The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

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FINAL REGULATIONS ON REPORTING OF TRANSACTIONS INVOLVING MONETARY INSTRUMENTS OF UNDER $10,000

- 1 - December 3, 1991 TO: BROKER/DEALER ADVISORY COMMITTEE NO. 42-91 INSURANCE BROKER-DEALER ADVISORY COMMITTEE NO. 12-91 OPERATIONS MEMBERS NO. 33-91 TAX MEMBERS NO. 58-91 TRANSFER AGENT ADVISORY COMMITTEE NO. 59-91 RE: FINAL REGULATIONS ON REPORTING OF TRANSACTIONS INVOLVING MONETARY INSTRUMENTS OF UNDER $10,000 _____ Internal Revenue Code section 6050I provides that certain persons must report to the Internal Revenue Service cash receipts of $10,000 or more in a single transaction or a series of related transactions. The Revenue Reconciliation Act of 1990 had instructed the Treasury Department to promulgated regulations which would treat monetary instruments of under $10,000 (other than personal checks) as cash for purposes of the reporting requirement. (See Institute Memorandum to Tax Members No. 58-90, dated December 21, 1990.) As we previously informed you, the proposed regulations issued in response to the Act's mandate applied only to situations in which the monetary instruments were received in a "designated reporting transaction" or in a transaction which the recipient knows is being used to avoid the cash reporting regulations. (See Institute Memorandum to Broker/Dealer Advisory Committee No. 21-91, Insurance Broker/Dealer Advisory Committee No. 6-91, Operations Committee No. 19-91 and Transfer Agent Advisory Committee No. 28-91, dated June 14, 1991.) Because a designated reporting transaction was defined in the proposed regulations as a retail sale of a consumer durable, or a travel or entertainment activity, investment companies would be required to report monetary transactions involving either cash or monetary instruments only if they "know" that the investment is being made in order to avoid the cash reporting regulations. The attached final regulations adopt the proposed regulations basically as written. A suggestion that knowledge be defined as "actual knowledge" was rejected by the Internal Revenue Service in favor of the definition of knowledge developed through case law, such as willful blindness or the deliberate - 2 - avoidance of the facts. See, e.g., U.S. v. Jewell, 532 F.2d 697 (9th Cir.) (en banc), cert. denied, 426 U.S. 951 (1976). We will keep you informed of further developments. David J. Mangefrida Jr. Assistant Counsel - Tax Attachment DJM:bmb