

MEMO# 35480

October 5, 2023

For Your Review: ICI Letter re Existing FBAR Requirements

[35480]

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TO: Tax Committee RE: For Your Review: ICI Letter re Existing FBAR Requirements

The attached draft letter to Financial Crimes Enforcement Network (FinCEN) urges modifications to the existing requirements to report information on foreign financial accounts and FinCen Form 114, Report of Foreign Bank and Financial Accounts (FBAR). This letter is in response to [FinCEN's request](#) for comments on the renewal, without changes, of existing FBAR requirements as part of its continuing effort to reduce paperwork and respondent burden. Comments are due by October 10, 2023.

The draft letter's comments are consistent with previous ICI submissions concerning FBAR.^[1] Specifically, the letter recommends:

- (1) A broad signature reporting exception that covers all officers, employees, and agents of US and non-US financial institution affiliates within the same corporate structure, including both affiliates of firms that are registered with and regulated by the SEC and accounts of investment products that are not registered under the 1940 Act.
- (2) A permanent waiver of the filing obligations of certain financial professionals who had signature authority over but no financial interest in one or more foreign financial accounts and a) who no longer have signature authority over such accounts or b) whose filing deadline to file FBAR has been extended three times under applicable FinCEN Notices.
- (3) Maintaining the special rule exceptions for 25 or more foreign accounts for entities (and their employees) that are subject to extensive regulation under regimes such as the 1940 Act, the Advisers Act, and the Bank Secrecy Act.
- (4) Formal guidance clarifying that foreign accounts held by a fund's US global custodian are reportable only by such US global custodian and not by the fund or the other service providers to such fund.

Please provide comments to Katie Sunderland (katie.sunderland@ici.org) no later than noon (ET) on Tuesday, October 10, 2023.

Katie Sunderland
Associate General Counsel

Notes

[1] See [Institute Memorandum No. 29902](#), dated May 10, 2016, and [Institute Memorandum No. 24274](#), dated April 28, 2010.

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