

NIBA

THE NATIONAL INTRODUCING BROKERS ASSOCIATION
55 WEST MONROE, SUITE 3330, CHICAGO, IL 60603
PHONE 312-977-0598 FAX 312-977-0733

COMMENT

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Thursday, September 5, 2002

Commodity Futures Trading Commission
3 LaFayette Center, 1155 21st St., NW
Washington, DC 20581
ATTN: Office of the Secretariat

RE: Proposed §326 Rule - Customer Identification

At the request of Mr. Charles Klingman, United States Department of Treasury, the National Introducing Brokers Association (NIBA) submits this letter as comment on Proposed §326 Rule - Customer Identification - the USA PATRIOT Act of 2001. It is our understanding that the proposed new subsection prescribes regulations setting forth minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at the financial institution. "Introducing Brokers" are included within the definition of financial institutions for purposes of this section.

NIBA, established in 1991, is a not-for-profit association of Introducing Brokers (IBs) and other futures/options specialists. Its mission is to ensure that IBs remain a vital part of the futures business by promoting a high level of professionalism through education of our members, and communication with our regulators. The National Futures Association (NFA) lists approximately 1,500 IB registrants. Our membership currently includes Introducing Brokers (IBs), Commodity Trading Advisors (CTAs), ten (10) Futures Commission Merchants (FCMs) and eight (8) futures exchanges/trading platforms.

IBs generally own and operate their own offices, and are therefore responsible for paying the costs of doing business which include generating client lead and referrals from which customer accounts are opened. It is important to IBs that regulation effecting these aspects of an IB's activities be not only effective in its declared purpose, but practical to implement and cost efficient.

To document our reply to Treasury's request, we asked our IB/CTA members the following questions regarding Customer Identification Programs (CIPs). The responses were received by our office during the second week of August, 2002.

QUESTION 1. Has your FCM provided a Customer Identification Program (CIP) to your IB, and does it require that only that CIP be used?

Yes

No, don't know anything about CIPs

No, the IB must create the CIP, the FCM will approve it

No, but my FCM says its coming

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ANSWER: About half of the responses said they had been provided with a CIP as of mid-August; the other half had not, but had been informed by their FCM it was on its way. Only 1 or 2 members replied they had not heard anything about CIPs.

QUESTION 2. Is the information the CIP requires from each client adequate?

Yes

No (Please explain)

We already obtain most of this information under our existing client agreements

ANSWER: Most respondents said the information, with the exception of the necessity for a photo ID, was currently being obtained under the existing client agreements. Several said that since anyone can make a fake ID the information required was probably not adequate, but the best that can be done currently.

QUESTION 3. Does the FCM intend to rely solely on you (the IB) to obtain identifying information from customers?

Yes

No (Please explain)

We have a shared responsibility

ANSWER: Only 1 or 2 members said there would be shared responsibility with the FCM for obtaining identifying information from customers; everyone else felt the responsibility would most likely lie with the IB.

QUESTION 4. How will you undertake the verification procedures?

IB is responsible

FCM is responsible

Shared responsibility

ANSWER: Again most IBs felt the verification of the information would ultimately fall to them. (Here the FCM members who responded disagreed with IBs, reporting that the verification process would be a shared responsibility.)

QUESTION 5. Is the verification procedure:

Adequate?	Yes	No
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Reasonable?	Yes	No
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Practical?	Yes	No (Please explain)
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ANSWER: The only "No" answer to this question was to "practical." Most IBs wrote that a real crook or terrorist will cover his/her tracks well enough that even a thorough verification process will not stop him/her from committing an illegal act. However, they all expressed that these procedures were probably as good as it gets without requiring retinal scans!

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QUESTION 6. Will you (the IB) be required to participate in an on-going training program with regard to the CIP?

Yes, just the IB owner/compliance officer

Yes, all APs

No

Don't know

ANSWER: The majority of those responding didn't know yet what the on-going requirements will be. Many said that regardless of what their FCM required, they would have an in-house review for all APs, and perhaps a periodic review. (FCMs who responded were divided on this issue. Most said that they would add something to their yearly audits or conduct verbal response surveys from time-to-time. Some said they would provide no training for IBs or their APs.)

QUESTION 7. Are any additional costs incurred in your office (the IB) as a result of the CIP?

Yes, but they're insubstantial

Yes, and it looks like they will be substantial (Please explain)

No additional costs incurred that we are aware of yet

ANSWER: Almost 100% said yes, but the costs were insubstantial. They commented that the new procedures were more time-consuming and a bit more hassle for some customers, but cost of implementation, administration, etc. did not look like a factor, at least so far.

Thank you for considering the opinions of the National Introducing Brokers Association as you are developing these important provisions. Please contact us at the above numbers or e-mail at melinda@futuresrep.com to continue this conversation or if we can provide additional information.

Sincerely,



Melinda H. Schramm, Chairman
National Introducing Brokers Association
melinda@futuresrep.com