

MEMO# 15627

February 6, 2003

INSTITUTE MAKES RECOMMENDATIONS TO TREASURY AML TASK FORCE

[15627] February 6, 2003 TO: BROKER/DEALER ADVISORY COMMITTEE No. 5-03 MONEY LAUNDERING RULES WORKING GROUP No. 11-03 SEC RULES COMMITTEE No. 14-03 TRANSFER AGENT ADVISORY COMMITTEE No. 16-03 RE: INSTITUTE MAKES RECOMMENDATIONS TO TREASURY AML TASK FORCE As some of you may know, the Department of the Treasury has formed an interagency task force to look back at the USA Patriot Act and the regulations adopted thus far pursuant to it. Treasury staff involved with the Task Force met with staff of the Institute in late December and invited us to make recommendations on ways in which the Patriot Act and the regulations that have been adopted pursuant to it with respect to mutual funds might be improved to be more effective at preventing money laundering, less burdensome on mutual fund complexes, or both. Attached is the Institute's letter to the Task Force. The letter makes three sets of recommendations: • Mutual Fund Complexes. To make it easier for mutual fund complexes to take a uniform approach to AML compliance, we recommend a system of limited conditional exemptions that would tie compliance for all entities within the fund complex to the mutual fund rules. • Intermediaries. The letter notes that a number of issues remain with respect to intermediaries, but focuses on one: the "assessment of the viability" language in the interim final mutual fund AML program rule. The draft letter reiterates the Institute's request that Treasury clarify that mutual funds are not required to assess the viability of intermediaries' AML programs.¹ 1 For more background information on this issue, see Memorandum to Broker/Dealer Advisory Committee No. 14- 02, Money Laundering Rules Working Group No. 27-02, SEC Rules Committee No. 43-02 and Transfer Agent Advisory Committee No. 43-02, dated May 30, 2002. 2 • Facilitating Effective Customer Verification Procedures. The letter makes two recommendations to facilitate effective customer verification procedures.² First, the letter recommends that Treasury encourage the Social Security Administration to create an automated system through which new customer information could be verified against the SSA's social security number database. The letter notes that it may be necessary or desirable to have an enabling statute that would specifically resolve any privacy, SSA mandate or funding issues involved in the creation of such a system. Second, the letter recommends that the Patriot Act be amended to add a statutory safe harbor for actions taken to verify new customers and any measures taken upon a failure to verify. Robert C. Grohowski Associate Counsel Attachment (in .pdf format) 2 Treasury staff requested that we refrain, to the extent possible, from recommendations relating to Patriot Act rulemaking yet to be adopted. Since rules on customer identification and verification have been proposed and are expected to be adopted soon, the letter focused solely on ways, apart from that rulemaking, to facilitate effective and efficient verification procedures.

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