

MEMO# 26726

November 27, 2012

ICI Submits Letter to National Futures Association on Bylaw 1101 Compliance

[26726]

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TO: SEC RULES MEMBERS No. 107-12
COMPLIANCE MEMBERS No. 26-12
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 67-12
CLOSED-END INVESTMENT COMPANY MEMBERS No. 78-12
SMALL FUNDS MEMBERS No. 39-12
INVESTMENT ADVISER MEMBERS No. 46-12
ETF ADVISORY COMMITTEE No. 47-12
OPERATIONS MEMBERS No. 8-12 RE: ICI SUBMITS LETTER TO NATIONAL FUTURES
ASSOCIATION ON BYLAW 1101 COMPLIANCE

Yesterday, ICI submitted the attached letter to the National Futures Association (“NFA”). The letter requests NFA’s confirmation regarding the manner in which advisers to registered investment companies (“funds”) that must register as commodity pool operators (“CPOs”) as a result of the amendments to CFTC Rule 4.5 may comply with NFA Bylaw 1101, which requires certain due diligence efforts by NFA members, including CPOs.

The letter requests NFA’s confirmation that fund advisers should comply with Bylaw 1101 with regard to (1) any futures commission merchant through which the fund adviser purchases or sells commodity futures or options contracts for the fund’s account and (2) any subadviser that provides investment management services to the fund. It requests that NFA confirm, however, that fund advisers would not be required to perform any due diligence with regard to investors in the fund or the financial intermediaries through which investors may acquire fund shares. The letter explains that ICI does not believe Bylaw 1101 would require such efforts. The letter notes that such efforts would be wholly impractical and unlikely to be conclusive; their costs, moreover, would be borne by fund investors.

Sarah A. Bessin
Senior Counsel

[Attachment](#)

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