

MEMO# 19876

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FinCEN Adopts Rule Imposing "Special Measures" Against the Commercial Bank of Syria as a Financial Institution of Primary Money Laundering Concern

©2006 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [19876] March 22, 2006 TO: AML COMPLIANCE WORKING GROUP No. 9-06 RE: FINCEN ADOPTS RULE IMPOSING "SPECIAL MEASURES" AGAINST THE COMMERCIAL BANK OF SYRIA AS A FINANCIAL INSTITUTION OF PRIMARY MONEY LAUNDERING CONCERN In May 2004, the Financial Crimes Enforcement Network (FinCEN) designated the Commercial Bank of Syria and its subsidiaries (collectively, CBS) as a financial institution of primary money laundering concern pursuant to Section 311 of the USA PATRIOT Act.¹ Last week, FinCEN adopted a rule pursuant to that designation imposing one of five permitted "special measures" against CBS and its subsidiaries and branches.² The new rule takes effect on April 14, 2006. The new rule requires mutual funds and other covered financial institutions, by April 14, 2006, to terminate any correspondent account that is open or maintained in the US for or on behalf of CBS. For purposes of the rule, the term "correspondent account" is defined as "an account established by a covered financial institution for a foreign bank to receive deposits from, to make payments or other disbursements on behalf of a foreign bank, or to handle other financial transactions related to the foreign bank."³ The new rule further requires mutual funds and other covered financial institutions to apply due diligence to its correspondent accounts that is "reasonably designed to guard against their indirect use" by CBS. At a minimum, the rule requires such due diligence to include notifying correspondent account holders that the account may not be used to provide CBS with access to the mutual fund, and taking reasonable steps to identify any indirect use of its correspondent accounts by CBS, to the extent that such indirect use can be determined from transactional records maintained in the mutual fund's 1 See Memorandum No. 17562, dated May 21, 2004. 2 Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Imposition of a Special Measure Against Commercial Bank of Syria, Including Its Subsidiary, Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern, 71 Fed. Reg. 13260 (March 15, 2006). The release can be found at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-2455.pdf>. 3 See 31 CFR 103.175(d)(1)(ii). 2 normal course of business. If the mutual fund obtains knowledge that a correspondent account is being used by the foreign bank to provide indirect access to CBS, the mutual fund must take "all appropriate steps" to

prevent such indirect access, including terminating the account within a “commercially reasonable” period of time. Robert C. Grohowski Senior Counsel - International Affairs

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