

MEMO# 15564

January 17, 2003

DRAFT LETTER TO TREASURY AML TASK FORCE

ACTION REQUESTED [15564] January 17, 2003 TO: MONEY LAUNDERING RULES WORKING GROUP No. 5-03 TRANSFER AGENT ADVISORY COMMITTEE No. 6-03 RE: DRAFT LETTER 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 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 for your review is a draft of the Institute's letter to the Task Force. The draft 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 proposed 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.
- Conflicts of Law. The draft letter notes the potential conflicts of law between the Patriot Act and other laws, and in particular, a potential conflict between the collection and verification of information under the CIP rule and the Fair Credit Reporting Act. The proposed letter recommends two alternative approaches, including the adoption of a safe harbor under the CIP rule.

2 A conference call for the MLRWG and the TAAC already has been scheduled for January 30, 2003, to discuss the proposed mutual fund SAR rule. We would like to use that call to discuss this letter as well as the proposed mutual fund SAR rule. If you would like to register for that conference call and have not done so already, please use the response form sent earlier this week.¹ We also would encourage you to provide any comments on the attached draft prior to the conference call by contacting me by phone at (202) 371-5430 or by email at rcg@ici.org. Robert C. Grohowski Associate Counsel Attachment (in .pdf format) 1 Memorandum to Money Laundering Rules Working Group No. 4-03 and Transfer Agent Advisory Committee No. 5-03, dated January 16, 2003.

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