

**MEMO# 23132**

December 18, 2008

## **ICI Draft Comment Letter on SEC Temporary Exemption for Liquidation of Certain Money Market Funds**

[23132]

December 18, 2008

TO: INST. MONEY MARKET FUNDS ADVISORY COMMITTEE No. 37-08  
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 42-08  
MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 47-08  
SEC RULES COMMITTEE No. 90-08 RE: ICI DRAFT COMMENT LETTER ON SEC TEMPORARY  
EXEMPTION FOR LIQUIDATION OF CERTAIN MONEY MARKET FUNDS

As we previously informed you, the Securities and Exchange Commission has adopted Rule 22e-3T as an interim final temporary rule under the Investment Company Act of 1940 to provide relief from certain provisions of the Act for those money market funds that have elected to participate in the U.S. Treasury Department's Temporary Guarantee Program for Money Market Funds (the "Program"). [\[1\]](#) The Institute has prepared the attached comment letter, which is briefly summarized below.

Please provide your comments on the draft letter by Tuesday, December 23 to Jane Heinrichs by phone at (202) 371-5410 or by email at [jheinrichs@ici.org](mailto:jheinrichs@ici.org).

Under the Program, the Treasury Department will guarantee the share price of participating money market funds that seek to maintain a stable net asset value of \$1.00 per share, or some other fixed amount, subject to certain conditions and limitations. In particular, pursuant to the agreement executed with the Treasury Department ("Agreement"), a participating money market fund that experiences a "Guarantee Event" (i.e., breaks the buck) is required to commence liquidation within five business days (absent invoking a cure provision under the Agreement). The Agreement further requires the fund board to promptly suspend the redemption of its outstanding shares "in accordance with applicable Commission rules, orders and no-action letters." The fund then must be liquidated within

thirty days after a Guarantee Event unless the Treasury Department consents to a later date ("Liquidation Date").

Section 22(e) of the Investment Company Act prohibits funds, including money market funds, from suspending the right of redemption, or postponing the date of payment or satisfaction upon redemption of any redeemable security for more than seven days, absent certain specified circumstances or a Commission exemptive order. Without an exemption from Section 22(e), a participating money market fund that experiences a Guarantee Event under the Program will be unable to immediately implement and promptly effect an orderly liquidation as contemplated by the Agreement.

Rule 22a-3T will permit money market funds that commence liquidation under the Program to temporarily suspend redemptions of their outstanding shares and postpone the payment of redemption proceeds. The Commission's release notes that the temporary rule is designed to "facilitate orderly liquidations and help prevent the sale of fund assets at 'fire sale' prices. Such a result could lead to substantial losses for the liquidating fund and further depress prices for short-term securities that may be held in the portfolios of other money market funds."

The draft letter agrees with the Commission's rationale for the temporary rule and notes that the same rationale also applies to any money market fund that liquidates, regardless of the Program. Specifically, when the net asset value of a money market fund falls below \$1.00 per share and the fund's board decides to liquidate the fund, redemption requests can outpace the fund's ability to sell its portfolio instruments, to the detriment of the remaining shareholders. These requests also can outpace the Commission's ability to grant a timely exemptive order. Under these circumstances, requiring individual applications for exemptive relief from Section 22(e) does not serve the public interests. Accordingly, the draft letter urges the Commission, at the expiration of the temporary rule, to adopt a similar final exemptive rule available to all money market funds preparing to liquidate.

The draft letter also notes that the Rule 22e-3T's expiration date (October 18, 2009) does not take into consideration a situation in which a money market fund commences liquidation shortly before September 18, 2009 (the date beyond which the Program cannot be extended) and the Treasury Department consents to a Liquidation Date that extends beyond October 18. Accordingly, the letter recommends that Rule 22e-3T be available to any participating money market fund that has delivered to the Treasury Department the required notice indicating that it has experienced a Guarantee Event and will promptly commence liquidation of the fund under the terms of the Agreement.

Jane G. Heinrichs  
Associate Counsel

[Attachment](#)

#### **endnotes**

[1] See Memorandum to Inst. Money Market Funds Advisory Committee No. 36-08, Money Market Funds Advisory Committee No. 41-08, Municipal Securities Advisory Committee No. 45-08, and SEC Rules Members No. 137-08, dated November 21, 2008 [23013].

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