

**MEMO# 15044**

August 15, 2002

## **DRAFT COMMENT LETTER ON CIP PROGRAM RULE PROPOSAL - NOTICE OF AUGUST 28TH CONFERENCE CALL**

URGENT/ACTION REQUESTED [15044] August 15, 2002 TO: MONEY LAUNDERING RULES WORKING GROUP No. 46-02 TRANSFER AGENT ADVISORY COMMITTEE No. 71-02 RE: DRAFT COMMENT LETTER ON CIP PROGRAM RULE PROPOSAL - NOTICE OF AUGUST 28TH CONFERENCE CALL As you know, in July the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) and the Securities and Exchange Commission jointly proposed a rule on customer identification programs (CIPs) for mutual funds.<sup>1</sup> This rule would implement Section 326 of the USA PATRIOT Act. Attached for your review is a draft of the Institute's comment letter on this proposed rule. The draft letter makes a number of comments on the proposed rule. In short, these comments address: • The extension of the definition of "customer" to include individuals with the authority to effect transactions, with recommendations that the definition exclude broker-dealer representatives, retirement plan participants, and individuals acting on behalf of entities such as corporations or retirement plans; • Exchanges of fund shares, seeking a clarification that exchanges do not cause existing shareholders to become customers for purposes of the rule; • Intermediated accounts, recommending that in instances where another entity, such as a broker-dealer, has performed appropriate identification and verification, funds should not be required to perform duplicative identification and verification; • The recordkeeping requirements, recommending that (1) verification records be retained for five years from the date of verification and (2) a materiality standard be incorporated into the provision requiring the retention of records <sup>1</sup> See Memorandum to Money Laundering Rules Working Group No. 38-02 and Transfer Agent Advisory Committee No. 59-02, dated July 18, 2002. <sup>2</sup> indicating how discrepancies were resolved; and • The breadth of the requirement to search government lists of known or suspected terrorists, recommending that Treasury or the SEC act as a clearinghouse to indicate the specific lists that funds should check to comply with the CIP rule. The draft letter also requests that the compliance date for the rule be set at 120 days after the final rule is adopted, and that there be an additional six month transition period to deal with investors that attempt to open accounts using old application forms. The letter must be submitted to FinCEN and the SEC by September 6th. We have scheduled a conference call to discuss the Institute's draft comment letter on Wednesday, August 28th at 3:00 p.m. Eastern time. (A subsequent memorandum will provide details on how to join the call.) 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](mailto:rcg@ici.org). Robert C. Grohowski Associate Counsel Attachment (in .pdf format)

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