

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Attorney General

Bureau name:

Financial Crimes Division

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Rule Set Information:

ARD assigned rule set number:

2024-33 AG

Title of proposed rule set:

Uniform Securities Act (2002)

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

The amendments to the Uniform Securities Act (2002), MCL 451.2531 to 451.2543, were enacted on December 13, 2023, and took effect on March 13, 2024. The amendments require a broker-dealer or investment adviser to report suspected or detected “covered financial exploitation” of its clients or customers to law enforcement or adult protective services. Covered financial exploitation is defined by MCL 451.2531(e) to mean, “financial exploitation of an individual through deception, manipulation, coercion, intimidation, or improper leveraging of a caregiver relationship.”

A broker-dealer and an investment adviser are defined elsewhere in the Uniform Securities Act (2002), by MCL 451.2102(d) and MCL 451.2102a(e), respectively.

Law enforcement and adult protective services are required by MCL 451.2535(5) to provide notice to the county prosecutor within 15 business days of receiving a report of suspected or detected covered financial exploitation from a broker-dealer or investment adviser. Broker-dealers or investment advisers are permitted by MCL 451.2535(6) to provide notice to the county prosecutor if they are unable to communicate with adult protective services or law enforcement. Broker-dealers or investment advisers are also permitted by MCL 451.2535(6) to provide notice to the county prosecutor if adult protective services or law enforcement does not provide the required follow-up notifications to the broker-dealer or investment adviser which are required by MCL 451.2535(4).

The proposed rules prescribe the manner which notification must be made to the county prosecutor’s office by law enforcement, adult protective services, broker-dealers, and investment adviser under the Act. Due to the limited purpose of the rules, no parallel federal rules or standards set by a state or national licensing agency or accreditation association exist. Broker-dealers and investment advisers are required to report suspicious activity to the Financial Crimes Enforcement Network, under the Bank Secrecy Act of 1970, 31 USC 5311-5332, but as there is no similar statutory requirement to notify a prosecuting authority, there are no parallel rules or standards associated with that requirement.

A. Are these rules required by state law or federal mandate?

MCL 451.2535(5) & (6) provide that notice must be made in a manner prescribed by the attorney general.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

No parallel federal standards exist.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The amendments to the Uniform Securities Act (2002), MCL 451.2531 to 451.2543, were enacted on December 13, 2023, and took effect on March 13, 2024. The amendments require a broker-dealer or investment adviser to report suspected or detected “covered financial exploitation” of its clients or customers to law enforcement or adult protective services. Covered financial exploitation is defined by MCL 451.2531(e) to mean, “financial exploitation of an individual through deception, manipulation, coercion, intimidation, or improper leveraging of a caregiver relationship.”

A broker-dealer and an investment adviser are defined elsewhere in the Uniform Securities Act (2002), by MCL 451.2102(d) and MCL 451.2102a(e), respectively.

Law enforcement and adult protective services are required by MCL 451.2535(5) to provide notice to the county prosecutor within 15 business days of receiving a report of suspected or detected covered financial exploitation from a broker-dealer or investment adviser. Broker-dealers and investment advisers are permitted by MCL 451.2535(6) to provide notice to the county prosecutor if they are unable to communicate with adult protective services or law enforcement. Broker-dealers and investment advisers are also permitted by MCL 451.2535(6) to provide notice to the county prosecutor if adult protective services or law enforcement does not provide the required follow-up notifications to the broker-dealer or investment adviser which are required by MCL 451.2535(4).

The proposed rules prescribe the manner which notification must be made to the county prosecutor’s office by law enforcement, adult protective services, and broker-dealer or investment adviser under the Act. Due to the limited purpose of the rules, there are no similar standards in other similarly situated states.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

There are no similar standards in other similarly situated states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

Broker-dealers and investment advisers are required to report suspicious activity to the Financial Crimes Enforcement Network, under the Bank Secrecy Act of 1970, 31 USC 5311-5332, but broker-dealers and investment advisers are not required under this law to notify a prosecuting authority of the suspicious activity. The proposed rules prescribe the manner which notification must be made to the county prosecutor’s office of suspected or detected covered financial exploitation by law enforcement, adult protective services, and by broker-dealers and investment advisers under the amendments to the Uniform Securities Act (2002). There is no overlap or duplicate between the requirements of the Bank Secrecy Act of 1970, 31 USC 5311-5332, and the proposed rules.

MCL 400.11a(4) permits any person who suspects that an adult has been abused, neglected, or exploited to make a report to the county department of social services of the county in which the abuse, neglect, or exploitation occurred. However, this provision also does not permit broker-dealers and investment advisers to notify the county prosecutor’s office of financial exploitation, nor does it require adult protective services or law enforcement to notify the county prosecutor’s office of financial exploitation. Therefore, there is no overlap or duplication between the requirements of MCL 400.11a(4) and the proposed rules.

There are no laws, rules, or other legal requirements that may conflict with the proposed rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The proposed rules have been coordinated, to the extent practicable, with the reporting requirements of the Bank Secrecy Act of 1970, 31 USC 5311-5332. Efforts were undertaken to minimize duplication related to reporting requirements.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The amendments to the Uniform Securities Act (2002), MCL 451.2531 to 451.2543, were enacted on December 13, 2023, and took effect on March 13, 2024. The amendments require a broker-dealer or investment adviser to report suspected or detected “covered financial exploitation” of its clients or customers to law enforcement or adult protective services. Covered financial exploitation is defined by MCL 451.2531(e) to mean, “financial exploitation of an individual through deception, manipulation, coercion, intimidation, or improper leveraging of a caregiver relationship.”

A broker-dealer and an investment adviser are defined elsewhere in the Uniform Securities Act, by MCL 451.2102(d) and MCL 451.2102a(e), respectively.

Law enforcement and adult protective services are required by MCL 451.2535(5) to provide notice to the county prosecutor within 15 business days of receiving a report of suspected or detected covered financial exploitation from a broker-dealer or investment adviser. Broker-dealers and investment advisers are permitted by MCL 451.2535(6) to provide notice to the county prosecutor if they are unable to communicate with adult protective services or law enforcement. Broker-dealers and investment advisers are also permitted by MCL 451.2535(6) to provide notice to the county prosecutor if adult protective services or law enforcement does not provide the required follow-up notifications to the broker-dealer or investment adviser which are required by MCL 451.2535(4).

The behavior that the rules are intended to affect is the manner of notification to the county prosecutor’s office under the amendments to the Uniform Securities Act (2002). The rules prescribe a method for adult protective services, law enforcement, and broker-dealers and investment advisers to send notice to a county prosecutor’s office when notice is required or permitted to be made to the county prosecutor’s office under the Act. The rules also permit, but do not require, broker-dealers and investment advisers to send a copy of any notice sent to the county prosecutor’s office to the department of attorney general.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

There is no expected change in the frequency of the targeted behavior. The rules prescribe a method for adult protective services, law enforcement, broker-dealers, and investment advisers to send notice to a county prosecutor’s office when notice is required or permitted to be made to the county prosecutor’s office under the amendments to the Uniform Securities Act (2002). The rules also permit, but do not require, broker-dealers and investment advisers to send a copy of any notice sent to the county prosecutor’s office to the department of attorney general.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The difference between the current behavior/practice and desired behavior/practice is that prior to enactment of the amendments to the Uniform Securities Act (2002) there was no process in place for making notifications to the county prosecutor’s office of covered financial exploitation. Pursuant to the amendments to the Uniform Securities Act (2002) that took effect on March 13, 2024, notifications will be made to the county prosecutor’s office under the Act in a manner prescribed by the attorney general. The proposed rules prescribe a method for adult protective services, law enforcement, broker-dealers, and investment advisers to send notice to a county prosecutor’s office when notice is required or permitted to be made to the county prosecutor’s office under the amendments to the Act. The rules also permit, but do not require, broker-dealers and investment advisers to send a copy of any notice sent to the county prosecutor’s office to the department of attorney general.

C. What is the desired outcome?

The desired outcome of promulgating these rules is that a standardized method of providing notification to the county prosecutor under the amendments to the Uniform Securities Act (2002), MCL 451.2531 to 451.2543, will be prescribed by the attorney general as required by the text of the Act.

The promulgation of these rules will:

- (a) Provide a form with a description of the content that shall be provided by adult protective services or law enforcement to provide required notice to the county prosecutor.
- (b) Provide a form with a description of the content that shall be provided by the broker-dealers and investment advisers to provide permissive notice to the county prosecutor.
- (c) Provide guidelines for broker-dealers and investment advisers to determine in which county to contact the county prosecutor.
- (d) Provide guidelines for broker-dealers and investment advisers to determine how to obtain contact information for the county prosecutor.
- (e) Avoid confusion when multiple law enforcement agencies receive copies of a single notification of covered financial exploitation from a broker-dealer or investment adviser by requiring that every law enforcement agency that receives a copy of the notification of covered financial exploitation from a broker-dealer or investment adviser contact the county prosecutor's office.
- (f) Provide a standardized, permissive method for broker-dealers and investment advisers to send a copy of any notice sent to the county prosecutor's office to the department of attorney general.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The amendments to the Uniform Securities Act (2002), MCL 451.2531 to 451.2543, state that notifications made to the county prosecutor under the Act "must be made in a manner prescribed by the attorney general."

The rules serve to prescribe the manner which notification must be made to the county prosecutor's office. If the rules are not promulgated, the likely harm is that any notifications to the county prosecutor's office will not be made in compliance with the requirement that the attorney general must prescribe the manner of notification.

The rules also serve to provide a standardized, permissive method for broker-dealers and investment advisers to send a copy of any notice sent to the county prosecutor's office to the department of attorney general. If the rules are not promulgated the likely harm regarding this requirement is that the department of attorney general may not have sufficient information to assist broker-dealers and investment advisers if they have difficulty communicating with a county prosecutor's office.

A. What is the rationale for changing the rules instead of leaving them as currently written?

As the amendments to the Uniform Securities Act (2002) recently took effect on March 13, 2024, there are currently no rules.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules protect the health, safety, and welfare of Michigan citizens by ensuring that covered financial exploitation reported under the amendments to the Uniform Securities Act (2002) by broker-dealers and investment advisers is reported in a standardized manner to the county prosecutor's office. These rules also promote a regulatory environment in Michigan that is the least burdensome alternative for those required to comply as the rules require only a single-page form to be completed to provide notice to the county prosecutor's office; any attachments to the form would be copies of reports already required to be generated in the ordinary course of business by the agencies making the notification to the county prosecutor's office.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

As the amendments to the Uniform Securities Act (2002) took effect on March 13, 2024, there are currently no rules.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

It is not expected that the promulgation of the rules will have any fiscal impact on the agency promulgating the rules. The Department of Attorney General is promulgating rules for law enforcement, adult protective services, broker-dealers, and investment advisers to provide notice of suspected or detected covered financial exploitation to county prosecutor's offices. These rules will not require the Department of Attorney General to expend any funds.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No agency appropriation has been made, and no funding source has been provided, as it is not anticipated that the Department of Attorney General will have any expenditures associated with the proposed rules.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules are necessary to prescribe the manner which notification must be made to the county prosecutor's office under the amendments to the Uniform Securities Act (2002), MCL 451.2531 to 451.2543. The rules will place very little burden on law enforcement, adult protective services, broker-dealers, and investment advisers, as the required notice constitutes a one-page form, to which agency reports produced are permitted to be attached. The rules also place very little burden on the county prosecutor's office, as county prosecutors already have responsibility for the prosecution of any criminal activity reported within a designated county.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

Any burden placed on law enforcement, adult protective services, broker-dealers, investment advisers, and county prosecutor's offices is necessary to ensure that notification made to the county prosecutor's office as permitted or required by the amendments to the Uniform Securities Act (2002) is made in a manner prescribed by the attorney general, as required by the text of the Act.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no anticipated increases or decreases in revenue to state or local governmental units resulting from the proposed rules. There are also no cost increases or reductions to other state or local governmental units as a result of the proposed rules.

The requirement for law enforcement and adult protective services to provide notice to the county prosecutor within 15 business days of receiving a report of suspected or detected covered financial exploitation from a broker-dealer or investment adviser is not expected to affect state or local government revenue or result in additional costs for state or local government. Similarly, provisions permitting brokers-dealers and investment advisers to provide notice to the county prosecutor if they are unable to communicate with adult protective services or law enforcement, and to provide notice to the county prosecutor if adult protective services or law enforcement does not provide the required follow-up notifications to the broker-dealers and investment advisers, are also not expected to affect state or local government revenue or result in additional costs for state or local government. The provision permitting broker-dealers and investment advisers to send a copy of any notice sent to the county prosecutor's office to the department of attorney general is also not expected to affect state or local government revenue or result in additional costs for state or local government.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The amendments to the Uniform Securities Act (2002) require any law enforcement agency that receives a report of suspected or detected covered financial exploitation from a broker-dealer or investment adviser to provide notice of that report to the county prosecutor's office within 15 business days of receipt of that report. The amendments to the Act effectively impose a duty on any city, county, town, or village in which a police agency is operating.

The amendments to the Act also require adult protective services to provide notice to the county prosecutor's office within 15 business days of receipt of a report of suspected or detected covered financial exploitation from a broker-dealer or investment adviser. However, adult protective services operates as part of the state department of health and human services. Therefore, this requirement will not impose a duty on any city, county, town, or village.

The proposed rules prescribe a standardized method of providing notice to county prosecutors' offices in accordance with the Act, but do not impose any additional duties upon any city, county, town, village, or school district.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The amendments to the Uniform Securities Act (2002) require that when adult protective services or a law enforcement agency receive a report of suspected or detected covered financial exploitation under the amendments to the Act, that the agency receiving the report must provide notice of that report to the county prosecutor's office within 15 business days of receipt of that report. The amendments to the Act require the governmental units of adult protective services and law enforcement agencies to take action to change their operational practices to reflect the requirement to provide notification to the county prosecutor's office.

The proposed rules prescribe a standardized method of providing notice to county prosecutors' offices in accordance with the Act, but the rules do not impose any additional duties upon governmental units that would require the units to take action to be in compliance with the rules.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriations have been made to any governmental unit as a result of these rules. No additional expenditures are anticipated or intended with the proposed rules.

Rural Impact

14. In general, what impact will the rules have on rural areas?

The proposed rules are not expected to impact rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules should have no impact on public or private interests in rural areas.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules do not have an environmental impact.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The agency has not considered exempting small businesses from the proposed rules. The amendments to the Uniform Securities Act (2002) are expected to increase reporting by broker-dealers and investment advisers to law enforcement and adult protective services of detected or suspected covered financial exploitation that is perpetrated against a broker-dealer's or investment adviser's clients or customers. The Act requires a broker-dealer or investment adviser to report covered financial exploitation of its clients or customers to law enforcement or adult protective services. "Covered financial exploitation," is defined by MCL 451.2531(e) to mean, "financial exploitation of an individual through deception, manipulation, coercion, intimidation, or improper leveraging of a caregiver relationship."

A broker-dealer and an investment adviser are defined elsewhere in the Uniform Securities Act (2002), by MCL 451.2102(d) and MCL 451.2102a(e), respectively.

Law enforcement and adult protective services are required by MCL 451.2535(5) to provide notice to the county prosecutor within 15 business days of receiving a report of suspected or detected covered financial exploitation from a broker-dealer or investment adviser. Broker-dealers or investment advisers are permitted by MCL 451.2535(6) to provide notice to the county prosecutor if they are unable to communicate with adult protective services or law enforcement. Broker-dealers or investment advisers are also permitted by MCL 451.2535(6) to provide notice to the county prosecutor if adult protective services or law enforcement does not provide the required follow-up notifications to the broker-dealer or investment adviser which are required by MCL 451.2535(4).

The proposed rules prescribe standardized methods for county prosecutors to be given notice of reports of covered financial exploitation under the Act. Even if any broker-dealers or investment advisers are also small businesses, there is no basis in the Act to exempt a broker-dealer or investment adviser which is also a small business from the requirement to report covered financial exploitation in a manner prescribed by the attorney general. Further, the requirement to report covered financial exploitation is not expected to have a significant economic effect on a broker-dealer or investment adviser.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

There is no basis in the Act to exempt a broker-dealer or investment adviser which is also a small business from the requirement to report covered financial exploitation. Therefore, a reduction of the requirements imposed by the proposed rules was not feasible.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

It is unknown how many broker-dealers and investment advisers are also small businesses. Even if there are broker-dealers and investment advisers which are also small businesses, the requirement to report covered financial exploitation is not expected to have a significant economic effect on broker-dealers and investment advisers.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The agency did not establish separate compliance or reporting requirements for small businesses. To the extent practicable, the rules were drafted to be the least burdensome on all affected persons.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The agency did not consolidate or simplify compliance or other reporting requirements for small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The agency did not establish performance standards to replace design or operation standards required by the proposed rules.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There is no disproportionate impact on small businesses because of their size or geographical location.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

Broker-dealers and investment advisers, whether or not they are also small businesses, are permitted to provide notice to the county prosecutor if they are unable to communicate with adult protective services or law enforcement and are permitted to provide notice to the county prosecutor if adult protective services or law enforcement does not provide the required follow-up notifications to the broker-dealer or investment adviser. The time and any corresponding cost incurred to complete the permissive notification form would be minimal.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The expected costs of compliance for a broker-dealer or investment adviser, which might also be a small business, affected by the proposed rules, are minimal. The amendments to the Uniform Securities Act (2002) require that when adult protective services or a law enforcement agency receive a report of suspected or detected covered financial exploitation under the Act, that the agency receiving the report must provide notice of that report to the county prosecutor's office within 15 business days of receipt of that report. The Act requires the governmental units of adult protective services and law enforcement agencies to take action to change their operational practices to reflect the requirement to provide notification to the county prosecutor's office.

The proposed rules prescribe a standardized method of providing notice to county prosecutors' offices in accordance with the Act, but the rules do not impose any additional duties upon governmental units that would require the units to take action to be in compliance with the rules.

In order to provide permissive notification to the county prosecutor's office under the Act, broker-dealers and investment advisers would need to change their operating procedures slightly to make employees aware of the option to report suspected or detected covered financial exploitation to the county prosecutor's office under certain circumstances.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

Any expected costs for legal, consulting, or accounting services that a broker-dealer or investment adviser, which might also be a small business, would incur in complying with the proposed rules would be minimal.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

The expected costs of compliance for a broker-dealer or investment adviser, which may also be a small business, are minimal. The expected costs to a broker-dealer or investment adviser, which might be a small business, are not significant enough that they will cause economic harm or adversely affect competition in the marketplace as a result of the proposed rules.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Broker-dealers or investment advisers, which might be small businesses, are subject to minimal compliance standards under the proposed rules. Therefore, administering or enforcing rules that exempt or set lesser standards for compliance by broker-dealers or investment advisers that are also small businesses would have minimal impact on broker-dealers and investment advisers and would not materially affect agency costs.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There is a public interest in ensuring that suspected or detected covered financial exploitation is reported to county prosecutors' offices in a standardized manner. Exempting small businesses from this requirement is not an option under the amendments to the Uniform Securities Act (2002). The public interest is also not harmed by requiring broker-dealers and investment advisers of all sizes to report covered financial exploitation to county prosecutor's offices in a standardized, uniform manner.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

No small businesses were involved in the development of the proposed rules. The agency involved representatives from the Regulation of Securities Committee of the Business Law Section of Michigan Bar Association, the Financial Industry Regulatory Authority, and the Securities Industry and Financial Markets Association in the development of the proposed rules.

A. If small businesses were involved in the development of the rules, please identify the business(es).

No small businesses were involved in the development of the proposed rules. The agency involved representatives from the Regulation of Securities Committee of the Business Law section of Michigan Bar Association, the Financial Industry Regulatory Authority, and the Securities Industry and Financial Markets Association in the development of the proposed rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The proposed rules impose minimal requirements on any businesses or groups, so it is expected that costs will be minimal.

The amendments to the Uniform Securities Act (2002) require that when adult protective services or a law enforcement agency receive a report of suspected or detected covered financial exploitation under the amendments to the Act, that the agency receiving the report must provide notice of that report to the county prosecutor's office within 15 business days of receipt of that report. The amendments to the Act require the governmental units of adult protective services and law enforcement agencies to take action to change their operational practices to reflect the requirement to provide notification to the county prosecutor's office.

The proposed rules prescribe a standardized method of providing notice to county prosecutors' offices in accordance with the amendments to the Act, but the rules do not impose any additional duties upon governmental units.

In order to provide permissive notification to the county prosecutor's office under the Act, businesses that are broker-dealers and investment advisers would need to change their operating procedures slightly to make employees aware of the option to report covered financial exploitation to the county prosecutor's office under certain circumstances.

To provide required notification to the county prosecutor's office under the Act, groups that are law enforcement and adult protective services would need to change their operating procedures slightly to make employees aware of the requirement to provide notice of that report to the county prosecutor's office within 15 business days of receipt of that report.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The expected costs of the proposed rules will be minimal, but the businesses and groups that would bear the costs of the proposed rules are broker-dealers, investment advisers, law enforcement, and adult protective services.

The additional groups that would be directly affected by the rules would be adults vulnerable to financial exploitation and adults who would seek to financially exploit others. The group that would directly benefit from the proposed rules would be adults vulnerable to financial exploitation, as the rules provide a standardized method for providing notice to county prosecutors' offices of reports of suspected or detected covered financial exploitation made by broker-dealers and investment advisers under the amendments to the Uniform Securities Act (2002). Adults who would seek to financially exploit others would be negatively affected by the rules. The rules provide a standardized method for providing notice of reports of suspected or detected covered financial exploitation made by broker-dealers and investment advisers under the amendments to the Uniform Securities Act (2002) to a county prosecutor's office, which increases the likelihood that exploitation will be quickly identified and stopped.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The businesses affected by the rules would be broker-dealers and investment advisers. The exact costs are not known, but any additional costs imposed on broker-dealers and investment advisers by the rules would be minimal, and attributable to the cost associated with revising internal operating procedures to ensure employees were aware of the option to report suspected or detected covered financial exploitation to the county prosecutor's office under certain circumstances.

The groups affected by the rules would be law enforcement, adult protective services, adults vulnerable to financial exploitation, and adults who would seek to financially exploit others would be negatively affected by the rules. The rules provide a standard method for providing notice of reports of suspected or detected covered financial exploitation made by broker-dealers and investment advisers under the amendments to the Uniform Securities Act (2002) to a county prosecutor's office, which increases the likelihood that exploitation will be quickly identified and stopped. The exact costs imposed on law enforcement and adult protective services are not known, but any additional costs imposed on law enforcement and adult protective services by the rules would be minimal. There would be no additional costs imposed on adults vulnerable to financial exploitation or adults who seek to financially exploit others.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The proposed rules are not expected to impose compliance costs on individuals or on the public.

A. How many and what category of individuals will be affected by the rules?

The individuals expected to be affected by these rules are adults vulnerable to financial exploitation, and adults who seek to financially exploit others.

No other individuals are expected to be affected by the rules, other than while individuals are acting in their roles as employees of a business or of a group.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

Adults vulnerable to financial exploitation would benefit from the rules, as the rules provide a standardized method for providing notice of reports of suspected or detected covered financial exploitation made by broker-dealers and investment advisers under the amendments to the Uniform Securities Act (2002) to county prosecutors' offices.

Adults who would seek to financially exploit others would be negatively affected by the rules. The rules provide a standard method for providing notice of reports of suspected or detected covered financial exploitation made by broker-dealers and investment advisers under the amendments to the Uniform Securities Act (2002) to a county prosecutor's office, which increases the likelihood that exploitation will be quickly identified and stopped.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no cost reductions for businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The primary and direct benefit of the proposed rules is the prescription of a standardized method of providing notice to county prosecutors' offices of reports of suspected or detected covered financial exploitation made by broker-dealers and investment advisers under the amendments to the Uniform Securities Act (2002). This is a benefit to both law enforcement and adult protective services, who are required to provide notice to the county prosecutor's office under the Act, and to broker-dealers and investment advisers who are permitted to provide notice to the county prosecutor's office under the amendments to the Act. This also is a benefit to adults vulnerable to financial exploitation, as the standardization increases the likelihood that exploitation will be quickly identified and stopped.

The secondary impact is to create a regulatory environment that is the least burdensome for those required to comply.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

It is not expected that the proposed rules will impact business growth or job creation or elimination in Michigan.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

Adults vulnerable to financial exploitation and adults who seek to financially exploit others will be disproportionately affected by the rules. The rules provide a standard method for providing notice of reports of suspected or detected covered financial exploitation made by broker-dealers and investment advisers under the amendments to the Uniform Securities Act (2002) to a county prosecutor's office, which increases the likelihood that exploitation will be quickly identified and stopped.

No other individuals or businesses will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The agency relied upon its criminal prosecution experience and discussions with members of the Securities Mandatory Reporting Subcommittee of the Michigan Elder Abuse Task Force to determine the impact of the proposed rules. Members of the Securities Mandatory Reporting Subcommittee include representatives and members from Adult Protective Services (DHHS), Michigan Association of Chiefs of Police, Regulation of Securities Committee of the Business Law Section of Michigan Bar Association, the Financial Industry Regulatory Authority, the Securities Industry and Financial Markets Association, Michigan Sheriff's Association, Michigan State Police, and the Prosecuting Attorneys Association of Michigan.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The agency relied upon its agency staff and discussions with members of the Securities Mandatory Reporting Subcommittee of the Michigan Elder Abuse Task Force to formulate estimates and assumptions and determine the needs for the proposed rules.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

The amendments to the Uniform Securities Act (2002), specifically MCL 451.2535(5)-(6), requires notice to be made to the county prosecutor's office in a manner prescribed by the attorney general. The proposed rules prescribe the manner of notification to the county prosecutor's office. There are no reasonable alternatives to the proposed rules.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no reasonable alternatives to the proposed rules.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The rules provide a standardized method for law enforcement and adult protective services to make notifications required by the amendments to the Uniform Securities Act (2002) to the county prosecutor's office, and for broker-dealers and investment advisers to make permissive notifications to the county prosecutor's office under the Act. It is not feasible for a regulatory program similar to that proposed in the rules to be established through a private market-based mechanism. There are no known private market-based systems operated by other states.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The rules serve a very limited purpose of prescribing a standardized method for law enforcement and adult protective services to make notifications required by the amendments to the Uniform Securities Act (2002) to the county prosecutor's office, and for broker-dealers and investment advisers to make permissive notifications to the county prosecutor's office under the amendments to the Act. The attorney general is required under the amendments to the Act to prescribe the method for those notifications to the county prosecutor's office. Therefore, no significant alternatives were considered during the development of the proposed rules.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The rules explicitly inform persons of the requirements for the method of notification to the county prosecutor's office when notification of a report of covered financial exploitation is made under the Act.