

MEMO# 25914

February 15, 2012

ICI Comment Letter On FASB Consolidation Proposal

[25914]

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TO: ACCOUNTING/TREASURERS MEMBERS No. 5-12
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 13-12 RE: ICI COMMENT LETTER ON
FASB CONSOLIDATION PROPOSAL

As you know, the FASB recently issued proposed amendments to the consolidation model for variable interest entities (VIEs) and limited partnerships under Topic 810. [\[1\]](#) The proposal would require a decision maker (e.g., an asset manager) of a VIE to evaluate three factors to determine whether it is using its power as a principal or as an agent. A decision maker that acts as a principal would be deemed to have a controlling financial interest in the entity and would be required to consolidate it. A decision maker that acts as agent on behalf of another party does not have a controlling financial interest. ICI has filed the attached comment letter, which is briefly summarized below.

The comment letter expresses concern that the proposal may cause an investment adviser to a money market fund to consolidate the fund. In particular, the notion that the adviser has an implicit financial responsibility to ensure that the fund operates as designed (i.e., issues and redeems shares at \$1.00) may overcome the fund board's kick-out rights and lead to a conclusion that the adviser is acting as principal. To address this concern, the letter recommends that an adviser's interest in a fund that is required to comply with, or operates in accordance with, Rule 2a-7 be exempted from the proposal. The letter argues that an exemption is appropriate given the strict risk limiting requirements in Rule 2a-7.

If the FASB is unwilling to provide a scope exemption, the letter recommends: 1) that substantive kick-out rights held by a board of directors be determinative that an adviser is acting as agent; 2) that an additional factor—the scope of the adviser's decision making authority over the entity—be added as an enumerated factor in the principal versus agent analysis; and 3) that substantive redemption rights held by the entity's investors be considered as part of the rights held by others factor.

The letter argues that kick-out rights, once deemed substantive, provide evidence that the adviser is acting as agent. The comment letter describes the duties and responsibilities of a

1940 Act fund board and recommends changes to the proposal that would clarify that such a board should be considered substantive and have significant authority when assessing whether to retain a decision maker.

Gregory M. Smith
Director - Operations/Compliance & Fund Accounting

[Attachment](#)

endnotes

[1] See ICI [Memorandum](#) to Accounting/Treasurers Members No. 29-11, Money Market Funds Advisory Committee No. 63-11 (November 16, 2011) [25642].

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