

MEMO# 29461

November 2, 2015

ICI Submits Comment Letter on FinCEN's Proposed AML and Reporting Regulations for Investment Advisers

[29461]

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TO: AML COMPLIANCE WORKING GROUP No. 5-15
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 68-15
INTERNATIONAL MEMBERS No. 38-15
INVESTMENT ADVISER MEMBERS No. 25-15
OPERATIONS MEMBERS No. 29-15
SEC RULES MEMBERS No. 57-15
SMALL FUNDS MEMBERS No. 44-15
TRANSFER AGENT ADVISORY COMMITTEE No. 55-15 RE: ICI SUBMITS COMMENT LETTER ON FINCEN'S PROPOSED AML AND REPORTING REGULATIONS FOR INVESTMENT ADVISERS

In August, the Financial Crimes Enforcement Network ("FinCEN") proposed rules requiring SEC-registered investment advisers to establish anti-money laundering ("AML") programs and report suspicious activity to FinCEN. [\[1\]](#)

In the attached comment letter submitted today, ICI supports FinCEN's objective of protecting the U.S. financial system from money laundering and terrorist financing activities. However, we provide the following comments:

- FinCEN should take the opportunity to rationalize and harmonize Bank Secrecy Act ("BSA") regulation of investment companies. Mutual funds should receive the same treatment as other funds managed by registered investment advisers ("RIAs"). Alternatively, FinCEN should exempt mutual funds from an RIA's AML program.
- FinCEN should exempt sub-advisory services from RIAs' AML programs. Alternatively, FinCEN should expect sub-advisers to apply their AML programs only to the limited information available to them as sub-advisers, and should not expect them to "look through" to the primary advisers' relationships with their advisory clients.
- RIAs may be unable to "look through" to investors in funds.
- FinCEN should not apply BSA obligations to RIAs outside the United States.
- FinCEN should permit RIAs to share suspicious activity reports ("SARs") within their corporate structure, similar to what is permitted for banks, broker-dealers and mutual funds.

- FinCEN should grant RIAs 18 months (rather than 6) to comply with the final rules.

Matthew Thornton
Assistant General Counsel

[Attachment](#)

endnotes

[1] Anti-Money Laundering Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers (Aug. 24, 2015)(the “Proposal”), available at www.fincen.gov/statutes_regs/frn/pdf/1506-AB10_FinCEN_IA_NPRM.pdf. See Institute [Memorandum](#) No. 29323, dated September 8, 2015, for a summary of the Proposal and relevant background information.

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