

MEMO# 27059

February 28, 2013

Draft ICI and ICI Global Comment Letter to Basel Committee and IOSCO on Margin Requirements for Uncleared Derivatives; Member Comments Requested by March 8 and Member Call to Discuss Draft Letter Scheduled for March 7

[27059]

February 28, 2013

TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 7-13
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 24-13
INTERNATIONAL COMMITTEE No. 8-13
ICI GLOBAL MEMBERS
SEC RULES COMMITTEE No. 12-13 RE: DRAFT ICI AND ICI GLOBAL COMMENT LETTER TO BASEL COMMITTEE AND IOSCO ON MARGIN REQUIREMENTS FOR UNCLEARED DERIVATIVES; MEMBER COMMENTS REQUESTED BY MARCH 8 AND MEMBER CALL TO DISCUSS DRAFT LETTER SCHEDULED FOR MARCH 7

On February 15, the Basel Committee on Banking Supervision (“BCBS”) and the International Organization of Securities Commissions (“IOSCO”) published a second consultative document on the margin requirements for non-centrally cleared derivatives. [\[1\]](#) ICI and ICI Global have prepared a draft comment letter, which is attached. If you have comments on the draft letter, please provide them to Jennifer Choi at jennifer.choi@ici.org by Friday, March 8.

We will hold a conference call on Thursday, March 7 at 1:00 pm ET/10:00 am PST/6:00 pm GMT to discuss the draft ICI and ICI Global comment letter. If you plan to participate, please RSVP to Ruth Tadesse via email (rtadesse@ici.org). For calls within the United States, please dial: 800-779-2717. For calls from outside the United States, please dial: 517-308-9118. The pass code is 30203.

In the Consultation Paper, the BCBS/IOSCO specifically requests comment on issues relating

to: (1) the treatment of physically-settled foreign exchange (“FX”) forwards and swaps under the framework; (2) the ability to engage in limited re-hypothecation of collected initial margin; (3) the proposed phase-in schedule of the requirements; and (4) the adequacy of the quantitative impact study conducted by the BCBS and IOSCO.

The draft comment letter responds to the first three questions raised by the BCBS and IOSCO on the near final policy margin framework. First, the draft letter states that FX forwards and swaps should be exempt from margin requirements because the FX swaps and forward market is markedly different than other derivatives and imposing margin requirements on these instruments would not likely produce the benefits that would result for other types of derivative instruments. Second, the letter supports the BCBS and IOSCO proposal that collateral collected as initial margin should not be re-hypothecated and requests the framework specifically to provide for an option to use a third-party custodian to hold collateral. Third, the letter generally supports the proposed phase-in schedule of the margin requirements but seeks confirmation regarding the level at which the threshold and de minimis amounts would apply. Finally, the letter provides two other comments regarding the calculation of margin (i.e., 10-day liquidation horizon) and the international coordination of derivatives regulations.

Jennifer S. Choi
Senior Associate Counsel – Securities Regulation

[Attachment](#)

endnotes

[1] Second Consultative Document, Margin Requirements for Non-Centrally-Cleared Derivatives, Basel Committee on Banking Supervision and Board of the International Organization of Securities Commissions, February 2013, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD403.pdf> (“Consultation Paper”). For a summary of the Consultation Paper, see ICI Memorandum No. 27033 (February 20, 2013), available at http://www.ici.org/my_ici/memorandum/memo27033.