

**MEMO# 32721**

August 28, 2020

# **ICI Global Files Comment Letter on ESMA's Consultation Providing Guidelines for Regulating Alternative Investment Fund Leverage**

[32721]

August 28, 2020 TO: ICI Members

ICI Global Members

Derivatives Markets Advisory Committee SUBJECTS: Derivatives

Financial Stability

International/Global RE: ICI Global Files Comment Letter on ESMA's Consultation Providing Guidelines for Regulating Alternative Investment Fund Leverage

ICI Global recently filed a comment letter in response to the European Securities and Markets Authority consultation paper setting forth guidelines for national competent authorities (“NCAs”) to regulate the use of leverage within the alternative investment fund (“AIF”) sector.[\[1\]](#) The consultation proposes guidelines: (a) on a two-step approach for NCAs to assess leverage-related systemic risk; and (b) for NCAs to impose leverage limits.

The comment letter provides recommendations on both sets of guidelines. On the leverage assessment guidelines, the letter states that NCAs must focus on funds that are more likely to pose potential risk, while appropriately excluding from further evaluation most funds that do not. It recommends that the ESMA guidelines closely follow the International Organization of Securities Commissions’ (“IOSCO”) approach in its Recommendations for a Framework Assessing Leverage in Investments Funds (“IOSCO Framework”).[\[2\]](#) The IOSCO Framework was designed to achieve a substantially similar goal, and IOSCO spent considerable effort on determining how to measure investment fund leverage for financial stability purposes. Therefore, it is not necessary for ESMA to take a more expansive approach. Instead, the letter recommends targeted changes to the assessment process to help NCAs more meaningfully monitor leverage for financial stability purposes.

On the leverage limit guidelines, the letter recognizes that the Alternative Investment Fund Managers Directive already provides NCAs the broad authority to impose leverage and “other” limits on funds that they identify as posing systemic risk. It strongly cautions, however, that NCAs prudently exercise this broad authority to avoid market disruption and harm to investors. In this regard, the letter suggests that NCAs consider consulting on

possible limitations that they may impose to receive appropriate feedback before implementing them and to consult confidentially with funds subject to such limitations before they are imposed.

Rachel H. Graham  
Associate General Counsel

Kenneth Fang  
Assistant General Counsel

## [Attachment](#)

### **endnotes**

[1] For a summary of the consultation paper, see ICI Memorandum No. 32434 (4 May 2020), available at [https://www.ici.org/my\\_ici/memorandum/memo32434](https://www.ici.org/my_ici/memorandum/memo32434).

[2] See IOSCO, Recommendations for a Framework Assessing Leverage in Investments Funds (Dec. 2019), available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD645.pdf>.

---

**Source URL:** <https://icinew-stage.ici.org/memo-32721>

Copyright © by the 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.