

MEMO# 11541

January 11, 2000

IRS ISSUES FINAL MODEL QUALIFIED INTERMEDIARY AGREEMENT

1 See Institute Memorandum to Tax Committee No. 3-99, Operations Committee No. 4-99, Transfer Agent Advisory Committee No. 12-99, and Bank and Trust Advisory Committee No. 3-99, dated February 3, 1999. 2 The final withholding tax regulations, as amended, will apply to certain amounts paid by US persons after December 31, 2000 to persons who are neither citizens nor residents of the United States, including QIs. See, e.g., Institute Memorandum to Bank and Trust Advisory Committee No. 34-99, Operations Members No. 30-99, Tax Members No. 45-99, and Transfer Agent Advisory Committee No. 83-99, dated December 30, 1999. 3 A US fund will not receive a copy of a QI agreement entered into between a QI and the IRS. Rather, the pertinent information regarding the foreign intermediary's qualified status and withholding responsibilities will be conveyed to the US fund on Form W-8IMY. [11541] January 11, 2000 TO: BANK AND TRUST ADVISORY COMMITTEE No. 1-00 OPERATIONS COMMITTEE No. 1-00 TAX COMMITTEE No. 1-00 TRANSFER AGENT ADVISORY COMMITTEE No. 2-00 RE: IRS ISSUES FINAL MODEL QUALIFIED INTERMEDIARY AGREEMENT

Under final withholding tax regulations issued by the Internal Revenue Service (IRS),¹ certain foreign intermediaries (such as banks and brokers) and foreign branches of US banks may apply to the IRS to be treated as "qualified intermediaries" (QIs) for US withholding tax and information reporting purposes. To apply for QI status, an eligible foreign entity or branch must submit a completed "QI agreement" to the IRS using the final model QI agreement provided in the attached Revenue Procedure. Foreign entities or branches may wish to obtain QI status because, unlike intermediaries that are not "qualified," QIs generally may receive payments from US sources that are subject to reduced rates of US withholding (and backup withholding) without disclosing the beneficial owner's identity to the US payor or to the IRS. Instead, the QI generally collects the necessary tax certifications from the beneficial owner and, pursuant to the QI agreement entered into between the QI and the IRS, either provides the US payor with "generic" withholding information for the affected account or withholds US tax itself on amounts subsequently paid to the beneficial owner. In either case, the QI must provide a Form W-8IMY to the US payor which describes its qualified status and assumption (or not) of US withholding responsibilities. Although US funds are not eligible to become QIs, they may begin making payments to QIs after December 31, 2000 under the final withholding tax regulations.² For this reason, the potential US withholding tax and information reporting responsibilities that may be assumed by a QI, pursuant to the final model QI agreement in the attached Revenue Procedure, are of relevance to US funds.³ Deanna Flores Assistant Counsel Attachment

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