

MEMO# 25188

May 16, 2011

Revised Draft of FBAR Comment Letter; Please Provide Comments by Thursday, May 19th

[25188]

May 16, 2011

TO: TAX COMMITTEE No. 27-11

INTERNATIONAL COMMITTEE No. 12-11 RE: REVISED DRAFT OF FBAR COMMENT LETTER;
PLEASE PROVIDE COMMENTS BY THURSDAY, MAY 19TH

Attached for your review is a revised draft of the letter the ICI intends to submit to the Treasury Department's Financial Crimes Enforcement Network ("FinCEN") on the subject of final regulations ("Final Regulations") for filing the Report of Foreign Bank and Financial Accounts - Form TD-F 90-22.1 ("FBAR"). In response to comments and suggestions that we received after the initial draft was circulated, we added a new paragraph to section one and two new sections to the letter. The ordering of the sections has been modified. The changes are summarized below.

I. Financial Interest - Omnibus and Segregated Accounts

The discussion portion includes an additional paragraph to emphasize that requiring a U.S. client to file an FBAR for foreign subcustodial accounts is duplicative and of no value. In all cases, the U.S. global custodian will file an FBAR for all of its subcustodial accounts, and any information the U.S. client has with respect to the subcustodial account will come from the U.S. global custodian.

III. Signature Authority - Officers and Employees of Parents with U.S. and Foreign Subsidiaries

This new section covers officers and employees of a U.S. parent company (that is a financial institution or publicly traded) with signature authority over U.S. and foreign subsidiary accounts. Because subsidiary accounts appear to be treated as accounts of the parent under the Final Regulations, the letter requests clarification that the parent's officers and employees have no FBAR reporting obligation with respect to their signature authority as

long as they have no financial interest in the accounts.

IV. Signature Authority - Officers and Employees of Subsidiaries With Respect to Accounts of the Parent or Other Subsidiaries

This new section covers officers or employees of a subsidiary with signature authority over a foreign account of the parent (that is a financial institution or publicly traded) or another subsidiary. Because the parent appears to be required to report its financial interest in every account over which every individual that it employs, directly or through a subsidiary, has a signature authority, the letter requests clarification that the subsidiary's officers and employees have no FBAR reporting obligation with respect to their signature authority as long as they have no financial interest in the accounts.

We would appreciate your comments by Thursday, May 19th. Our intention is to send the letter to FinCEN at the end of this week. Thank you.

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[Attachment](#)

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