

MEMO# 25156

April 28, 2011

Revised Draft ICI Letter on FBAR Final Regulations; Please Provide Comments by Wednesday, May 4

[25156]

April 28, 2011

TO: TAX COMMITTEE No. 24-11
ACCOUNTING/TREASURERS COMMITTEE No. 7-11
INTERNATIONAL COMMITTEE No. 9-11
SEC RULES COMMITTEE No. 39-11
PENSION COMMITTEE No. 15-11 RE: REVISED DRAFT ICI LETTER ON FBAR FINAL REGULATIONS; PLEASE PROVIDE COMMENTS BY WEDNESDAY, MAY 4

We have revised the draft letter to the Treasury Department's Financial Crimes Enforcement Network ("FinCEN"), distributed previously for your review, [\[1\]](#) regarding the final regulations [\[2\]](#) for reporting on the Foreign Bank and Financial Accounts Report ("FBAR"), Form TD F 90-22.1. Please review the draft at your convenience and provide any comments to Pinank Desai (at 202/326-5876 or pinank.desai@ici.org) by Wednesday, May 4.

The draft letter continues to address the two issues raised in the prior draft. First, we request clarification that a so-called "segregated account" in a foreign country that is created by a U.S. global custodian for the benefit of an investment company is not a foreign financial account of the investment company so long as the investment company cannot access directly the foreign account. Second, we request clarification that officers of investment companies may utilize the signature authority exception provided by section 1010.350(f)(2)(ii) of the final regulations for officers of financial institutions.

Based upon comments received, the letter also requests guidance on two additional points. First, we request that the reporting exception for officers and employees of foreign subsidiaries (provided by the 2008 FBAR instructions) be made permanent. Second, we request that officers and employees of non-bank affiliates of banks that perform transfer agency and other administrative functions for their investment company clients, when the affiliate is registered with an "appropriate regulatory authority" and examined by its Federal functional regulator or the Securities and Exchange Commission ("SEC"), be eligible for the "authorized service provider" reporting exception provided by section 1010.350(f)(2)(iii).

Keith Lawson
Senior Counsel - Tax Law

[Attachment](#)

endnotes

[1] See Institute [Memorandum](#) [25054] to Tax Committee No. 16-11, Accounting/Treasurers Committee No. 3-11, International Committee No. 6-11, SEC Rules Committee No. 25-11 and Pension Committee No. 7-11, dated March 31, 2011.

[2] See Institute [Memorandum](#) [24991] to Tax Members No. 4-11, Accounting/Treasurers Members No. 3-11, International Members No. 8-11, SEC Rules Members No. 39-11 and Pension Members No. 16-11, dated February 24, 2011.

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