disclosure document yearly on an ongoing basis, following the broker-dealer's annual conflicts review process. For purposes of this analysis, we assume that a standardized conflict disclosure document will be developed by in-house counsel and reviewed by outside counsel (the cost burdens associated with the outside counsel's review is discussed in Item 13 below). Additionally, we believe that broker-dealers will incur ongoing annual burdens and costs to update the disclosure document to include newly identified conflicts. We assume for purposes of this analysis that broker-dealers will update their conflict disclosure document annually, after conducting an annual conflicts review. We estimate that the conflicts disclosures will be updated internally by both small and large broker-dealers.

$(2,040,000 \text{ aggregate burden hours}) / (2,766 \text{ broker-dealers}) = 738 \text{ burden hours per broker-dealer per year.}$

⁵⁵ See *supra* note 41.

⁵⁶ This estimate is based on the following calculation: $(40\% \text{ of } 102 \text{ million retail customer accounts}) \times (.02 \text{ hours}) = 816,000 \text{ aggregate burden hours. Conversely, } (816,000 \text{ aggregate burden hours}) / (2,766 \text{ broker-dealers}) = 295 \text{ burden hours per broker-dealer.}$

⁵⁷ We assume that delivery for new customers will occur at the inception of the relationship, and that delivery for existing customers will occur prior to or at the time a recommendation is made.

For small broker-dealers, we estimate it will take in-house counsel, on average, five burden hours to create the standardized conflict disclosure document. We estimate that the initial aggregate burden for the development of a standardized disclosure document, based on an estimated 756 small broker-dealers, will be 3,780 burden hours.⁵⁸ We additionally estimate that in-house counsel at a small broker-dealer will require approximately one hour per year to update the standardized conflict disclosure document, for an ongoing aggregate, annual burden of approximately 756 hours.⁵⁹ **These estimates result in a total annual estimated third-party disclosure burden for Disclosure of Conflicts of Interest for Small BDs of 2,016 hours.**

Disclosure of All Material Facts Relating to Conflicts of Interest—Large Broker-Dealers

We expect the development and review of the standardized conflict disclosure document to take longer for large broker-dealers because, as discussed above, we believe large broker-dealers generally offer more products and services and employ more individuals, and therefore will need to disclose a larger number of conflicts. We estimate that for large broker-dealers, it will take 7.5 burden hours for in-house counsel to create the standardized conflict disclosure document. As a result, we estimate the initial aggregate burden, based on an estimated 2,010 large broker-dealers, to be approximately 15,075 burden hours.⁶⁰ Additionally, we estimate that the ongoing, annual burden would be two hours for each broker-dealer: one hour for in-house compliance and one hour for in-house counsel for legal personnel. We therefore estimate the ongoing, aggregate burden for large broker-dealers to be approximately 4,020 burden hours.⁶¹ **These estimates result in a total annual estimated third-party disclosure burden for Disclosure of Conflicts of Interest for Large BDs of 9,045 hours.**

Disclosure of All Material Facts Relating to Conflicts of Interest—All Broker-Dealers, Delivery of Standard Conflict Disclosure

We assume that broker-dealers will deliver the standardized conflict disclosure document to new retail customers at the inception of the relationship, and to existing retail customers prior to or at the time of a recommendation. We estimate that broker-dealers will require approximately 0.02 hours to deliver the standardized conflict disclosure document to each retail

⁵⁸ This estimate is based on the following calculation: (5 hours) x (756 small broker-dealers) = 3,780 aggregate burden hours.

⁶⁰ This estimate is based on the following calculation: (7.5 hours x 2,010 large broker-dealers) = 15,075 burden hours.

⁶¹ This estimate is based on the following calculation: (2 hours per broker-dealer) x (2,010 large broker-dealers) = 4,020 aggregate burden hours.

customer.⁶² We therefore estimate that broker-dealers will incur an aggregate initial burden of 2,040,000 hours, or approximately 738 hours per broker-dealer for delivery of the standardized conflict disclosure document.⁶³ **These estimates result in an annual burden of 245.84 hours per respondent, and a total annual initial estimated third-party disclosure burden for Standard Conflict Disclosure relating to the Delivery of the Conflict Disclosure Document for All BDs of approximately 679,994 hours.**

With respect to ongoing delivery of the updated conflict disclosure document, we estimate that this will take place among 40% of a broker-dealer's retail customer accounts annually, and that broker-dealers will require approximately 0.02 hours to deliver the updated conflict disclosure document to each retail customer.⁶⁴ Accordingly, we estimate that each broker-dealer will deliver the disclosure to 36,876 retail customer accounts.⁶⁵ **We therefore estimate that broker-dealers will incur an ongoing, aggregate annual burden for Disclosure of Conflicts of Interest relating to Delivery of the Conflict Disclosure for All BDs of approximately 815,970 hours, or 295 burden hours per broker-dealer.**⁶⁶

ii. **Care Obligation**

Any PRA burdens or costs associated with the Care Obligation are already accounted for under other obligations in Regulation Best Interest, including the Disclosure Obligation, discussed above, and the new Record-Making Obligation under Rule 17a-3(a)(35) (OMB No. 3235-0033) and new Recordkeeping Obligation under Rule 17a-4(e)(5) (OMB No. 3235-0279), which are discussed in separate Supporting Statements.

iii. **Conflict of Interest Obligations- Rule 15l-1(a)(2)(iii)**

⁶² For purposes of this analysis, we have assumed any initial disclosures made by the broker-dealer related to material conflicts of interest will be delivered together.

⁶³ These estimates are based on the following calculations: (0.02 hours per customer account x 102 million retail customer accounts) = 2,040,000 aggregate burden hours. Conversely, (2,040,000 hours) / (2,766 broker-dealers) = 738 burden hours per broker-dealer.

⁶⁴ See *supra* note 41. The Commission estimates that broker-dealers will update their disclosures of fees and costs and material facts relating to conflicts of interest that are associated with their recommendation more frequently than disclosure related to capacity or type and scope of services.

⁶⁵ This estimate is based on the following calculation: (102,000,000 retail customer accounts) / (2766 broker-dealers) = 36,876 retail customer accounts per broker-dealer.

⁶⁶ This estimate is based on the following calculation: (40% of 102 million retail customer accounts) x (.02 hours) = 816,000 aggregate burden hours. Conversely, (816,000 aggregate burden hours) / (2,766 broker-dealers) = 295 hours per broker-dealer.

The Conflict of Interest Obligation creates an overarching obligation to require broker-dealers⁶⁷ to establish written policies and procedures reasonably designed to identify and at a minimum disclose, pursuant to the Disclosure Obligation, or eliminate all conflicts of interest associated with a recommendation. More specifically, broker-dealers are required to establish, maintain, and enforce written policies and procedures reasonably designed to: (i) identify and mitigate any conflicts of interest associated with recommendations that create an incentive for a natural person who is an associated person of a broker or dealer to place the interest of the broker or dealer, or such natural person making the recommendation, ahead of the interest of the retail customer; (ii) (A) identify and disclose any material limitations placed on the securities or investment strategies involving securities that may be recommended to a retail customer and any conflicts of interest associated with such limitations, in accordance with the Disclosure Obligation, and (B) prevent such limitations and associated conflicts of interest from causing the broker, dealer, or a natural person who is an associated person of the broker or dealer to make recommendations that place the interest of the broker, dealer, or such natural person ahead of the interest of the retail customer; and (iii) identify and eliminate sales contests, bonuses, and non-cash compensation that are based on the sales of specific securities or specific types of securities within a limited period of time.⁶⁸

Written policies and procedures developed pursuant to the Conflict of Interest Obligation of Regulation Best Interest would help a broker-dealer to develop a process, reasonably designed for its business, for identifying conflicts of interest, and then determining whether to eliminate, or disclose and/or mitigate the conflict and the appropriate means of eliminating, disclosing and/or mitigating the conflict. In addition, establishing and maintaining written policies and procedures would generally (1) assist a broker-dealer in supervising its associated persons and assessing compliance with the Conflict of Interest Obligation; and (2) assist the Commission and SRO staff in connection with examinations and investigations.⁶⁹

In light of the modifications to several substantive requirements of the rule relative to the Proposing Release, including the Conflict of Interest Obligation, we believe these changes will

⁶⁷ The Conflict of Interest Obligation and Compliance Obligation apply solely to the broker or dealer entity, and not to the natural persons who are associated persons of a broker or dealer.

⁶⁸ Rule 15c-1 under the Exchange Act.

⁶⁹ Any written policies and procedures developed pursuant to Regulation Best Interest would be required to be retained pursuant to Exchange Act Rule 17a-4(e)(7), which requires broker-dealers to retain compliance, supervisory, and procedures manuals (and any updates, modifications, and revisions thereto) describing the policies and procedures of the broker-dealer with respect to compliance with applicable laws and rules, and supervision of the activities of each associated person, for a specified period of time. The record retention requirements of Rule 17a-4(e)(7) include any written policies and procedures that broker-dealers may produce pursuant to the Conflict of Interest Obligation of Regulation Best Interest.

allow broker-dealers to more easily incorporate the requirements of Regulation Best Interest into existing supervisory and compliance systems and streamline compliance with Regulation Best Interest.⁷⁰ Therefore, we generally believe our proposed burdens and costs are accurate but have updated estimates to reflect changes in the number of broker-dealers and costs of certain services since the last estimate.

Written Policies and Procedures - Small Broker-Dealers

For small broker-dealers, we believe that they would primarily rely on outside counsel to update existing policies and procedures, as small broker-dealers generally have fewer in-house legal and compliance personnel. The use of outside counsel would result in a cost burden, which is discussed in Item 13 below. We also expect that small broker-dealers would incur an initial burden of 10 hours for in-house compliance to review and approve the updated policies and procedures, for an aggregate initial burden of 7,560 hours.⁷¹ We additionally believe that small broker-dealers would review and update policies and procedures on an annual basis to accommodate the addition of, for example, new products or services, new business lines, and/or new personnel. We also assume that broker-dealers would review and update their policies and procedures for compliance with the Conflict of Interest Obligation on an annual basis. We assume for purposes of this analysis that small broker-dealers, who generally have fewer and less complex products, and lower rates of hiring and turnover, would primarily rely on outside legal counsel and outside compliance consultants for review and update of their policies and procedures, with final approval from an in-house compliance manager. The use of outside counsel would result in a cost burden, which is discussed in Item 13 below. We estimate that small broker-dealers would incur an ongoing burden of approximately 5 hours for an in-house compliance manager to review and approve the updated policies and procedures per year, for an ongoing, aggregate burden for small broker-dealers of 3,780 hours for in-house compliance manager review. **These estimates result in a total annual estimated recordkeeping burden for Conflict of Interest Obligation: Written Policies and Procedures for Small BDs of 6,300 hours.**

Written Policies and Procedures - Large Broker-Dealers

For purposes of the final rule, we estimate that a large broker-dealer would incur a one-time average internal burden of 50 hours for in-house counsel and in-house compliance to update existing policies and procedures to comply with Regulation Best Interest and a one-time burden of 5 hours for general counsel and 5 hours for a Chief Compliance Officer to review and approve

⁷⁰ See Section II.C.3.

⁷¹ This estimate is based on the following calculation: (10 burden hours) x (756 small broker-dealers) = 7,560 aggregate burden hours.

the updated policies and procedures, for a total of 60 burden hours.⁷² We therefore estimate the initial aggregate burden for large broker-dealers to be of 120,600 burden hours.⁷³ We assume that large broker-dealers would review and update policies and procedures on an annual basis using in-house personnel. We estimate that large broker-dealers, which generally have more numerous and complex products and services, and higher rates of hiring and turnover, would incur an annual internal burden of 12 hours to review and update existing policies and procedures: four hours for in-house counsel, four hours for in-house compliance, and four hours for business-line personnel to identify new conflicts. We therefore estimate an ongoing, aggregate burden for large broker-dealers of approximately 24,120 hours.⁷⁴ **These estimates result in a total annual estimated recordkeeping burden for Conflict of Interest Obligation: Written Policies and Procedures for Large BDs of 64,320 hours.**

The Commission acknowledges that policies and procedures may vary greatly by broker-dealer, given the differences in size and the complexity of broker-dealer business models. Accordingly, we expect that the need to update policies and procedures might also vary greatly.

Identification and Management of Conflicts of Interest – All Broker-Dealers

With respect to identifying and determining whether a conflict of interest exists in connection with a recommendation and whether it needs to be addressed through disclosure, mitigation and/or elimination, a broker-dealer would first need to establish mechanisms to proactively and systematically identify conflicts of interest in its business on an ongoing or periodic basis. For purposes of this analysis, we assume that most broker-dealers already have an existing technological infrastructure in place, and we assume it would need to be modified to comply with the Conflict of Interest Obligation.

To comply with the Conflict of Interest Obligation of Regulation Best Interest as adopted, we expect that broker-dealers will modify existing technology through the work of an outside programmer, which would result in a cost burden and is discussed in Item 13 below. We additionally continue to estimate that coordination between the programmer and the broker-dealer's compliance manager would involve five burden hours.⁷⁵ The aggregate initial burdens

⁷² This estimate is based on the following calculation: (50 hours of review for in-house counsel and in-house compliance) + (5 hours of review for general counsel) + (5 hours of review for Chief Compliance Officer) = 60 burden hours.

⁷³ This estimate is based on the following calculation: (60 burden hours of review per large broker-dealer) x (2,010 large broker-dealers) = 120,600 aggregate burden hours.

⁷⁴ This estimate is based on the following calculation: (12 burden hours per large broker-dealer) x (2,010 large broker-dealers) = 24,120 aggregate ongoing burden hours.

for the modification of existing technology to identify conflicts of interest would therefore be 13,830 burden hours.⁷⁶

As a result of the changes made to the rule text of the Conflict of Interest Obligation of Regulation Best Interest, we believe that broker-dealers would incur burdens to: (1) identify conflicts of interest and determine whether the conflict involves an incentive to an associated person to place the interest of the broker-dealer or natural person making the recommendation ahead of the interest of the retail customer, a material limitation on the product menu, or a sales practice that that are based on the sales of specific securities or specific types of securities within a limited period of time and (2) determine whether and how the conflict would be disclosed, disclosed and mitigated, or eliminated in accordance with the Conflict of Interest Obligation. In order to complete this process, we believe a broker-dealer would require approximately 20 hours⁷⁷ per broker-dealer,⁷⁸ for an aggregate of 55,320 burden hours for all broker-dealers.⁷⁹

To maintain compliance with the Conflict of Interest Obligation, we assume for purposes of this analysis that a broker-dealer would seek to identify additional conflicts of interest as its business evolves. The Commission recognizes that broker-dealers vary in the types of services and product offerings and therefore vary in the types of conflicts of interest that exist within and across broker-dealers. We believe that for purposes of this analysis, broker-dealers would, through the help of the business line and compliance personnel, spend on average 10 hours⁸⁰ to perform an annual conflicts review using the modified technology infrastructure.⁸¹ Therefore, the Commission estimates that the aggregate ongoing burden for an annual conflicts review, based on an estimated 2,766 retail broker-dealers, would be approximately 27,660 burden hours

⁷⁶ This burden estimate is based on the following calculation: (5 burden hours for in-house compliance manager) x (2,766 broker-dealers) = 13,830 aggregate burden hours.

⁷⁷ In light of the changes made to the rule text of the Conflict of Interest Obligation and the comments received, we have increased our estimate to 20 burden hours per broker-dealer.

⁷⁸ This burden estimate consists of 10 hours for review by business line personnel, and 10 hours for review by in-house compliance manager. When combined with the five burden hours for the in-house compliance manager described above, the initial burden related to the Conflict of Interest Obligation is 25 burden hours.

⁷⁹ This burden estimate is based on the following calculation: (20 burden hours) x (2,766 broker-dealers) = 55,320 aggregate burden hours.

⁸⁰ This burden estimate consists of 5 hours for review by business line personnel, and 5 hours for review by an in-house compliance manager.

⁸¹ FINRA rules set an annual supervisory review as a minimum threshold for broker-dealers. *See, e.g.*, FINRA Rules 3110 (requiring an annual review of the businesses in which the broker-dealer engages); 3120 (requiring an annual report detailing a broker-dealer's system of supervisory controls, including compliance efforts in the areas of antifraud and sales practices); and 3130 (requiring each broker-dealer's CEO or equivalent officer to certify annually to the reasonable design of the policies and procedures for compliance with relevant regulatory requirements).

per year.⁸² **These estimates result in a total annual estimated recordkeeping burden for Identification and Management of Conflicts of Interests for All Broker-Dealers of 50,709 hours.**⁸³

iv. Compliance Obligation- Rule 15l-1(a)(2)(iv)

As discussed above, in response to comments that we should require policies and procedures to comply with Regulation Best Interest as a whole, we are adopting a new Compliance Obligation. The Compliance Obligation requires that the broker-dealer establish, maintain and enforce written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest. This Compliance Obligation creates an explicit obligation under the Exchange Act with respect to Regulation Best Interest as a whole. Similar to the policies and procedures requirement of the Conflict of Interest Obligation, broker-dealers will have flexibility to design policies and procedures that are reasonable for the scope, size and risks associated with the operations of the firm and the types of business in which the broker-dealer engages. Because we did not previously include the Compliance Obligation in the Proposing Release, we did not include costs and burdens associated with the Compliance Obligation, but we have provided a detailed explanation of these costs and burdens in this Supporting Statement.⁸⁴

To comply with the Compliance Obligation, we believe that broker-dealers would employ a combination of in-house and outside legal and compliance counsel to update existing policies and procedures to account for the Disclosure and Care Obligations. We assume that, for purposes of this analysis, the associated costs and burdens would differ between small and large broker-dealers, as large broker-dealers generally offer more products and services and employ more individuals and therefore would need to evaluate and update a greater number of systems. As discussed above, based on FOCUS Report data, we estimate that 2,010 broker-dealers would qualify as large broker-dealers for purposes of this analysis and 756 would qualify as small broker-dealers that have retail business.

⁸² This estimate is based on the following calculation: (10 hours per retail broker-dealer) x (2,766 retail broker-dealers) = 27,660 aggregate burden hours.

⁸³ As discussed in the Proposing Release, we expect that broker-dealers would develop training programs to comply with Regulation Best Interest, including the Conflict of Interest Obligation. However, we believe that any burdens and costs associated with a training program would fall under the new Compliance Obligation in Rule 15l-1(a)(2)(iv) (discussed below) as it would be developed to comply with Regulation Best Interest as a whole, including each of the component obligations.

⁸⁴ We note that any burdens and costs to comply with the Conflict of Interest Obligation are included in the estimates above.

Written Policies and Procedures – Small Broker-Dealers

For small broker-dealers, we believe that they would primarily rely on outside counsel to update existing policies and procedures, as small broker-dealers generally have fewer in-house legal and compliance personnel. The use of outside counsel would result in a cost burden, which is discussed in Item 13 below. We also expect that in-house compliance personnel would require 6 hours to review and approve the updated policies and procedures, for an aggregate burden of 4,536 hours.⁸⁵ We assume for purposes of this analysis that small broker-dealers, who generally have fewer and less complex products, and lower rates of hiring and turnover, would mostly rely on outside legal counsel and compliance consultants for review and update of their policies and procedures, with final review and approval from an in-house compliance manager. This would result in a cost burden, which is discussed in Item 13 below. We estimate that small broker-dealers would incur an ongoing burden of approximately 5 hours for an in-house compliance manager to review and approve the updated policies and procedures per year, for an ongoing, aggregate burden for small broker-dealers of 3,780 hours for in-house compliance manager review. **These estimates result in a total annual estimated recordkeeping burden for the Compliance Obligation: Written Policies and Procedures for Small Broker-Dealers of 5,292.**

Written Policies and Procedures - Large Broker-Dealers

For purposes of this analysis we estimate that a large broker-dealer would incur a one-time average internal initial one-time burden of 30 hours for in-house legal personnel and in-house compliance counsel to update existing policies and procedures to comply with the Compliance Obligation and a one-time burden of five hours for general counsel and five hours for a Chief Compliance Officer to review and approve the updated policies and procedures, for a total of 40 burden hours.⁸⁶ The use of outside counsel would result in a cost burden, which is discussed in Item 13 below. We therefore estimate the aggregate initial one-time burden for large broker-dealers to be of 80,400 burden hours.⁸⁷

We estimate that large broker-dealers would incur ongoing hourly burdens to review and update their written policies and procedures. For large broker-dealers with more numerous and complex products and services, as well as higher rates of hiring and turnover, we estimate that

⁸⁵ This estimate is based on the following calculation: (6 burden hours) x (756 small broker-dealers) = 4,536 aggregate burden hours.

⁸⁶ This estimate is based on the following calculation: (30 hours of review for in-house legal and in-house compliance counsel) + (5 hours of review for general counsel) + (5 hours of review for Chief Compliance Officer) = 40 burden hours.

⁸⁷ This estimate is based on the following calculation: (40 burden hours of review per large broker-dealer) x (2,010 large broker-dealers) = 80,400 aggregate burden hours.

each broker-dealer would annually incur an internal burden of 12 hours to review and update existing policies and procedures: four hours for legal personnel, four hours for compliance personnel, and four hours for business-line personnel. We therefore estimate an ongoing, aggregate burden for large broker-dealers of approximately 24,120 hours per year.⁸⁸ **These estimates result in a total annual estimated recordkeeping burden for the Compliance Obligation: Written Policies and Procedures for Large Broker-Dealers of 50,919.**

Training – Develop Module, All Broker-Dealers

We believe that broker-dealers would likely use a computerized training module to train their associated persons regarding the policies and procedures pertaining to Regulation Best Interest. We estimate that a broker-dealer would retain an outside systems analyst, outside programmer, and an outside programmer analyst to create the training module. This would result in a cost burden, which is discussed in Item 13 below.

Additionally, we expect that the training module would require the approval of the Chief Compliance Officer, as well as in-house counsel, each of whom would require approximately 2 hours to review and approve the training module. The initial aggregate burden for broker-dealers is therefore estimated at 11,064 burden hours.⁸⁹ **These estimates result in a total annual estimated recordkeeping burden for Developing a Training Module for All Broker-Dealers of 3,687 hours.**

Training – Implement Training, All Broker-Dealers

In addition, broker-dealers would incur an initial recordkeeping cost relating to associated persons undergoing training through the training module. We estimate one hour per associated person, for an aggregate burden of 428,404 burden hours, or an initial burden of 154.9 hours per broker-dealer.⁹⁰

We believe that, as a matter of best practice, broker-dealers would likely require registered representatives to repeat the training module for Regulation Best Interest on an annual basis. The ongoing aggregate burden relating to the one-hour training would be 428,404 burden

⁸⁸ This estimate is based on the following calculation: (12 burden hours per large broker-dealer) x (2,010 large broker-dealers) = 24,120 aggregate ongoing burden hours.

⁸⁹ This estimate is based on the following calculation: (2,766 broker-dealers) x (4 burden hours per broker-dealer) = 11,064 burden hours.

⁹⁰ This estimate is based on the following calculation: (1 burden hour) x (428,404 registered representatives at standalone or dually registered broker-dealers) = 428,404 aggregate burden hours. Conversely, (428,404 aggregate burden hours) / (2,766 retail broker-dealers) = 154.9 initial burden hours per broker-dealer.

hours per year, or 154.9 burden hours per broker-dealer per year.⁹¹ **These estimates result in a total annual estimated recordkeeping burden for Implementing a Training Module for All Broker-Dealers of 571,640 hours.**

TOTAL:

Based on the estimates discussed above, the total annual estimated hour burden for the collections of information in Regulation Best Interest is 4,926,307.

13. Summary of Costs to Respondents

The Commission adopted Regulation Best Interest, which requires broker-dealers to make and keep current various records. As described in more detail below, the Commission estimates this rule would impose various costs, in addition to hour burdens, on each broker-dealer. The Commission anticipates that the respondents will incur the following third-party disclosure and recordkeeping cost burdens in connection with the Regulation Best Interest.

Summary of Cost Burdens								
Name of Information Collection	Number of Entities Impacted	Small Business Entities Affected	Type of Burden	Ongoing or Initial Burden	Annual Responses per Entity	Burden per Entity per Response	Annual Burden Per Entity	Annual Industry Burden
Disclosure Obligation 15/-1(a)(2)(i)								
(1) Disclosure of Capacity, Type, and Scope of Services								
Dually-registered BDs	563	133	3rd-Party Discl.	Ongoing	N/A	N/A	N/A	\$932,705
				Initial One-Time	N/A	\$4970	\$1656.67	
Small BDs	756	756	3rd-Party Discl.	Ongoing	N/A	N/A	N/A	\$1,252,443
				Initial One-Time	N/A	\$4970	\$1656.67	
Large BDs	2010	0	3rd-Party Discl.	Ongoing	N/A	N/A	N/A	\$5,004,900

⁹¹ This estimate is based on the following calculation: (1 burden hour) x (428,404 registered representatives at standalone or dually registered broker-dealers) = 428,404 burden hours. Conversely, (428,404 aggregate burden hours) / (2,766 retail broker-dealers) = 154.9 initial burden hours per broker-dealer.

				Initial One-Time	N/A	\$7470	\$2490	
Disclosure Obligation 15/1(a)(2)(i) (2) Disclosure of Fees and Costs								
Small BDs	756	756	3rd-Party Discl.	Ongoing	N/A	N/A	N/A	\$626,217
				Initial One-Time	N/A	\$2485	\$828.33	
Large BDs	2010	0	3rd-Party Discl.	Ongoing	N/A	N/A	N/A	\$3,329,907
				Initial One-Time	N/A	\$4970	\$1656.67	
Disclosure Obligation 15/1(a)(2)(i) (3) Disclosure of Material Conflicts of Interest								
Small BDS	756	756	3rd-Party Discl.	Ongoing	N/A	N/A	N/A	\$626,217
				Initial One-Time	N/A	\$2485	\$828.33	
Large BDS	2010	0	3rd-Party Discl.	Ongoing	N/A	N/A	N/A	\$2,497,767
				Initial One-Time	N/A	\$3728	\$1242.67	
Conflict of Interest Obligations 15/1(a)(2)(iii) (1) Written Policies & Procedures								
Small BDs	756	756	Recordkeeping	Ongoing	1	\$3850	\$3850	\$7,920,363
				Initial One-Time	N/A	\$19880	\$6626.67	
Large BDs	2010	0	Recordkeeping	Ongoing	N/A	N/A	N/A	\$3,329,907
				Initial One-Time	N/A	\$4970	\$1656.67	
Conflict of Interest Obligations 15/1(a)(2)(iii) (2) Identification of Material Conflicts of Interest								
All BDs	2766	756	Recordkeeping	Ongoing	N/A	N/A	N/A	\$5,236,951
				Initial One-Time	N/A	\$5680	\$1893.33	
Compliance Obligation 15/1(a)(2)(iv) (1) Written Policies and Procedures								

Small BDs	756	756	Recordkeeping	Ongoing	1	\$3850	\$3850	\$5,415,477
				Initial One-Time	N/A	\$9940	\$3313.33	
Large BDs	2010	0	Recordkeeping	Ongoing	N/A	N/A	N/A	\$1,997,940
				Initial One-Time	N/A	\$2982	\$994	
Compliance Obligation 15l-1(a)(2)(iv) (3) Training Develop Module								
All BDs	2766	756	Recordkeeping	Ongoing	N/A	N/A	N/A	\$19,288,231
				Initial One-Time	N/A	\$20920	\$6973.33	
TOTAL COST FOR ALL RESPONDENTS:								\$57,459,025

Following is a more detailed discussion of the estimated burdens associated with broker-dealers' new obligations under Regulation Best Interest.

i. Disclosure Obligation- Rule 15l-1(a)(2)(i)

Disclosure of Capacity – Standalone and Dually Registered BDs

Standalone broker-dealers will satisfy the obligation to disclose capacity through the delivery to retail customers of the Relationship Summary. Accordingly, we do not estimate any initial or ongoing costs for standalone broker-dealers to disclose capacity. We estimate that dual-registrants will incur an estimated external initial, one-time cost of \$4,970 for the assistance of outside counsel in the preparation and review of standardized language regarding capacity.⁹² For the estimated 563 dually registered firms with retail business,⁹³ we project approximately

⁹² Data from the Securities Industry Financial Markets Association's Management & Professional Earnings in the Securities Industry 2013 ("SIFMA Management and Professional Earnings Report"), modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 (professionals) or 2.93 (office) to account for bonuses, firm size, employee benefits, and overhead, suggests that costs for this position is \$497 per hour. The SIFMA Management and Professional Earnings Report was updated in 2019 to reflect inflation. The numbers in the report are higher than the numbers we used in the Proposing Release. This estimate is based on the following calculation: (10 hours for outside counsel review/drafting) x (\$497/hour for outside counsel services) = \$4,970 in initial outside counsel costs.

⁹³ FOCUS Reports, or "Financial and Operational Combined Uniform Single" Reports, are monthly, quarterly, and annual reports that broker-dealers are generally required to file with the Commission and/or SROs pursuant to Exchange Act Rule 17a-5. See 17 CFR 240.17a-5. This

\$2.8 million in aggregate initial costs relating to disclosure of capacity in which they are acting.⁹⁴ Further, we estimate that broker-dealers, including dual registrants, will not incur outside costs in connection with updating account disclosures, as in-house personnel will be more knowledgeable about changes in capacity of the broker-dealer. **These estimates result in a total annual estimated third-party disclosure cost burden for Disclosure of Capacity for Dually-Registered BDs of \$932,705.**

Disclosure of Type and Scope of Services – Small BDs

We expect that the associated costs will differ between small and large broker-dealers, as large broker-dealers generally offer more products and services and therefore will need to evaluate a larger number of products and services. Given these assumptions, we estimate that a small broker-dealer will incur an estimated external cost of \$4,970 for the assistance of outside counsel in the preparation and review of this standardized language.⁹⁵ For the estimated 756 small broker-dealers, we project an aggregate initial costs of \$3.8 million.⁹⁶ We estimate that broker-dealers will not incur ongoing costs in connection with updating account disclosures, as in-house personnel will be more knowledgeable about changes in type and scope of services offered by the broker-dealer. **These estimates result in a total annual estimated third-party disclosure cost burden for Disclosure of Type and Scope of Services for Small BDs of \$1,252,443.**

Disclosure of Type and Scope of Services – Large BDs

We estimate that a large broker-dealer will incur an estimated cost of \$7,470 for the assistance of outside counsel in the preparation and review of this standardized language.⁹⁷ For the estimated 2,010 large retail broker-dealers, we estimate \$15 million in aggregate initial costs.⁹⁸ As discussed above, we estimate that broker-dealers will not incur outside costs in

data is obtained from FOCUS filings as of December 2018. The number of dually registered broker-dealers includes broker-dealers that are also Commission- and state-licensed investment advisers.

⁹⁴ This estimate is based on the following calculation: (563 dually registered retail firms) x (\$4,970 in external cost per firm) = \$2.8 million in aggregate initial costs.

⁹⁵ This estimate is based on the following calculation: (10 hours for outside counsel review/drafting) x (\$497/hour for outside counsel services) = \$4,970 in initial outside counsel costs.

⁹⁶ This estimate is based on the following calculation: (756 small broker-dealers) x (\$4,970 in external cost per small retail firm) = \$3.8 million in aggregate initial costs.

⁹⁷ This estimate is based on the following calculation: (15 hours for outside counsel review/drafting) x (\$497/hour for outside counsel services) = \$7,455 in initial outside counsel costs.

⁹⁸ This estimate is based on the following calculation: (2,010 large broker-dealers) x (\$7,455 initial outside counsel costs) = \$15 million in aggregate initial costs.

connection with updating account disclosures, as in-house personnel will be more knowledgeable about changes in type and scope of services offered by the broker-dealer. **These estimates result in a total annual estimated third-party disclosure cost burden for Disclosure of Type and Scope of Services for Large BDs of \$5,004,900.**

Disclosure of Fees and Costs – Small BDs

We assume that, for purposes of this analysis, the associated costs and burdens will differ between small and large broker-dealers, as large broker-dealers generally offer more products and services and therefore will need to evaluate a wider range of fees in their fee schedules. We estimate a one-time external cost of \$2,485 for small broker-dealers,⁹⁹ and an initial aggregate cost of \$1.88 million.¹⁰⁰ We do not anticipate that small broker-dealers will incur ongoing costs in connection with updating their standardized fee schedule since in-house personnel would be more knowledgeable about these facts, and we therefore do not expect external costs associated with updating the fee schedule. **These estimates result in a total annual estimated third-party disclosure cost burden for Disclosure of Fees and Costs for Small BDs of \$626,217.**

Disclosure of Fees and Costs – Large, Standalone Broker-Dealers

We estimate a one-time external cost of \$4,970 for larger broker-dealers for outside counsel to review the fee schedule,¹⁰¹ and an initial aggregate cost of \$9.99 million.¹⁰² As with small broker-dealers, we do not anticipate that large broker-dealers will incur ongoing costs in connection with updating their standardized fee schedule since in-house personnel would be more knowledgeable about these facts, and we therefore do not expect external costs associated with updating the fee schedule. **These estimates result in a total annual estimated third-party disclosure cost burden for Disclosure of Fees and Costs for Large BDs of \$3,329,907.**

Disclosure of All Material Facts Relating to Conflicts of Interest—Small Broker-Dealers

As discussed previously, we assume that a standardized conflict disclosure document will be developed by in-house counsel and reviewed by outside counsel. We estimate that small broker-dealers will require outside counsel to spend five hours to review and revise the

⁹⁹ This cost estimate is based on the following calculation: (5 hours of review) x (\$497/hour for outside counsel services) = \$2,485 outside counsel costs.

¹⁰⁰ This estimate is based on the following calculation: (\$2,485 for outside counsel costs per small broker-dealer) x (756 small broker-dealers) = \$1.88 million in aggregate initial outside costs.

¹⁰¹ This cost estimate is based on the following calculation: (10 hours of review) x (\$497/hour for outside counsel services) = \$4,970 outside counsel costs.

¹⁰² This estimate is based on the following calculation: (\$4,970 for outside counsel costs per large broker-dealer) x (2,010 large broker-dealers) = \$9.99 million in aggregate initial costs.

document, at an initial cost of \$2,485 per small broker-dealer,¹⁰³ and an aggregate initial cost of \$1.88 million for all small broker-dealers.¹⁰⁴ We do not anticipate that small broker-dealers will incur ongoing costs in connection with updating their standardized conflict disclosure document, since in-house personnel would presumably be more knowledgeable about conflicts of interest.

These estimates result in a total annual estimated third-party disclosure cost burden for Disclosure of Conflicts of Interest for Small BDs of \$626,217.

Disclosure of All Material Facts Relating to Conflicts of Interest—Large Broker-Dealers

We expect the development and review of the standardized conflict disclosure document to take longer for large broker-dealers because, as discussed above, we believe large broker-dealers generally offer more products and services and employ more individuals, and therefore will need to disclose a larger number of conflicts. We believe that large broker-dealers will hire outside counsel for 7.5 hours to review and revise the disclosure document and that this would result in initial costs of \$3,728 per large broker-dealer,¹⁰⁵ and an aggregate initial cost for large broker-dealers of approximately \$7.49 million.¹⁰⁶ As with small broker-dealers, we do not anticipate that large broker-dealers will incur ongoing costs in connection with updating their standardized conflict disclosure document, since in-house personnel would presumably be more knowledgeable about conflicts of interest. **These estimates result in a total annual estimated third-party disclosure cost burden for Disclosure of Conflicts of Interest for Large BDs of \$2,497,767.**

ii. Care Obligation

As noted in Item 12 above, any PRA burdens or costs associated with the Care Obligation are already accounted for under other obligations in Regulation Best Interest, including the Disclosure Obligation, discussed above, and the new Record-Making Obligation under Rule 17a-3(a)(35) (OMB No. 3235-0033) and new Recordkeeping Obligation under Rule 17a-4(e)(5) (OMB No. 3235-0279), which are discussed in separate Supporting Statements.

iv. Conflict of Interest Obligations

¹⁰³ This estimate is based on the following calculation: (\$497/hour) x (5 hours) = \$2,485 in initial costs.

¹⁰⁴ This estimate is based on the following calculation: (\$497/hour x 5 hours) x (756 small broker-dealers) = \$1.88 million in aggregate initial costs.

¹⁰⁵ This estimate is based on the following calculation: (\$497/hour) x (7.5 hours) = \$3,728 in initial costs.

¹⁰⁶ This estimate is based on the following calculation: (\$497/hour) x (7.5 hours) x 2,010 large broker-dealers) = \$7.49 million in aggregate costs.

Written Policies and Procedures - Small Broker-Dealers

For small broker-dealers, we believe that they would primarily rely on outside counsel to update existing policies and procedures, as small broker-dealers generally have fewer in-house legal and compliance personnel. Given that smaller broker-dealers generally have fewer conflicts of interest, we estimate that 40 hours of outside legal counsel would be required to update existing policies and procedures, for a one-time cost of \$19,880 per small broker-dealer,¹⁰⁷ and an aggregate cost of \$15.0 million for all small broker-dealers.¹⁰⁸ We assume for purposes of this analysis that small broker-dealers, with generally fewer and less complex products, and lower rates of hiring, would primarily rely on outside legal counsel and outside compliance consultants for review and update of their policies and procedures. We estimate that outside legal counsel would require approximately five hours per year to update policies and procedures, for an annual cost of \$2,485 for each small broker-dealer.¹⁰⁹ The projected aggregate, annual ongoing cost for outside legal counsel to update policies and procedures for small broker-dealers would be \$1.88 million.¹¹⁰ In addition, we expect that small broker-dealers would require five hours of outside compliance services per year to update their policies and procedures, for an ongoing cost of \$1,365 per year,¹¹¹ and an aggregate ongoing cost of \$1.03 million.¹¹² These estimates result in a total ongoing cost of \$3,850 per year. The total aggregate, ongoing cost for small broker-dealers is therefore projected at \$2.91 million per year.¹¹³ **These**

¹⁰⁷ This cost estimate is based on the following calculation: (40 hours of review) x (\$497/hour for outside counsel services) = \$19,880 in outside counsel costs.

¹⁰⁸ This cost estimate is based on the following calculation: (\$19,880 for outside attorney costs per small broker-dealer) x (756 small broker-dealers) = \$15.0 million in outside counsel costs.

¹⁰⁹ This estimate is based on the following calculation: (5 hours per small broker-dealer) x (\$497/hour for outside counsel services) = \$2,485 in outside counsel costs.

¹¹⁰ This estimate is based on the following calculation: (\$2,485 in outside counsel costs per small broker-dealer) x (756 small broker-dealers) = \$1.88 million in aggregate, ongoing outside legal costs.

¹¹¹ We believe that performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager. Data from the SIFMA Management and Professional Earnings Report suggests that costs for these positions are \$237 and \$309 per hour, respectively for an average of \$273 per hour. This cost estimate is based on the following calculation: (5 hours of review) x (\$273/hour for outside compliance services) = \$1,365 in outside compliance service costs.

¹¹² This estimate is based on the following calculation: (\$1,365 in outside compliance costs per small broker-dealer) x (756 small broker-dealers) = \$1.03 million in aggregate, ongoing outside compliance costs.

¹¹³ This estimate is based on the following calculation: (\$1.88 million for outside legal counsel costs) + (\$1.03 million for outside compliance costs) = \$2.91 million total aggregate ongoing costs.

estimates result in a total annual estimated recordkeeping cost burden for Conflict of Interest Obligation: Written Policies and Procedures for Small BDs of \$7,920,363.

Written Policies and Procedures - Large Broker-Dealers

As discussed in Item 12, we believe that most of the burdens associated with the written policies and procedures requirement would be incurred internally by large broker-dealers, and therefore would result in hourly burdens. However, we believe that large broker-dealers would also hire outside counsel to review updated policies and procedures on behalf of a large broker-dealer. We estimate a cost of \$4,970 for this review.¹¹⁴ We therefore estimate the aggregate initial one-time cost burden for large broker-dealers to be approximately \$10.0 million for large broker-dealers.¹¹⁵ Because we assume that large broker-dealers would rely on internal personnel to update policies and procedures on an ongoing basis, we do not believe large broker-dealers would incur ongoing costs. **These estimates result in a total annual estimated recordkeeping cost burden for Conflict of Interest Obligation: Written Policies and Procedures for Large Broker-Dealers of \$3,329,907.**

Identification and Management of Conflicts of Interest – All Broker-Dealers

To comply with the Conflict of Interest Obligation of Regulation Best Interest as adopted, we expect that broker-dealers would modify existing technology through an outside programmer, which would require, on average, an estimated 20 hours, for an estimated cost per broker-dealer of \$5,680.¹¹⁶ The aggregate initial costs for the modification of existing technology to identify conflicts of interest would therefore be \$15.71 million.¹¹⁷ As discussed in Item 12 above, we assume for purposes of this analysis that a broker-dealer would seek to identify additional conflicts of interest as its business evolves. However, because we assume that broker-dealers would use in-house personnel to identify and evaluate new, potential conflicts, we believe they will not incur additional ongoing costs. **These estimates result in a total annual estimated**

¹¹⁴ Data from the SIFMA Management and Professional Earnings Report suggests that the average hourly rate for legal services is \$497/hour. This cost estimate is therefore based on the following calculation: (10 hours of review) x (\$497/hour for outside counsel services) = \$4,970 in outside counsel costs.

¹¹⁵ This estimate is based on the following calculation: (\$4,970 for outside counsel costs per large broker-dealer) x (2,010 large broker-dealers) = approximately \$10.0 million in outside counsel costs.

¹¹⁶ Data from the SIFMA Management and Professional Earnings Report suggests that the average hourly rate for technology services in the securities industry is \$284. This cost estimate is based on the following calculation: (20 hours of review) x (\$284/hour for technology services) = \$5,680.

¹¹⁷ This cost estimate is based on the following calculation: (\$5,680 in outside programmer costs per broker-dealer) x (2,766 broker-dealers) = \$15.71 million in aggregate outside programmer costs.

recordkeeping cost burden for the Identification and Management of Conflicts of Interest for All Broker-Dealers of \$5,236,951.

v. Compliance Obligation

Written Policies and Procedures – Small Broker-Dealers

For small broker-dealers, we believe that they would primarily rely on outside counsel to update existing policies and procedures, as small broker-dealers generally have fewer in-house legal and compliance personnel. We estimate that only 20 hours of outside legal counsel services would be required, for a one-time cost of \$9,940 per small broker-dealer,¹¹⁸ and an aggregate cost of \$7.5 million for all small broker-dealers.¹¹⁹ In addition, we estimate that outside counsel would require approximately five hours per year to update policies and procedures, for an annual cost of \$2,485 for each small broker-dealer.¹²⁰ The projected aggregate, annual ongoing cost for outside legal counsel to update policies and procedures for small broker-dealers would be \$1.88 million.¹²¹ Finally, we expect that small broker-dealers would require five hours of outside compliance services per year to update their policies and procedures, for an ongoing cost of \$1,365 per year,¹²² and an aggregate ongoing cost of \$1.03 million.¹²³ The total aggregate, ongoing cost for small broker-dealers is therefore projected at \$2.91 million per year.¹²⁴ **These estimates result in a total annual estimated recordkeeping**

¹¹⁸ This cost estimate is based on the following calculation: (20 hours of review) x (\$497/hour for outside counsel services) = \$9,940 in outside counsel costs.

¹¹⁹ This cost estimate is based on the following calculation: (\$9,940 for outside attorney costs per small broker-dealer) x (756 small broker-dealers) = \$7.5 million in outside counsel costs.

¹²⁰ Data from the SIFMA Management and Professional Earnings Report suggests that the average hourly rate for legal services is \$497/hour. This estimate is therefore based on the following calculation: (5 hours per small broker-dealer) x (\$497/hour for outside counsel services) = \$2,485 in outside counsel costs.

¹²¹ This estimate is based on the following calculation: (\$2,485 in outside counsel costs per small broker-dealer) x (756 small broker-dealers) = \$1.88 million in aggregate, ongoing legal costs.

¹²² We believe that performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager. Data from the SIFMA Management and Professional Earnings Report suggests that costs for these positions are \$237 and \$309 per hour, respectively for an average of \$273 per hour. This estimate is therefore based on the following calculation: (5 hours per small broker-dealer) x (\$273/hour for outside counsel services) = \$1,365 in outside compliance service costs.

¹²³ This estimate is based on the following calculation: (\$1,365 in outside compliance costs per small broker-dealer) x (756 small broker-dealers) = \$1.03 million in aggregate, ongoing outside compliance costs.

¹²⁴ This estimate is based on the following calculation: (\$1.88 million for outside legal counsel costs) + (\$1.03 million for outside compliance costs) = \$2.91 million total aggregate ongoing costs.

cost burden for the Compliance Obligation: Written Policies and Procedures for Small Broker-Dealers of \$5,415,477.

Written Policies and Procedures - Large Broker-Dealers

As discussed in Item 12 above, we believe large broker-dealers would use their in-house legal and compliance departments to update existing policies and procedures, and therefore would incur hour burdens for most of this requirement. However, we estimate a cost of \$2,982 for outside counsel to review updated policies and procedures on behalf of a large broker-dealer.¹²⁵ We therefore estimate an aggregate cost of approximately \$6.0 million for large broker-dealers.¹²⁶ **These estimates result in a total annual estimated recordkeeping cost burden for the Compliance Obligation: Written Policies and Procedures for Large Broker-Dealers of \$1,997,940.**

Training – Develop Module, All Broker-Dealers

We believe that broker-dealers would likely use a computerized training model to train associated persons of the broker-dealer on the policies and procedures pertaining to Regulation Best Interest. We estimate that a broker-dealer would retain an outside systems analyst, outside programmer, and an outside programmer analyst to create the training module, at 20 hours, 40 hours, and 20 hours, respectively. The total cost to develop the training module would be approximately \$20,920,¹²⁷ for an aggregate initial cost of \$62.8 million.¹²⁸ **These estimates result in a total annual estimated recordkeeping cost burden for Developing a Training Module for All Broker-Dealers of \$19,288,231.**

TOTAL:

¹²⁵ Data from the SIFMA Management and Professional Earnings Report suggests that the average hourly rate for legal services is \$497/hour. This cost estimate is therefore based on the following calculation: (6 hours of review) x (\$497/hour for outside counsel services) = \$2,982 in outside counsel costs.

¹²⁶ This estimate is based on the following calculation: (\$2,982 for outside counsel costs per large broker-dealer) x (2,010 large broker-dealers) = \$6.0 million in outside counsel costs.

¹²⁷ Data from the SIFMA Management and Professional Earnings Report suggests that the average hourly rate in the securities industry is \$263 for a systems analyst, \$271 for a programmer, and \$241 for a programmer analyst.. This cost estimate is based on the following calculation: ((20 hours for a systems analyst) x (\$263/ hour)) + ((40 hours of labor for a programmer) x (\$271/hour)) + ((20 hours of labor for a programmer analyst) x (\$241/hour)) = \$20,920 in external technology costs per broker-dealer.

¹²⁸ This estimate is based on the following calculation: (2,766 broker-dealers) x (\$20,920 costs per broker-dealer) = \$57.9 in aggregate costs for technology services

Based on the estimates discussed above, the total annual estimated cost burden for the collections of information in Regulation Best Interest is \$57,459,025.

14. Cost to Federal Government

Commission staff estimates that there is no annual cost associated with information submitted to the Commission under the new rules, other than the cost of full-time employee labor costs.

15. Explanation of Changes in Burden

The Commission has revised its burden estimates for some of the information collections, as summarized in this chart:

Name of Information Collection	Annual Industry Burden	Annual Industry Burden Previously Reviewed	Change in Burden	Reason for Change
Disclosure Obligation 15l-1(a)(2)(i)				
(1) Disclosure of Capacity, Type, and Scope of Services				
Dually-registered BDs	5,816	3,720	2,096	Increase in number of dually-registered broker-dealers
Small BDs	5,544	5,881	(337)	Decrease in number of small broker-dealers
Large BDs	53,601	54,801	(1,200)	Decrease in number of large broker-dealers
All BDs This was submitted as a single burden when proposed, but it was separated into	1,087,979 (407,985 + 679,994)	1,015,784 ¹²⁹	72,195	Increase in estimated number of retail customer accounts (to which disclosures must be delivered). This burden combines the initial one-time

¹²⁹ This number reflects the sum of 634,984 burden hours + 380,800 burden hours previously reviewed.

two burdens in the final rule.				delivery burden and ongoing delivery burden, which were previously presented separately as “delivery of fee schedule” and “delivery of amended fee schedule”.
Disclosure Obligation 15l-1(a)(2)(i)				
(2) Disclosure of Fees and Costs				
Small BDs	2,772	2,941	(169)	Decrease in number of small broker-dealers
Large BDs	14,739	15,069	(330)	Decrease in number of large broker-dealers
All BDs This was submitted as a single burden when proposed, but it was separated into two burdens in the final rule.	1,495,964 (815,970 + 679,994)	1,396,584 ¹³⁰	99,380	Increase in estimated number of retail customer accounts (to which disclosures must be delivered). This burden combines the initial one-time delivery burden and ongoing delivery burden, which were previously presented separately as “delivery of fee schedule” and “delivery of amended fee schedule”.
Disclosure Obligations 15l-(a)(2)(i)				

¹³⁰ This number reflects the sum of 634,984 burden hours + 761,600 burden hours previously reviewed.

(3) Disclosure of Conflict of Interest				
Small BDs	2,016	2,139	(123)	Decrease in number of small broker-dealers
Large BDs	9,045	9,248	(203)	Decrease in number of large broker-dealers
All BDs This was submitted as a single burden when proposed, but it was separated into two burdens in the final rule.	1,495,964 (815,970 + 679,994)	1,396,584 ¹³¹	99,380	Increase in estimated number of retail customer accounts (to which disclosures must be delivered). This burden combines the initial one-time delivery burden and ongoing delivery burden, which were previously presented separately as “delivery of fee schedule” and “delivery of amended fee schedule”.
Conflict of Interest Obligations 15l-(1)(2)(iii)				
(1) Written Policies and Procedures				
Small BDs	6,300	6,681	(381)	Decrease in number of small broker-dealers
Large BDs	64,320	65,760	(1,440)	Decrease in number of large broker-dealers
Conflict of Interest Obligations 15l(a)(2)(iii)				

¹³¹ This number reflects the sum of 637, 840 burden hours + 759,219 burden hours previously reviewed.

(2) Identification and Management of Material Conflicts of Interest				
All BDs	50,709	38,084	12,625	Increased estimates as a result of changes to the rule.
Compliance Obligation 15l-1(a)(2)(iv)				
(1) Written Policies and Procedures				
Small BDs	5,292	0	5,292	New rule requirement/IC based on comments received
Large BDs	50,919	0	50,919	New rule requirement/IC based on comments received
Compliance Obligation 15l-1(a)(2)(iv)				
(2) Training				
(a) Module Development				
All BDs	3,687	3,808	(121)	Decrease in number of broker-dealers
Compliance Obligation 15l-1(a)(2)(iv)				
(2) Training				
(b) Implement Training				
All BDs	571,640	580,016	(8376)	Decreases in number of broker-dealers and number of registered representatives
TOTAL BURDEN REQUESTED	4,926,307	4,597,575	328,732	As reflected above, we have added some new ICs and some individual burdens have increased due

				to changes in the rule.
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Name of Information Collection	Annual Industry Cost Burden	Annual Industry Cost Burden Previously Reviewed	Change in Cost Burden	Reason for Change
Disclosure Obligation 15l-1(a)(2)(i)				
(1) Disclosure of Capacity, Type, and Scope of Services				
Dually-registered BDs	\$932,705	\$566,399	\$366,306	Change in number of dually-registered broker-dealers and estimated costs for services
Small BDs	\$1,252,443	\$1,261,811	\$(9,368)	Change in number of small broker-dealers and estimated costs for services
Large BDs	\$5,004,900	\$4,849,800	\$155,100	Change in number of large broker-dealers and estimated costs for services
Disclosure Obligation 15l-1(a)(2)(i)				
(2) Disclosure of Fees and Costs				
Small BDs	\$626,217	\$630,909	\$(4,692)	Change in number of small broker-dealers and estimated costs for services
Large BDs	\$3,329,907	\$3,233,193	\$96,714	Change in number of large broker-dealers

				and estimated costs for services
Disclosure Obligations 15l-(a)(2)(i)				
(3) Disclosure of Conflict of Interest				
Small BDs	\$626,217	\$630,909	\$(4,692)	Change in number of small broker-dealers and estimated costs for services
Large BDs	\$2,497,767	\$2,424,900	\$72,867	Change in number of large broker-dealers and estimated costs for services
Conflict of Interest Obligations 15l-(1)(2)(iii)				
(1) Written Policies and Procedures				
Small BDs	\$7,920,363	\$8,134,951	\$(214,588)	Change in number of small broker-dealers and estimated costs for services
Large BDs	\$3,329,907	\$3,233,193	\$96,714	Change in number of large broker-dealers and estimated costs for services
Conflict of Interest Obligations 15l(a)(2)(iii)				
(2) Identification and Management of Material Conflicts of Interest				
All BDs	\$5,236,951	\$5,142,600	\$94,351	Change in number of broker-dealers and estimated costs for services
Compliance Obligation 15l-1(a)(2)(iv)				

(1) Written Policies and Procedures				
Small BDs	\$5,415,477	0	\$5,415,480	New rule requirement/IC
Large BDs	\$1,997,940	0	\$1,997,940	New rule requirement/IC
Compliance Obligation 15l-1(a)(2)(iv)				
(2) Training				
(a) Module Development				
All BDs	\$19,288,231	\$20,570,400	\$(1,282,169)	Change in number of broker-dealers and estimated costs for services
TOTAL BURDEN REQUESTED	\$57,459,025	\$50,679,065	\$6,779,960	

We generally believe the previously reviewed burdens and costs relating to the Disclosure Obligation are accurate but have updated estimates to reflect changes in the number of broker-dealers and costs of certain services since the last estimate.

In light of the modifications to several substantive requirements of the rule, including the Conflict of Interest Obligation, we believe these changes will allow broker-dealers to more easily incorporate the requirements of Regulation Best Interest into existing supervisory and compliance systems and streamline compliance with Regulation Best Interest. We generally believe our proposed burdens and costs relating to the Conflict of Interest Obligations are accurate but have updated estimates to reflect changes in the number of broker-dealers and costs of certain services since the last estimate. As explained above, as a result of the changes made to the rule text of the Conflict of Interest Obligation of Regulation Best Interest, we believe that broker-dealers would incur burdens to: (1) identify relevant conflicts of interest and (2) determine whether and how the conflict would be addressed. As a result, we have increased our initial and ongoing burden estimates relating to the Conflict of Interest Obligation - Identification and Management of Material Conflicts of Interest.

As discussed above, in response to comments that we should require policies and procedures to comply with Regulation Best Interest as a whole, we are adopting the Compliance Obligation, which requires that the broker-dealer establish, maintain and enforce written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest. This Compliance Obligation creates an explicit obligation under the Exchange Act with respect to

Regulation Best Interest as a whole. Similar to the policies and procedures requirement of the Conflict of Interest Obligation, broker-dealers will have flexibility to design policies and procedures proportionate to the scope, size and risks associated with the operations of the firm and the types of business in which the firm engages. Because we did not include the Compliance Obligation in the Proposing Release, we did not include costs and burdens associated with the Compliance Obligation in that release, but we have provided a detailed explanation of these costs and burdens above.

16. Information Collection Planned for Statistical Purposes

Not applicable. The Commission does not publish information collected pursuant to the Rules.

17. OMB Expiration Date Display Approval

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

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.