

**MEMO# 29062**

June 4, 2015

# **Member Input Requested by June 16: Possible Request to CFTC for Relief on Issues Affecting Non-US Commodity Pool Operators**

[29062]

June 4, 2015

TO:

ICI GLOBAL REGULATED FUNDS COMMITTEE No. 27-15  
REGISTERED FUND CPO ADVISORY COMMITTEE

RE:

MEMBER INPUT REQUESTED BY JUNE 16: POSSIBLE REQUEST TO CFTC FOR RELIEF ON  
ISSUES AFFECTING NON-US COMMODITY POOL OPERATORS

ICI has been contacted by another trade association that is considering whether to seek relief from the US Commodity Futures Trading Commission ("CFTC") on certain issues affecting non-US commodity pool operators ("CPOs"). As described below, we are seeking member input regarding the advisability of asking for relief on each of these issues.

The three issues are as follows:

1. The scope of CFTC Regulation 3.10(c)(3)(i), which provides an exemption from registration for CPOs and commodity trading advisers ("CTAs") located outside the US with respect to commodity interest transactions on behalf of persons located outside the US. Among other things, the request would seek relief to permit a limited number of US investors under the exemption.
2. In addition, Regulation 3.10(c)(3)(i) could be read to require that all commodity interest transactions executed for applicable pools and client accounts, whether executed bilaterally or made on or subject to the rules of a designated contract market or swap execution facility, must be submitted for clearing through a registered futures commission merchant ("FCM"). The request may seek clarification that the

requirement to clear through registered FCMs applies only to those cases where the swaps are cleared in the US and no other exemption from clearing is applicable.

3. The inability of CPOs to non-US commodity pools listed on non-US securities exchanges to take advantage of the relief afforded by CFTC Regulation 4.12(c), which allows CPOs of pools listed or publicly offered in the US to post the pool's disclosure documents and account statements on a website (rather than delivering them to prospective or existing pool participants).

Each of these issues and the possible relief to be requested are described in more detail in the attached outline. With respect to each issue, we would welcome member input as to the following:

1. Do you favor seeking relief from the CFTC on this issue at this time?
2. Does the outline appropriately describe the issue?
3. Does the outline ask for the appropriate relief to address the issue?

Please provide your comments to Sarah (1-202-326-5835 or [sarah.bessin@ici.org](mailto:sarah.bessin@ici.org)) or Rachel (1-202-326-5819 or [rgraham@ici.org](mailto:rgraham@ici.org)) no later than Tuesday, June 16.

Sarah A. Bessin  
Associate General Counsel Rachel H. Graham  
Associate General Counsel

[Attachment](#)

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