

## **SEC Staff Extends Relief Allowing Broker-Dealers to Rely on Investment Advisers to Perform Customer Identification and Verification**

**January 14, 2008**

On January 10, the SEC's Division of Trading and Markets issued a letter to the Securities Industry and Financial Markets Association (SIFMA) that extends no-action relief allowing broker-dealers to fully rely on SEC registered investment advisers to perform some or all of their Customer Identification Program (CIP) obligations. The SEC extended the no-action relief for two years, or until such time as investment advisers become subject to an anti-money laundering rule.

The final rule under Section 326 of the USA PATRIOT Act that obligates broker-dealers to adopt a written CIP (CIP Rule) requires broker-dealers to establish and implement policies and procedures to, among other things, verify the identity of their customers. The CIP Rule also allows broker-dealers to fully rely on another financial institution to perform elements of their CIP for shared customers as long as: (i) reliance is reasonable under the circumstances; (ii) the other financial institution is subject to the Anti-Money Laundering (AML) Program requirements of Section 352 of the USA PATRIOT Act, and is regulated by a Federal Functional Regulator; and (iii) a written contract requires the other financial institution to annually certify to the broker-dealer that it has implemented the delegated elements of the broker-dealer's CIP.

Under the terms of the CIP Rule, broker-dealers would not be able to fully rely on SEC-registered investment advisers to perform some or all of their CIP because investment advisers are not yet subject to an AML Program rule. At SIFMA's request, the SEC staff issued a no-action letter on February 12, 2004 stating that until a final AML Program rule is adopted for SEC-registered investment advisers, broker-dealers are able to rely on investment advisers to perform all or a portion of their CIP if (i) reliance is reasonable under the circumstances, (ii) the investment adviser is regulated by the SEC, and (iii) the investment adviser enters into a written contract requiring it to certify annually to the broker-dealer that it has implemented its AML Program and the delegated elements of the broker-dealers CIP. The no-action relief has since been extended twice, on February 10, 2005 and again on July 11, 2006.

[To view the SEC's letter, please click here.](#)

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