

**MEMO# 14942**

July 22, 2002

## **TREASURY DEFERS APPLICATION OF SECTION 312 AML RULES TO MUTUAL FUNDS**

[14942] July 22, 2002 TO: BROKER/DEALER ADVISORY COMMITTEE No. 21-02 COMPLIANCE ADVISORY COMMITTEE No. 51-02 INTERNATIONAL MEMBERS No. 20-02 MONEY LAUNDERING RULES WORKING GROUP No. 40-02 SEC RULES MEMBERS No. 52-02 SMALL FUNDS MEMBERS No. 21-02 TRANSFER AGENT ADVISORY COMMITTEE No. 61-02 RE: TREASURY DEFERS APPLICATION OF SECTION 312 AML RULES TO MUTUAL FUNDS On Friday, the Treasury Department and its Financial Crimes Enforcement Network (FinCEN) adopted an interim final rule relating to the regulations recently proposed that would implement Section 312 of the USA PATRIOT Act.<sup>1</sup> These regulations require certain financial institutions to adopt due diligence programs with respect to correspondent accounts for foreign financial institutions and accounts for foreign private banking clients. A copy of the interim final rule is attached. The interim final rule temporarily defers the application of these regulations to mutual funds pending adoption of a final rule, which FinCEN anticipates will be adopted no later than October 25, 2002. More specifically, the interim final rule defers all provisions of Section 5318(i) of the Bank Secrecy Act<sup>2</sup> to financial institutions other than banks, securities brokers and dealers, futures commission merchants, and introducing brokers. Banks must comply with all provisions of Section 5318(i). Securities brokers and dealers, futures commission merchants, and introducing brokers must comply with the provisions of Section 5318(i) relating to private banking accounts, but they are exempted from provisions related to correspondent accounts. <sup>1</sup> The interim final rule can be found at <http://www.treas.gov/press/releases/docs/interim.pdf>. It should be published shortly in the Federal Register. For more information on the proposed rules, see Memorandum to Money Laundering Rules Working Group No. 26-02, dated May 28, 2002, and Memorandum to Broker-Dealer Advisory Committee No. 13-02, Compliance Advisory Committee No. 41-02, International Members No. 12-02, SEC Rules Members No. 41-02, Small Funds Members No. 16-02, Transfer Agent Advisory Committee No. 42-02, dated May 29, 2002. <sup>2</sup> Section 312 of the USA PATRIOT Act added Section 5318(i) to title 31, United States Code (the BSA). <sup>2</sup> The release accompanying the interim final rule indicates that this temporary deferral does not in any way relieve any financial institution from compliance with the existing anti- money laundering and anti-terrorism requirements imposed by law, regulation, or rule of a self- regulatory organization. Thus, according to the release, Treasury and FinCEN expect financial institutions proposed to be subject to the regulation implementing Section 312 to begin immediately the process of evaluating their due diligence procedures when correspondent accounts or private banking accounts are opened or maintained on behalf of non-U.S. persons. The interim final rule becomes effective on July 23, 2002. Robert C. Grohowski Associate Counsel Attachment Note: Not all recipients

receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 14942, or call the ICI Library at (202) 326-8304 and request the attachment for memo 14942. Attachment (in .pdf format)

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