

**MEMO# 27883**

February 11, 2014

## **Draft Petition for Recordkeeping Relief to Be Submitted to CFTC; Member Comments Requested by February 18**

[27883]

February 11, 2014

TO: ACCOUNTING/TREASURERS COMMITTEE No. 4-14  
CLOSED-END INVESTMENT COMPANY COMMITTEE No. 3-14  
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 10-14  
OPERATIONS COMMITTEE No. 6-14  
SECURITIES OPERATIONS ADVISORY GROUP  
TRANSFER AGENT ADVISORY COMMITTEE No. 7-14 RE: DRAFT PETITION FOR  
RECORDKEEPING RELIEF TO BE SUBMITTED TO CFTC; MEMBER COMMENTS REQUESTED BY  
FEBRUARY 18th

ICI, with the assistance of our outside counsel, has prepared a draft petition for rulemaking ("Petition") to the Commodity Futures Trading Commission ("CFTC") requesting that the CFTC amend (i) CFTC Regulation 4.12(c), which contains exemptions from certain of the CFTC's Part 4 regulations for CPOs to investment companies registered under the Investment Company Act of 1940 ("Investment Company Act") that are unable to rely on the exclusion in CFTC Regulation 4.5 ("Registered Fund CPOs"), (ii) CFTC Regulation 4.23, which contains recordkeeping requirements applicable to commodity pool operators ("CPOs"), and (iii) CFTC Regulation 4.33, which contains recordkeeping requirements applicable to commodity trading advisors ("CTAs"). The Petition, which is attached, requests that the following entities may satisfy their recordkeeping obligations under Part 4 of the CFTC's regulations through substituted compliance with the Securities and Exchange Commission's recordkeeping rules under the Investment Company Act and the Investment Advisers Act of 1940:

- (i) Registered Fund CPOs,
- (ii) CTAs that are sub-advisers to Registered Funds whose operators are unable to rely on the exclusion in Regulation 4.5, and
- (iii) CPOs and CTAs to controlled foreign corporations ("CFCs") of Registered Funds.

In the Petition, ICI requests: (i) relief regarding the content of records to be kept; and (ii) relief regarding the manner of keeping such records, which relates to who may keep such records, and how such records must be kept (i.e., the technological requirements relating to recordkeeping). ICI is also requesting temporary no-action relief on an expedited basis to last until final rules relating to the Petition are adopted and effective.

Please provide your written comments on the Petition to Sarah Bessin at [sarah.bessin@ici.org](mailto:sarah.bessin@ici.org) and Rachel Graham at [rgraham@ici.org](mailto:rgraham@ici.org) by Tuesday, February 18.

Sarah A. Bessin  
Senior Counsel

Rachel H. Graham  
Senior Associate Counsel

[Attachment](#)

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