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United States General Accounting Office
Washington, DC 20548

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November 16, 2001

The Honorable Paul S. Sarbanes
Chairman
The Honorable Phil Gramm
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Michael G. Oxley
Chairman
The Honorable John J. LaFalce
Ranking Minority Member
Committee on Financial Services
House of Representatives

Subject: Securities and Exchange Commission: Books and Records Requirements for Brokers and Dealers Under the Securities Exchange Act of 1934

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (SEC), entitled "Books and Records Requirements for Brokers and Dealers Under the Securities Exchange Act of 1934" (RIN: 3235-AH04). We received the rule on November 2, 2001. It was published in the Federal Register as a final rule on November 2, 2001. 66 Fed. Reg. 55818.

The final rule amends the SEC's broker-dealer books and records rules. The rule clarifies and expands recordkeeping requirements with respect to purchase and sale documents, customer records, associated person records, and customer complaints. In addition, the rule expands the types of records that broker-dealers must maintain and require broker-dealers to maintain or promptly produce certain records at each office to which those records relate.

Enclosed is our assessment of the SEC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the SEC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas McCool, Managing Director, Financial Markets and Community Investments. Mr. McCool can be reached at (202) 512-8678.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Ms. Margaret H. McFarland
Deputy Secretary
Securities and Exchange
Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"BOOKS AND RECORDS REQUIREMENTS FOR
BROKERS AND DEALERS UNDER THE
SECURITIES EXCHANGE ACT OF 1934"
(RIN: 3235-AH04)

(i) Cost-benefit analysis

The SEC believes that the final rule will have an annual cost of between \$78.2 and \$84.3 million in the first year and between \$52.5 and \$58.6 million per year thereafter. The benefits of the final rule, which the SEC believes justifies the costs, are decreased investor losses; decreased costs of litigation and arbitration for broker-dealers, states, and customers; and decreased examination costs for broker-dealers and state examiners. The SEC thinks this decrease in costs will generate an economic benefit of more than \$84.3 million per year.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The SEC prepared an Initial and Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. The analyses meet the informational requirements of the Act.

In discussing the alternatives considered to reduce the impact on small entities, the SEC concludes that having a different standard for information collection and recordkeeping for small entities would be inconsistent with the level of investor protection and information that should be provided.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the SEC is not subject to title II of the Unfunded Mandates Reform Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On October 22, 1996, the SEC published a Notice of Proposed Rulemaking in the Federal Register. 61 Fed. Reg. 55593. Following receipt of

comments, a reproposal was published on October 2, 1998. 63 Fed. Reg. 54404. The SEC received 115 comments in response and discusses them in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act. The preamble to the final rule contains the information required by the Act including the estimated burden hours. The SEC has submitted the proposed collections to OMB for approval.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority contained in the Exchange Act, including sections 17(a) and 23(a).

Executive Order No. 12866

As the rule is promulgated by an independent regulatory agency, it is not subject to the review requirements of the order.