

**MEMO# 22775**

August 6, 2008

# **SEC Settles Charges Related to Broker-Dealers' Customer Identification Program**

[22775]

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TO: COMPLIANCE MEMBERS No. 37-08  
SEC RULES MEMBERS No. 75-08  
SMALL FUNDS MEMBERS No. 49-08  
AML COMPLIANCE WORKING GROUP No. 3-08  
BROKER/DEALER ADVISORY COMMITTEE No. 25-08  
OPERATIONS COMMITTEE No. 13-08  
TRANSFER AGENT ADVISORY COMMITTEE No. 40-08    RE: SEC SETTLES CHARGES RELATED  
TO BROKER-DEALERS' CUSTOMER IDENTIFICATION PROGRAM

On July 30th, the Securities and Exchange Commission settled an action against two affiliated broker-dealers (collectively, "broker") for violations of the recordkeeping and record retention requirements of the Securities Exchange Act of 1934 ("Exchange Act") relating to the broker's customer identification program ("CIP"). [\[1\]](#) The broker consented to the Order without admitting or denying the Commission's findings, except as to jurisdiction, which was admitted.

Section 17(a) of the Exchange Act and Rule 17a-8 under the Exchange Act require a broker-dealer to comply with the reporting, recordkeeping and record retention requirements in regulations implemented under the Bank Secrecy Act, including the requirements in the CIP rule applicable to broker-dealers. The CIP rule requires broker-dealers to establish procedures for making and maintaining records of all information obtained to comply with the CIP rule, including records describing the methods and results of any measures undertaken to verify the identities of customers.

The Commission found that the broker's CIP specified that the broker would verify the identity of secondary accountholders in joint accounts, but that the actual procedures followed by the broker did not include verifying the identities of these customers. The broker, therefore, did not accurately document its CIP program as required pursuant to the CIP rule. Because the broker failed to document accurately its CIP program, the Commission found that the broker did not comply with the recordkeeping and record retention requirements under the CIP rule and therefore willfully violated Section 17(a) of the Exchange Act and Rule 17a-8 under the Exchange Act.

Under the terms of the settlement, the broker has undertaken to retain an independent consultant to conduct a comprehensive regulatory review of the broker's CIP and to report the findings of the review to the broker's Board of Directors and Commission Staff. The Order requires the broker to cease and desist from committing or causing any violations and any future violations of the relevant securities laws and censures the broker pursuant to Section 15(b)(4) of the Exchange Act. In addition, the Order requires the broker to pay a civil money penalty totaling \$1 million.

Eva M. Mykolenko  
Assistant Counsel - International Affairs

#### **endnotes**

[1] In the Matter of E\*Trade Clearing LLC and E\*Trade Securities LLC, Release No. 58250 (July 30, 2008) (the "Order"), available at <http://www.sec.gov/litigation/admin/2008/34-58250.pdf>.

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