The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

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INSTITUTE'S COMMENT LETTER TO TREASURY ON THE CORRESPONDENT ACCOUNT RULE PROPOSAL

[14460] February 13, 2002 TO: COMPLIANCE ADVISORY COMMITTEE No. 13-02 INTERNATIONAL COMMITTEE No. 14-02 INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 5-02 MONEY LAUNDERING RULES WORKING GROUP No. 8-02 PRIMARY CONTACTS - MEMBER COMPLEX No. 10-02 TRANSFER AGENT ADVISORY COMMITTEE No. 12-02 RE: INSTITUTE'S COMMENT LETTER TO TREASURY ON THE CORRESPONDENT ACCOUNT RULE PROPOSAL Attached is a copy of the letter submitted by the Institute on Treasury's proposed rule on correspondent accounts, one of the anti-money laundering proposals that would implement the USA PATRIOT Act. The proposed rule would prohibit a "covered financial institution"-- which term includes US banks and broker-dealers registered with the SEC, but not investment companies or their agents -- from establishing, maintaining, administering, or managing a correspondent account in the United States for, or on behalf of, a foreign shell bank. The proposal also would require a covered financial institution to take reasonable steps to ensure that a correspondent account for a foreign bank is not being used indirectly to provide banking services to a foreign shell bank. In addition, under the proposed rule, a covered financial institution must maintain records identifying the owners of foreign correspondent banks and the name and address of a person in the United States who is authorized to accept service of process for the foreign bank. The Institute's letter argues that investment companies and their transfer agents are not covered specifically either by the proposed rule or by the provisions of the Patriot Act that the rule seeks to implement. The Institute requests clarification that the proposed rule does not apply to investment company transfer agents that are US banks or broker-dealers with respect to their investment company transfer agency activities. In the event that Treasury disagrees with the Institute's interpretation, the Institute also provided comments on the rule itself. Specifically, the letter requests that the rule not impose duplicative responsibilities on more than one covered institution for the same account and that closed-end funds and accounts with tenuous connections to the United States be excluded from the scope of the rule. 2 The Institute's letter also makes several recommendations with respect to compliance obligations to alleviate undue burdens on covered financial institutions. The letter recommends a bifurcated approach to new and existing investment company shareholder accounts and requests that the proposed rule clarify that a covered financial institution would not be required to verify the accuracy or completeness of the information on the certification form unless the covered financial institution has a reason to know or suspect that the information is inaccurate or incomplete. Finally, the Institute's letter suggests that Treasury revise the obligation in the proposal for covered financial institutions to terminate accounts of foreign banks that do not provide the required

information or the certification. Jennifer S. Choi 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 14460, or call the ICI Library at (202) 326-8304 and request the attachment for memo 14460. Attachment (in .pdf format)
