

MEMO# 24233

April 14, 2010

FinCEN Issues Final Rule on CTR Filings and the Travel Rule; Member Call on May 3rd

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TO: AML COMPLIANCE WORKING GROUP No. 5-10
TRANSFER AGENT ADVISORY COMMITTEE No. 17-10 RE: FINCEN ISSUES FINAL RULE ON
CTR FILINGS AND THE TRAVEL RULE; MEMBER CALL ON MAY 3RD

The Financial Crimes Enforcement Network ("FinCEN") issued a final rule to include mutual funds within the general definition of "financial institution" in regulations implementing the Bank Secrecy Act ("BSA"). [\[1\]](#) Mutual funds thus will be subject to rules under the BSA on the filing of Currency Transaction Reports ("CTRs") and on the creation, retention, and transmittal of records or information for transmittals of funds (commonly referred to as the "Travel Rule").

The effective date of the rule is May 14, 2010; however, mutual funds have until January 10, 2011, to comply with the Travel Rule and related recordkeeping requirements (31 CFR 103.33).

Currency Transaction Reports

The final rule replaces a mutual fund's requirement to file a Form 8300 with a requirement to file a CTR under 31 CFR 103.22. A mutual fund will now be required to report a transaction involving a transfer of more than \$10,000 in currency by, through or to the mutual fund. The definition of "currency" for purposes of the CTR rule is less inclusive than

the definition in the Form 8300 Rule.

Travel Rule and Related Recordkeeping Requirements

The final rule subjects mutual funds to requirements on the creation and retention of records for transmittals of funds of \$3,000 or more, and the requirement to transmit information on these transactions to other financial institutions in the payment chain. Despite requests to provide a compliance period of 18-24 months, FinCEN has provided a 270 day (approximately 9 month) compliance period.

Additional Amendments

Although not included in the proposed rule, the final rule amends the definition of “mutual fund” in the AML program rule for mutual funds (31 CFR 103.130(a)) by including an explicit reference to open-end companies “registered or required to register under section 8 of the Investment Company Act.” FinCEN is making this change in order to harmonize the definition in the AML program rule with the definitions in the customer identification program rule, the enhanced due diligence program rule for certain foreign accounts, and the suspicious activity reporting rule.

In addition, the final rule also amends 31 CFR 103.56(b)(8) by including mutual funds within the list of financial institutions the Internal Revenue Service lacks the authority to examine for compliance with the BSA. The final rule release states that FinCEN has delegated to the Securities and Exchange Commission the authority to examine mutual funds for compliance with the BSA.

Conference Call to Discuss the Final Rule

We will have a conference call on Monday, May 3rd at 2:00 p.m. EST to discuss mutual funds’ and transfer agents’ efforts to comply with the final rule. The dial-in number for the call is 1-888-324-0238, and the passcode is 32839.

If you plan to participate in the call, please r.s.v.p. to Ruth Tadesse at rtadesse@ici.org or 202-326-5836.

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endnotes

[1] Final Rule, Amendment to the Bank Secrecy Act Regulations; Defining Mutual Funds as Financial Institutions, 75 Fed. Reg. 19241 (Apr. 14, 2010), available at

<http://edocket.access.gpo.gov/2010/pdf/2010-8500.pdf>. See [Memorandum](#) to AML Compliance Working Group No. 8-09 and Memorandum to Transfer Agent Advisory Committee No. 66-09, dated September 4, 2009 [23763] for a copy of the ICI's comment letter on the proposed rule.

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