

MEMO# 29907

May 12, 2016

ICI Submits Joint Trades Letter on Protection of Collateral for Cleared Security-Based Swaps

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 19-16 RE: ICI SUBMITS JOINT TRADES LETTER ON PROTECTION OF COLLATERAL FOR CLEARED SECURITY-BASED SWAPS

ICI along with the Asset Management Group of the Securities Industry and Financial Markets Association (“SIFMA AMG”) submitted a supplemental letter on the proposal by the Securities and Exchange Commission (“SEC”) to adopt standards for the operation and governance of certain registered clearing agencies. [\[1\]](#)

As previously reported, the Proposal does not define how the clearing regime and posting of margin for security-based swaps (“SBS”) would operate both in the normal course of business and in the event of a clearing member bankruptcy. [\[2\]](#) Rather, the Proposal delegates the determination of the type of protections provided by asset segregation and related safeguards to clearing agencies that clear SBS.

The supplemental letter expresses concern that the SEC’s proposed requirements for SBS do not provide sufficient protections for collateral posted on behalf of ICI member funds, or posted on behalf of asset manager clients for whom SIFMA AMG members act as fiduciaries. The letter argues that SBS cleared at covered clearing agencies need to be protected by adoption of a “legal segregation with operational comingling” (“LSOC”) standard comparable to the LSOC approach implemented by the Commodity Futures Trading Commission for cleared swaps. The letter also provides more information about the status of SBS in broker-dealer and SBS dealer insolvency proceedings.

Jennifer S. Choi
Associate General Counsel

[Attachment](#)

endnotes

[1] Standards for Covered Clearing Agencies, 79 FR 16865 (Mar. 26, 2014), available at <http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf> ("Proposal"). See Letter from Dorothy M. Donohue, Acting General Counsel, ICI, to Kevin M. O'Neill, Deputy Secretary, SEC, dated May 21, 2014, available at <http://www.sec.gov/comments/s7-03-14/s70314-9.pdf>.

[2] For a summary of the Proposal, see ICI Memorandum No. 27991 (March 27, 2014), available at http://www.ici.org/my_ici/memorandum/memo27991.

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