

Summary of Interested Parties Meeting

Regulation section 25137-14, Mutual Fund Service Providers and Asset Management Service Providers

I. Administration

On November 8, 2023, at 1:30 p.m., the Franchise Tax Board (FTB) held its first Interested Parties Meeting (IPM), providing interested members of the public (Participants) with the opportunity to comment on whether a separate definition of the term "beneficial owner" is necessary under California Code of Regulations (CCR), Title 18, section 25317-14 (Regulation).

Irina Iskander Krasavtseva, FTB Attorney IV, Brian Beck, FTB Attorney IV, and Red Gobuty, FTB Attorney IV, served as the IPM Facilitators (Facilitators) during the IPM. During the IPM, Participants were also reminded that they could submit written comments during the comment period following the IPM and until December 8, 2023, with this summary of the IPM and comments to be prepared and published online thereafter.

II. Discussion

After the Facilitators discussed the purpose and operation of the sourcing rules in the Regulation, they explained that the objective of the IPM was to explore whether it is necessary for the Regulation to separately define the term "beneficial owner." Thereafter, Participants made comments.

III. Summary

The following summarizes the comments received during the IPM and during the comment period.

A Participant commented that, in some cases, location of shareholders is unknown to the Regulated Investment Company (RIC) manager. However, in the Participant's experience, there has been a good effort to use a reasonable basis to estimate the location of the beneficial owners under the Regulation's cascading rule. It was the Participant's opinion that, while in theory, there may be a question of how to source relevant receipts under the Regulation, in practice, the Regulation provided sufficient clarity. As such, the Participant hasn't perceived any benefit from adding a separate definition of the term "beneficial owner."

A Participant also commented that, based on their discussions with different taxpayers in the industry about the sourcing issue under the Regulation, their understanding is that the identity and location of the beneficial owners is not always available. The Participant also opined that precise identification of the beneficial owners is further complicated in a situation where there are several different funds with various classes such that a taxpayer could have hundreds of separate funds with separate fund groupings. Therefore, the Participant expressed that, to the extent rules are added to the Regulation, it is important to maintain flexibility and not require mutual fund service providers to incur excessive costs in complying with the Regulation.

Additionally, the Participant opined that the sourcing methodology, as applied, should also factor in situations where a fund may be partially or entirely focused on a foreign market.

Finally, a Participant expressed a concern that there are companies that market the ability to access data and craft a reasonable approximation for applying the Regulation; however, in the Participant's opinion, those services are expensive. The Participant further opined that requiring mutual fund service providers to purchase outside services for compliance reasons would be a significant burden on the taxpayers. As such, the Participant cautioned against any rules that would require mutual fund service providers to purchase services in an attempt to comply with the Regulation.

IV. Closing

At the closing of the IPM, the Facilitators thanked Participants for attending, invited further comments by the comment deadline, and confirmed that all timely submitted comments will be taken under consideration.