

MEMO# 29432

October 21, 2015

ICI Draft Comment Letter on FinCEN's Proposed AML and Reporting Regulations for Investment Advisers; Comments Due by October 28

[29432]

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TO: AML COMPLIANCE WORKING GROUP No. 4-15
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 64-15
INTERNATIONAL COMMITTEE No. 57-15
INVESTMENT ADVISERS COMMITTEE No. 13-15
OPERATIONS COMMITTEE No. 23-15
SEC RULES COMMITTEE No. 33-15
SMALL FUNDS COMMITTEE No. 31-15
TRANSFER AGENT ADVISORY COMMITTEE No. 53-15 RE: ICI DRAFT COMMENT LETTER ON
FINCEN'S PROPOSED AML AND REPORTING REGULATIONS FOR INVESTMENT ADVISERS;
COMMENTS DUE BY OCTOBER 28

In August, the Financial Crimes Enforcement Network ("FinCEN") proposed rules requiring SEC-registered investment advisers to establish anti-money laundering ("AML") programs and report suspicious activity to FinCEN. [\[1\]](#)

In the attached draft comment letter, ICI supports FinCEN's objective of protecting the U.S. financial system from money laundering and terrorist financing activities. However, we provide the following comments:

- FinCEN should take the opportunity to rationalize and harmonize Bank Secrecy Act ("BSA") regulation of investment companies. Mutual funds should receive the same treatment as other funds managed by registered investment advisers ("RIAs"). Alternatively, FinCEN should exempt mutual funds from an RIA's AML program.
- RIAs may be unable to "look through" to investors in funds.
- FinCEN should expect sub-advisers to apply their AML programs only to the limited information available to them as sub-advisers, and should not expect them to "look through" to the primary adviser's relationship with its advisory client.
- FinCEN should permit RIAs to share suspicious activity reports ("SARs") within their corporate structure, similar to what is permitted for banks, broker-dealers and mutual

funds.

- FinCEN should not apply BSA obligations to RIAs outside the United States.
- FinCEN should grant RIAs 18 months (rather than 6) to comply with the final rules.

If members have any comments on the draft letter, please contact me at matt.thornton@ici.org or (202) 371-5406 by no later than Wednesday, October 28 (close of business). Comments are due to FinCEN by November 2.

Matthew Thornton
Assistant General Counsel

[Attachment](#)

endnotes

[1] Anti-Money Laundering Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers (Aug. 24, 2015)(the “Proposal”), available at www.fincen.gov/statutes_regs/frn/pdf/1506-AB10_FinCEN_IA_NPRM.pdf. See Institute [Memorandum](#) No. 29323, dated September 8, 2015, for a summary of the Proposal and relevant background information.

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