

**Guidance from the Staffs of the U.S. Department of the Treasury and the  
U.S. Securities and Exchange Commission**

**Guidance**

**Issued: October 1, 2003**

**Subject: Question and Answer Regarding the Broker-Dealer Customer Identification  
Program Rule (31 CFR 103.122)**

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**Q.** Broker-dealers engage in transactions through omnibus accounts and sub-accounts established by financial intermediaries. In these situations, (1) the omnibus account or relationship is established by or on behalf of a financial intermediary for the purpose of executing transactions that will clear or settle at another financial institution, or the omnibus accountholder provides limited information to the broker-dealer solely for the purpose of delivering assets to the custody account of the beneficial owner at another financial institution; (2) the limited information given to the broker-dealer about the beneficial owner is used primarily to assist the financial intermediary with recordkeeping or to establish sub-accounts that hold positions for a limited duration to facilitate the transfer of assets to another financial institution; (3) all transactions in the omnibus account or sub-accounts at the broker-dealer are initiated by the financial intermediary; and (4) the beneficial owner has no direct control over the omnibus account or sub-accounts at the broker-dealer. In the circumstances described above, must the broker-dealer treat the beneficial owners as "customers" for purposes of the rule?

**A.** No. In paragraph (a)(4) of the rule, a "customer" is defined as "[a] person that opens a new account." According to the rule's preamble (SEC [Release 34-47752](#), April 28, 2003), this means the "person identified as the accountholder." The preamble states further that "with respect to an omnibus account established by an intermediary, a broker-dealer is not required to look through the intermediary to the underlying beneficial owners, if the intermediary is identified as the accountholder." Even if the broker-dealer has some information about a beneficial owner of assets in an omnibus account (e.g., batch execution account) or a sub-account, under the circumstances described above, the financial intermediary (not the beneficial owner) should be treated as the customer for purposes of the rule.