

**MEMO# 24340**

June 1, 2010

## **Draft Joint Association Letter on AML Programs and Beneficial Ownership Information**

[24340]

June 1, 2010

TO: AML COMPLIANCE WORKING GROUP No. 7-10  
TRANSFER AGENT ADVISORY COMMITTEE No. 29-10 RE: DRAFT JOINT ASSOCIATION LETTER  
ON AML PROGRAMS AND BENEFICIAL OWNERSHIP INFORMATION

As we have discussed in recent working group teleconference calls, the Institute and several other industry associations have been discussing the Guidance on Obtaining and Retaining Beneficial Ownership Information (the "Guidance") issued by several federal regulators regarding anti-money laundering programs and beneficial ownership information. [\[1\]](#) The associations have significant questions about the Guidance and have raised the industry's concerns with regulatory staff.

The Institute intends to join a letter with the Securities Industry and Financial Markets Association and the Futures Industry Association describing the basis of industry concerns and requesting separate, revised guidance that is appropriately tailored to the specific and varied operations of securities, futures and other non-bank financial institutions. Generally, the letter memorializes discussions with regulators and seeks a meeting to consider future steps. In the joint letter, we question the position that "customer due diligence" ("CDD"), as described in the Guidance, represents an "existing regulatory expectation[]" previously communicated by the regulators to non-bank financial institutions. We also raise concerns with the expectations in the Guidance relating to the collection and verification of beneficial ownership information as part of CDD. Among other things, we believe it is practically impossible for financial institutions to "verify beneficial owners," as the Guidance suggests, given that most entities organized under U.S. law are not required to disclose information about their beneficial owners. We also request that, pending resolution of these issues, relevant inspections and examinations staff not require member firms to comply with the specific CDD and beneficial ownership requirements set forth in the Guidance. Additional detail is included in the attached draft letter.

The associations intend to finalize the letter by June 4th. Please call me at 2020-326-5813 (or email at [solson@ici.org](mailto:solson@ici.org)) if you have any questions or wish to discuss this further.

Susan Olson  
Senior Counsel - International Affairs

[Attachment](#)

**endnotes**

[\[1\]](#) Guidance on Obtaining and Retaining Beneficial Ownership Information, FIN-2010-G001 (Mar. 5, 2010).

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