

MEMO# 28220

June 19, 2014

ICI Submits Letter of Support to House of Representatives for Amendment Regarding Registered Fund CPOs and CTAs

[28220]

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TO: ACCOUNTING/TREASURERS COMMITTEE No. 16-14
CLOSED-END INVESTMENT COMPANY MEMBERS No. 21-14
COMPLIANCE MEMBERS No. 12-14
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 41-14
ETF (EXCHANGE-TRADED FUNDS) COMMITTEE No. 13-14
ETF ADVISORY COMMITTEE No. 11-14
INVESTMENT ADVISER MEMBERS No. 21-14
SEC RULES MEMBERS No. 24-14
SMALL FUNDS MEMBERS No. 13-14
UNIT INVESTMENT TRUST MEMBERS No. 5-14 RE: ICI SUBMITS LETTER OF SUPPORT TO HOUSE OF REPRESENTATIVES FOR AMENDMENT REGARDING REGISTERED FUND CPOs AND CTAs

Paul Stevens, ICI's President and CEO, has submitted a letter to the U.S. House of Representatives expressing support for Representative Garrett's amendment to the Commodity Futures Trading Commission ("CFTC") reauthorization bill, H.R. 4413 (the Customer Protection and End User Relief Act). Representative Garrett's amendment ("Garrett Amendment") would exclude from the definitions of commodity pool operator ("CPO") and commodity trading advisor ("CTA") under the Commodity Exchange Act those investment advisers to registered investment companies ("registered funds") that invest in commodity interests limited to "financial commodities," e.g., S&P 500 swaps and other securities-like derivatives, and do not invest in traditional commodities, such as natural resource and agricultural commodities. The letter, which is summarized below, is attached to this memorandum, along with the text of the amendment.

The letter explains that, as a result of the CFTC's amendments to CFTC Rule 4.5, more than 70 fund companies managing over 5,000 mutual funds have had to register with the CFTC as CPOs. This duplicative regulation by the CFTC has resulted in increased costs for

registered funds and the Americans who invest in them. The letter asserts that, because registered funds are comprehensively regulated by the Securities and Exchange Commission (“SEC”), additional regulation by the CFTC is unnecessary, particularly for those funds which do not resemble or compete with traditional commodity pools.

The letter emphasizes that the Garrett Amendment would reduce the unnecessary regulation and costs created by CFTC Rule 4.5 without undermining investor protection. All registered funds and their advisers would remain comprehensively regulated by the SEC, including regulations that govern the funds’ derivatives holdings. Key CFTC rules would continue to govern registered funds whenever they trade in commodity interests, and the Garrett Amendment would not in any way alter the CFTC’s existing authority over all commodity interests.

H.R. 4413 is scheduled for floor consideration by the House of Representatives on Friday, June 20. Representative Garrett is expected to offer his amendment at that time.

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[Attachment](#)

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