The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 18810

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TREASURY DESIGNATES TWO LATVIAN BANKS AS FINANCIAL INSTITUTIONS OF PRIMARY MONEY LAUNDERING CONCERN AND PROPOSES SANCTIONS AGAINST THEM

 [18810] April 27, 2005 TO: MONEY LAUNDERING RULES WORKING GROUP No. 3-05 RE: TREASURY DESIGNATES TWO LATVIAN BANKS AS FINANCIAL INSTITUTIONS OF PRIMARY MONEY LAUNDERING CONCERN AND PROPOSES SANCTIONS AGAINST THEM The Treasury Department has designated two Latvian commercial banks – Multibanka and VEF Banka – as financial institutions of primary money laundering concern, and has proposed rules that would impose one of five permitted "special measures" against each of those banks and their subsidiaries and branches.1 The imposition of special measures against financial institutions designated as being of primary money laundering concern is authorized by 31 U.S.C. 5318A, a section of the Bank Secrecy Act that was added by Section 311 of the USA PATRIOT Act. With respect to both Multibanka and VEF Banka, Treasury intends to impose the special measure described in Section 5318A(b)(5) of the BSA, which allows Treasury to prohibit a domestic financial institution or agency from opening or maintaining in the United States a correspondent account or a payable-through account for or on behalf of a foreign financial institution. This special measure can be imposed only by promulgation of a rule. The proposed rules are identical in all substantive respects with Treasury's proposed sanctions against First Merchant Bank and Infobank. Special measures were proposed against those institutions in August, 2004, and the Institute submitted a comment letter on September 23, 2004.2 More specifically, the special measures in both proposed rules would require covered financial institutions to: 1) terminate any correspondent account that is established, maintained, administered, or managed in the United States for, or on behalf of, the targeted foreign banks; and 2) apply "special due diligence" to correspondent accounts that is reasonably designed to guard against their indirect use by the targeted foreign banks. The special due diligence, at a minimum, must include notifying all correspondent account holders that they may not provide 1 The proposed rules, published in the April 26, 2005 Federal Register, can be accessed through the following links: Multibanka and VEF Banka. 2 See Memorandum to Money Laundering Rules Working Group No. 30-04 [18037], dated September 24, 2004. 2 the targeted foreign banks with access to the correspondent account maintained at the covered financial institution and taking reasonable steps to identify any indirect use of its

correspondent accounts by the targeted foreign banks by reviewing transactional records relating to those accounts. As you know, the term “correspondent account” has not previously been used in the mutual fund context. For purposes of the proposed sanctions, FinCEN proposes expanding the definition of “correspondent account” used in the final rule implementing sections 313 and 319(b) of the USA Patriot Act (which applies only to depository institutions and broker-dealers) to expressly cover accounts maintained by mutual funds, futures commission merchants, and introducing brokers. As a result, for mutual funds, a correspondent account would include any account that permits the foreign bank to engage in (1) trading in securities and commodity futures or options, (2) funds transfers, or (3) other types of financial transactions. Comments on the proposed rule imposing the special measure must be submitted to Treasury on or before May 26, 2005. If you have concerns over the impact of the proposed sanctions against Multibanka or VEF Banka on U.S. mutual funds, contact me at 202-371-5430 or rcg@ici.org as soon as possible. Robert C. Grohowski Associate Counsel

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