

**MEMO# 24751**

November 30, 2010

# **ICI Comment Letter on Treasury Determination Regarding Status of FX Swaps and Forwards as "Swaps"**

[24751]

November 30, 2010

TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 67-10  
ETF ADVISORY COMMITTEE No. 52-10  
EQUITY MARKETS ADVISORY COMMITTEE No. 50-10  
FIXED-INCOME ADVISORY COMMITTEE No. 33-10  
SEC RULES MEMBERS No. 129-10  
SMALL FUNDS COMMITTEE No. 25-10 RE: ICI COMMENT LETTER ON TREASURY  
DETERMINATION REGARDING STATUS OF FX SWAPS AND FORWARDS AS "SWAPS"

The Secretary of the Treasury issued a request for public comment on whether to issue a determination exempting foreign exchange ("FX") swaps and FX forwards from the definition of a "swap" under the Commodity Exchange Act. [\[1\]](#) ICI submitted a letter to the Treasury stating that, given the largely incomplete framework for regulating swaps and the absence of key information that will come out of the future rulemaking process, it was not commenting at this time on whether FX swaps and FX forwards should be excluded from the definition of a "swap." Nonetheless, the ICI letter recommended that the Treasury clarify that: (1) "FX Spot" transactions, or foreign exchange transactions with a short settlement cycle (T+6 or less), are not included within the definition of a "swap" as they are non-speculative transactions entered into to effect international trades and the repatriation of foreign dividends and (2) the term "foreign exchange forwards" includes non-deliverable FX forwards.

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[Attachment](#)

## endnotes

[\[1\]](#) See Department of the Treasury, Notice and Request for Comments: Determination of Foreign Exchange Swaps and Forwards, 75 FR 66426, October 28, 2010. Section 721(a)(21) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 permits the Treasury to undertake this determination.

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