2016 IRPAC Public Report Letter from the Chair

October 26, 2016

Dear Commissioner Koskinen:

On behalf of the Information Reporting Program Advisory Committee (IRPAC), I am pleased to present you and your leadership team with our 2016 annual report. Under the IRPAC Charter our duty is to identify, and make specific recommendations for, areas of the information reporting program which can be improved by a change in operations, clarification of policy, or communication with the public. Well-designed information reporting rules help both taxpayers to comply with the law and the IRS to enforce it. If the information reporting process does not function properly, taxpayers may not receive the information they need to voluntarily comply with their tax obligations and the IRS may be unable to collect all of the revenue the government is entitled to receive. We believe that, as part of our joint pursuit of a high-functioning information reporting system, the IRS must try to minimize the burden of information reporting, especially when the information reported is unnecessary or could be accomplished more simply.

Unfortunately, there are barriers preventing the information reporting process from working as simply and effectively as it should. IRPAC recognizes and understands that the significant and chronic mismatch between the generally declining funding level of the IRS and its growing mandate is the most important challenge to improving information reporting. In many instances, we have been told that the IRS cannot pursue our recommendations because the IRS lacks the resources to open additional projects. As a result, both taxpayers and the IRS suffer.

An ongoing wave of new information reports shifts new and substantial burdens to payors and financial intermediaries. In just the last 6 years, Congress has added information reporting for cost basis on securities sales, reporting of financial payments under the Foreign Account Tax Compliance Act (FATCA), and health care coverage and enrollment under the Affordable Care Act.

For example, the Financial Institute Forum (FIF) estimated the cost to brokers and other financial intermediaries to implement cost basis reporting would exceed $0.5 billion for the initial reporting period of 2011-2013.[1] Implementation costs associated with FATCA are likely to be even higher. SIFMA conducted an internal member survey and learned that the combined implementation costs of 17 respondents alone exceeded $1 billion in 2013-2014.[2]

Today, I want to highlight three ways in which our 2016 report provides meaningful recommendations the IRS can implement to improve and simplify the information reporting process. Through our interactions with existing and draft versions

[1] FIF cost basis working group, "Cost Basis Survey III, Final Report," at 23 (May 25, 2011).

[2] SIFMA Calls for Targeted Relief on FATCA. (n.d.). Retrieved February 16, 2016, from http://www.sifma.org/newsroom/2014/sifma_calls_for_targeted_relief_on_fatca/

of IRS forms and collaboration with IRS personnel, we identify issues we can bucket into three general categories: (1) small, specific changes that can be quickly addressed, (2) larger barriers that prevent a specific component of the information reporting process from operating effectively, and (3) still larger foundational issues that may require more substantial IRS resources to address. As you read through the report, it should become apparent that we have identified numerous items that fall into each of these categories.

One such barrier identified in the report that I would like to discuss in our meeting today centers on the 972CG proposed civil penalty and the process the IRS uses to evaluate reasonable cause waivers made by payors. A 972CG proposed civil penalty is commonly issued to payors when the IRS finds information returns submitted with name/TIN errors and/or that were filed late. Payors may seek abatement of the penalty if they can show they acted in a reasonable manner and the errors were not caused due to willful neglect. Our report details the pain that payors experience in obtaining this waiver and recommends that the IRS take appropriate steps to rectify the issue. This is a case where the IRS can take meaningful action to address a serious issue that we believe will lead to a reduced burden on payors and IRS personnel alike and allow valuable resources to be better allocated. This is especially important given the addition of millions of new ACA related information returns that will flow through this process.

I would like to thank members of the 2016 IRPAC for their amazing level of engagement on this and the many other issues contained in our report, their commitment to improving the information process, and their efforts to bring this report together. Likewise, I continue to be impressed with the IRS personnel we partner with throughout the year. They equal our passion when it comes to improving the information reporting process and the work we do could not be accomplished without their hard work hard and preparation. Our NPL team deserves a mountain of credit for their efforts in making this program and report a success. Candice, John, Mike and company do an outstanding job of ensuring we have the tools we need to succeed and provide unique insights into the IRS that enable us to do our job effectively.

Lastly, I would like to thank you Commissioner Koskinen. During my three years serving on the IRPAC, I have observed that you have a deep interest in our report and the recommendations that it contains. Your commitment to following up on our recommendations and holding your staff accountable to provide the IRPAC with updates on progress is laudable.

Best regards,

Michael Gangwer

2016 IRPAC Chairperson