

**MEMO# 29447**

October 26, 2015

# **ICI Global Letter To European Commission on Haircutting of Margin of Clients of Clearing Members for Central Counterparty Resolution and Recovery**

[29447]

October 26, 2015

TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 76-15

ICI GLOBAL TRADING & MARKETS COMMITTEE No. 51-15

INTERNATIONAL MEMBERS No. 36-15

SECURITIES OPERATIONS ADVISORY COMMITTEE RE: ICI GLOBAL LETTER TO EUROPEAN COMMISSION ON HAIRCUTTING OF MARGIN OF CLIENTS OF CLEARING MEMBERS FOR CENTRAL COUNTERPARTY RESOLUTION AND RECOVERY

ICI Global submitted a letter to the European Commission recommending that the resolution or recovery of a central counterparty ("CCP") should not entail haircutting of margin [\[1\]](#) posted by clients of clearing members. [\[2\]](#) ICI Global understands that the European Commission is preparing a legislative proposal on the recovery and resolution of CCPs and that discussions among policy-makers have focused in part on the use of margin haircutting in recovery and resolution of CCPs. A copy of the letter is attached.

The letter expresses ICI Global's view that client margin haircutting should never be used as a tool for recovery or for resolution of a CCP. Haircutting the margin of non-defaulting customers of clearing members would impose unfairly the costs of recovery and resolution of CCPs on entities that did not contribute to the losses or the default and do not have the ability to manage the risks of the CCP. Moreover, the potential for haircutting client margin would discourage customers of clearing members from voluntarily clearing trades. Haircutting client margin also would create inappropriate incentives for owners of, and participants in, CCPs. The letter recommends that, rather than looking to client margin, the European Commission should consider during the review of the European Market Infrastructure Regulation ("EMIR") whether other resources should be available to a CCP in the event of a substantial clearing member default.

George Gilbert

[Attachment](#)

**endnotes**

[1] Haircuts could be applied both to initial margin and to variation margin. Initial margin haircutting would require the CCP to write down initial margin provided by non-defaulting participants who then would be required to replenish the initial margin. Variation margin haircutting contemplates reducing pro rata the amount that the CCP would be obligated to pay participants with in-the-money (net) positions while continuing to collect in full from those participants with out-of-the money (net) positions. Losses, therefore, are allocated to participants who have experienced a gain and have not contributed to a participant default.

[2] We consistently have advocated to regulators that haircutting client margin is not an appropriate tool to recover or resolve a CCP. See ICI Memorandum No. 28900 (Apr. 16, 2015), available at <https://www.iciglobal.org/iciglobal/pubs/memos/memo28900>; ICI Memorandum No. 28134 (May 21, 2014), available at [https://www.iciglobal.org/my\\_ici/memorandum/memo28134](https://www.iciglobal.org/my_ici/memorandum/memo28134); ICI Memorandum No. 27632 (Oct. 10, 2013), available at <https://www.iciglobal.org/iciglobal/pubs/memos/memo27632>.