

MEMO# 24354

June 9, 2010

Joint Industry Association Letter on AML Programs and Beneficial Ownership Information

[24354]

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TO: AML COMPLIANCE WORKING GROUP No. 8-10
TRANSFER AGENT ADVISORY COMMITTEE No. 30-10
BROKER/DEALER ADVISORY COMMITTEE No. 20-10
SEC RULES COMMITTEE No. 22-10 RE: JOINT INDUSTRY ASSOCIATION LETTER ON AML PROGRAMS AND BENEFICIAL OWNERSHIP INFORMATION

On June 9, 2010, the Institute submitted a joint letter with the Securities Industry and Financial Markets Association and the Futures Industry Association to the Securities and Exchange Commission and FinCEN raising industry concerns with the March 5th Guidance on Obtaining and Retaining Beneficial Ownership Information (the "Guidance"). [\[1\]](#) The letter describes the basis of industry concerns and requests separate, revised guidance that is appropriately tailored to the specific and varied operations of securities, futures and other non-bank financial institutions.

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 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 the 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 in the attached letter.

Please call me at 202-326-5813 (or email at 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) available <http://www.sec.gov/rules/other/2010/34-61651.pdf>

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