MEMO# 30100

July 29, 2016

Survey Regarding Implementation of Section 871(k)'s Flow-Through Provisions

[30100]

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TO: TAX COMMITTEE No. 21-16
TRANSFER AGENT ADVISORY COMMITTEE No. 32-16 RE: SURVEY REGARDING IMPLEMENTATION OF SECTION 871(K)'S FLOW-THROUGH PROVISIONS

The Survey

Now that the flow-through provisions of Section 871(k) are permanent, many fund organizations may be reviewing their practices regarding implementation of these rules. The purpose of this survey is to gather information about the considerations relevant to fund organizations and their transfer agents as they assess potential options for implementing Section 871(k).

Please provide your complex's responses to the attached survey by email to Karen Gibian at kgibian@ici.org by **August 19th, 2016**.

There will be a call on **Thursday, August 25th at 2:00 pm EST** to discuss the aggregated and anonymized results of the survey with members, transfer agents, and other interested parties. In advance of the call, please email any additional questions, comments, or topics for discussion to Karen Gibian at kgibian@ici.org.

Background on Section 871(k)

Section 871(k) of the Internal Revenue Code provides more equitable U.S. withholding tax treatment for distributions of interest and short-term capital gains to foreign shareholders. Section 871(k) permits U.S. funds to report certain distributed amounts to foreign shareholders as qualified interest-related dividends (QII) and qualified short-term capital gain dividends (QSTCG) that are exempt from U.S. withholding tax.

As originally enacted, Section 871(k) was effective for only three years and was extended by Congress four times (often retroactively). While Section 871(k)'s enactment was a positive development, the uncertainty created by its temporary nature limited both its effectiveness for foreign investors and fund organizations' willingness to incur the costs necessary to implement the provisions. The Protecting Americans from Tax Hikes Act of

2015 (the “PATH Act”) has now made Section 871(k) permanent effective for taxable years beginning after December 31, 2014.

Ryan Lovin
Assistant General Counsel

Attachment