

MEMO# 30807

July 28, 2017

ICI Submits Letter to Treasury Department Recommending Rule Modifications to Reduce Regulatory Burdens

[30807]

July 28, 2017 TO: ICI Members SUBJECTS: 529 Plans

Anti-Money Laundering

Systemic Risk RE: ICI Submits Letter to Treasury Department Recommending Rule Modifications to Reduce Regulatory Burdens

In June, the Treasury Department issued a request for information (RFI) seeking the public's views and recommendations for Department regulations that can be eliminated, modified or streamlined to reduce regulatory burdens.[\[1\]](#) ICI has submitted a comment letter outlining recommendations in three areas: (1) application of Treasury's recordkeeping rules regarding qualified financial contract (QFC) positions; (2) anti-money laundering (AML) requirements for investment advisers and mutual funds; and (3) earnings calculations for accounts under Internal Revenue Code Sections 529 and 529A. This memorandum briefly summarizes the RFI and ICI's comment letter, which is attached.

Treasury RFI

Earlier this year, President Trump issued Executive Orders 13771 (directing federal agencies to eliminate two regulations for every new regulation adopted and to have net regulatory costs of zero for fiscal year 2017) and 13777 (directing agencies to establish a regulatory reform task force and take certain other actions to enforce the regulatory reform agenda).[\[2\]](#) Treasury has formed a task force to further the objectives of the two executive orders.

Executive Order 13777 calls for agencies to identify regulations that (i) eliminate jobs or inhibit job creation; (ii) are outdated, unnecessary, or ineffective; or (iii) impose costs that exceed benefits. Treasury's task force will evaluate existing regulations and make recommendations to Secretary Mnuchin to prioritize their possible repeal, replacement or modification, consistent with applicable law.

ICI letter

ICI's comment letter offers three recommendations for tailoring the regulations issued by

Treasury's various offices and functions to avoid unnecessary or ineffective regulation of registered investment companies ("regulated funds" or, where appropriate, "mutual funds"):

1. *Exclude regulated funds from Treasury rules requiring certain financial companies to maintain detailed, standardized records regarding their QFC investments.* The letter explains that these rules are intended to assist the Federal Deposit Insurance Corporation in overseeing the "orderly resolution" of a financial company whose failure and resolution under applicable federal or state law would have serious adverse effects on US financial stability. It discusses a range of reasons why it is extremely likely that the FDIC ever would be appointed as receiver for a regulated fund and, on this basis, recommends that Treasury provide an express exclusion from these rules for regulated funds.
2. *Avoid the application of overlapping and duplicative AML requirements for mutual funds.* Since 2002, mutual funds have been required to comply with AML program and related Bank Secrecy Act (BSA) requirements. The letter explains that, under a current proposal by Treasury's Financial Crimes Enforcement Network (FinCEN) to extend AML requirements to registered investment advisers, mutual funds would become subject to a second layer of AML regulation. This would not be the case, for example, for hedge funds and other private funds. The letter recommends that FinCEN rescind the separate BSA regulations applicable to mutual funds when it finalizes its AML program rule for registered investment advisers.
3. *Adopt a single earnings calculation for use in administering both college savings accounts (under Internal Revenue Code Section 529) and savings accounts for persons with disabilities (under IRC Section 529A).* The letter explains that the 2014 legislation authorizing Section 529A accounts closely mirrors the tax regime for Section 529 accounts and that, for more than 15 years, administrators of Section 529 accounts have adhered to earnings calculation rules developed by the IRS. It requests that the IRS likewise apply these rules to Section 529A accounts. The letter asserts that this approach would allow administrators to use the systems and processes already in place, thereby facilitating efficient administration of both types of accounts.

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[Attachment](#)

endnotes

[1] Department of the Treasury, *Review of Regulations*, 82 Fed. Reg. 27217 (June 14, 2017), available at <https://www.gpo.gov/fdsys/pkg/FR-2017-06-14/pdf/2017-12319.pdf>.

[2] The executive orders are available at <https://www.whitehouse.gov/the-press-office/2017/01/30/presidential-executive-order-reducing-regulation-and-controlling> and <https://www.whitehouse.gov/the-press-office/2017/02/24/presidential-executive-order-enforcing-regulatory-reform-agenda>, respectively.

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