

MEMO# 26704

November 20, 2012

ICI Comment Letter in Response to Reopening of Comment Period by Banking Regulators on Proposed Margin Requirements for Uncleared Swaps

[26704]

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TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 77-12

DERIVATIVES MARKETS ADVISORY COMMITTEE No. 66-12

INVESTMENT ADVISER MEMBERS No. 45-12

SEC RULES MEMBERS No. 106-12 RE: ICI COMMENT LETTER IN RESPONSE TO REOPENING OF COMMENT PERIOD BY BANKING REGULATORS ON PROPOSED MARGIN REQUIREMENTS FOR UNCLEARED SWAPS

The banking regulators have re-opened the comment period on their proposed margin and capital requirements for uncleared swaps and security-based swaps in light of efforts by the Basel Committee on Banking Supervision (“BCBS”) and the International Organization of Securities Commissions (“IOSCO”) to develop harmonized international margin standards for uncleared swaps . [\[1\]](#) ICI has submitted a comment letter to the banking regulators, which is attached and briefly summarized below.

The letter is intended to supplement our prior submission to the banking regulators in view of the BCBS/IOSCO Consultation Paper. [\[2\]](#) The letter urges the banking regulators to require equivalent two-way margin obligations for both counterparties to a swaps transaction. To better protect counterparties and the swaps markets more generally, the letter recommends that the banking regulators adopt final rules to require covered swap entities [\[3\]](#) to post initial and variation margin to their non-covered swap entity counterparties at the same level and in the same manner as required for the counterparties.

The letter also urges the banking regulators to permit registered funds to use thresholds and not to post margin under certain thresholds. ICI recommends that the banking regulators recognize that funds are highly regulated, financially sound swap counterparties and should be included in the category of counterparties that are allowed to use an initial margin threshold below which they would not be required to post collateral.

Jennifer S. Choi
Senior Associate Counsel – Securities Regulation

[Attachment](#)

endnotes

[1] The banking regulators include the Board of Governors of the Federal Reserve System, Farm Credit Administration, Federal Deposit Insurance Corporation, Federal Housing Finance Agency, and Office of the Comptroller of the Currency See Margin and Capital Requirements for Covered Swap Entities; Reopening of Comment Period, 77 FR 60057 (Oct. 2, 2012), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-10-02/pdf/2012-24276.pdf>; Margin and Capital Requirements for Covered Swap Entities, 76 FR 27563 (May 11, 2011), available at <http://www.gpo.gov/fdsys/pkg/FR-2011-05-11/pdf/2011-10432.pdf>. See Margin Requirements for Non-Centrally-Cleared Derivatives, Basel Committee on Banking Supervision and Board of the International Organization of Securities Commissions, July 2012, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD387.pdf> (“Consultation Paper”).

[2] See Letter from Karrie McMillan, General Counsel, ICI, to David A. Stawick, Secretary, CFTC, dated July 11, 2011.

[3] Covered swap entities are swap dealers, security-based swap dealers, major swap participants and security-based major swap participants within the scope of the banking regulators’ oversight.