

MEMO# 30543

January 26, 2017

Member Call on Proposed CFTC Capital Rules for Swap Dealers and Major Swap Participants

[30543] January 26, 2017 TO: Derivatives Markets Advisory Committee RE: Member Call on Proposed CFTC Capital Rules for Swap Dealers and Major Swap Participants

The CFTC recently proposed capital requirements for swap dealers (SDs) and major swap participants (MSPs) that are not subject to capital rules of a prudential regulator.^[1] The proposal includes three alternative capital approaches for SDs and MSPs that generally draw on existing CFTC, prudential regulator, and SEC capital rules. One of the approaches generally follows the SEC's proposed capital requirements for security-based swap dealers (SBSDs) and major security-based swap participants (MSBSPs). The comment period for the proposal closes on March 16, 2017.

We will hold a member call on **Thursday, February 2 from 11:00 - 11:30 am (Eastern)** to discuss this proposal. In particular, we would like to hear member views on the proposed approach that would incorporate an SEC proposal that would require an SBSD to take a capital charge for any margin posted to an SBSD but held by a third-party custodian.^[2] (For example, an SBSD would have to take a capital charge if a fund's margin was maintained at an independent custodian rather than posted directly with the SBSD.) There may be costs that would be passed on to fund clients because of the capital charge. We opposed this aspect of the SEC's proposal and would like to discuss your views on whether we should urge the CFTC not to require SDs to take a capital charge in these circumstances.^[3] The discussion about this aspect of the SEC's proposal can be found on pages 5-7 of ICI's comment letter.

Please contact Helenia Walker at helenia.walker@ici.org to receive dial-in information for this call.

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endnotes

[1] Capital Requirements of Swap Dealers and Major Swap Participants, 81 FR 91252 (December 16, 2016), *available at* <http://www.cftc.gov/idc/groups/public/@Irfederalregister/documents/file/2016-29368a.pdf>.

[2] One of the CFTC's proposed alternative capital requirements would require an SD to compute a market risk capital charge for swaps and security-based swaps by multiplying the notional amount or fair market value of the transaction by a specified percentage set forth in the SEC's proposed capital requirements for SBSDs and MSBSPs. The resulting market risk charge would be deducted from the SD's tentative net capital to arrive at the firm's net capital. The proposal would further require SDs to compute standardized credit risk charges in accordance with the SEC's proposed rules.

[3] See Letter from Karrie McMillan, General Counsel, ICI, to Elizabeth M. Murphy, Secretary, SEC, dated February 4, 2013, *available at* <https://www.ici.org/pdf/26967.pdf>.

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