

MEMO# 18037

September 24, 2004

ICI COMMENT LETTER ON SECTION 311 RULE PROPOSALS

[18037] September 24, 2004 TO: MONEY LAUNDERING RULES WORKING GROUP No. 30-04 RE: ICI COMMENT LETTER ON SECTION 311 RULE PROPOSALS As you know, the Treasury Department designated two foreign banks – the First Merchant Bank of the “Turkish Republic of Northern Cyprus” and Infobank of Belarus – as financial institutions of primary money laundering concern last month. Pursuant to that designation, Treasury proposed rules under Section 311 of the Patriot Act that would impose sanctions against each of those banks.¹ The proposed sanctions would require all covered financial institutions, including mutual funds, to perform certain due diligence on all of their correspondent accounts and send certain notices to their correspondent account holders. Attached is a draft comment letter on the proposed rules. The comment letter supports the proposed rules, but expresses practical concerns over the application of the term “correspondent account” to mutual funds. (If adopted as proposed, these rules would apply that term to mutual funds for the first time.) The comment letter recommends that Treasury take a two-pronged approach, using the final Section 311 rules to prohibit mutual funds from maintaining any direct relationships with the sanctioned banks and reproposing the Section 312 rules expressly seeking comment on the appropriate application of the term “correspondent account” in the mutual fund context.² The letter goes on to say that should Treasury determine not to take this approach, it must, at a minimum, clarify the term “correspondent account” with respect to mutual funds in the release adopting the final Section 311 rules and provide a reasonable amount of time (e.g., ninety days) for funds to establish the policies and processes necessary to meet the new rules’ requirements. Robert C. Grohowski Associate Counsel Attachment (in .pdf format) 1 See Memorandum to Money Laundering Rules Working Group No. 28-04 [17920], dated August 25, 2004. 2 More than two years ago, mutual funds (along with certain other types of financial institutions) were granted a temporary exemption from the interim final rules adopted pursuant to Section 312 of the Patriot Act, which deal specifically with correspondent accounts. See 31 CFR 103.183.