

MEMO# 30559

February 2, 2017

Draft Joint Trades Comment Letter to European Authorities Requesting a Delay of the March 1 Variation Margin Compliance Date; Member Comments Requested by February 3, 2017

[30559] February 2, 2017 TO: Derivatives Markets Advisory Committee
ICI Global Trading & Markets Committee
Registered Fund CPO Advisory Committee
Securities Operations Advisory Committee RE: Draft Joint Trades Comment Letter to European Authorities Requesting a Delay of the March 1 Variation Margin Compliance Date; Member Comments Requested by February 3, 2017

As previously reported, in December, the European Union finalized regulatory technical standards (“RTS”) establishing margin requirements for non-centrally cleared over-the-counter (“OTC”) derivatives.^[1] The RTS, among other things, prescribes the minimum amount of variation margin to be posted and collected for OTC derivatives transactions and the methodologies by which the amount should be calculated. Firms with notional amounts of uncleared derivatives contracts totaling less than €3 trillion, and their counterparties (including regulated funds) must begin exchanging the required variation margin on prospective transactions beginning March 1, 2017.^[2]

Although funds have worked in good faith towards timely compliance with the variation margin requirements, we understand that a large volume of documentation still must be completed. Accordingly, we, along with other trade groups, are requesting that the European Commission implement at least a six-month delay of the compliance date through a dedicated RTS to allow funds and their counterparties to complete the necessary documentation.^[3] Alternatively, if an RTS cannot be executed in time, we request that the European Commission work with national competent authorities to provide forbearance on the enforcement of variation margin requirements for at least six months.

Our draft comment letter requesting the delay is attached for your review. Our draft letter is **substantially similar** to the one we submitted earlier this week to US regulators^[4] and states that, in the absence of a delay, many funds face the real prospect of having their derivatives trades halted on March 1. If you have any comments on the draft letter, please send them to Jennifer Choi at jennifer.choi@ici.org or Kenneth Fang at kenneth.fang@ici.org

by **9 am (Eastern) on Friday, February 3.**

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[Attachment](#)

endnotes

[1] See Commission Delegated Regulation (EU) 2016/2251 of 4 October 2016 supplementing regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives central counterparties and trade repositories with regard to regulatory technical standards for risk mitigation techniques for OTC derivative contracts not cleared by a central counterparty (December 15, 2016), *available at* <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R2251&from=EN>. For a summary of the EU's OTC margin rules, please see ICI Memorandum No. 30491 (Dec. 20, 2016), *available at* <https://www.iciglobal.org/iciglobal/pubs/memos/memo30491>.

[2] Firms with the greatest notional amount of uncleared derivatives contracts – more than €3 trillion – must begin exchanging initial and variation margin on February 4, 2017.

[3] The other trade associates include: the European Fund and Asset Management Association and Pensions Europe. Other trade associations are reviewing the draft letter and may join as well.

[4] See Letter from David W. Blass, General Counsel, Investment Company Institute, to Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, et al., dated January 30, 2017. See also ICI Memorandum No. 30551 (Jan. 30, 2017), *available at* https://www.ici.org/my_ici/memorandum/memo30551.

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