

MEMO# 29322

September 4, 2015

ESMA Issues Consultation Paper on Draft Implementing Technical Standards Under MiFID II; Member Feedback Requested by September 11

[29322]

September 4, 2015

TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 67-15
ICI GLOBAL TRADING & MARKETS COMMITTEE No. 44-15
REGISTERED FUND CPO ADVISORY COMMITTEE
SECURITIES OPERATIONS ADVISORY COMMITTEE RE: ESMA ISSUES CONSULTATION PAPER ON DRAFT IMPLEMENTING TECHNICAL STANDARDS UNDER MiFID II; MEMBER FEEDBACK REQUESTED BY SEPTEMBER 11

The European Securities and Markets Authority ("ESMA") recently issued a consultation paper seeking views on draft implementing technical standards ("ITS") under the revised Markets in Financial Instruments Directive ("MiFID II"). [1] Specifically, the ITS relate to: (1) the suspension and removal of financial instruments from trading on a trading venue; (2) the notification and provision of information for data reporting service providers; and (3) the weekly aggregated position reports for commodity derivatives, emission allowances and derivatives thereof.

Based on the responses received, ESMA will revise the ITS and send a final report to the European Commission for endorsement by January 3, 2016. Comments on the Consultation Paper are due by October 31. At this time, the Institute is not expecting to submit comments in response to the Consultation Paper. If you believe that we should comment on the Consultation Paper or on any of the specific questions raised, please contact Jennifer Choi at jennifer.choi@ici.org or (202) 326-5876 or Kenneth Fang at kenneth.fang@ici.org or (202) 371-5430 by close of business on September 11.

This memorandum briefly describes the ITS (which are technical rather than substantive in nature). First, ESMA proposes the format and timing for the communication and publication of suspensions, removals, and the lifting of suspensions of financial instruments that are traded on a regulated market or trading facility. Market operators and regulatory authorities generally make these communications and publications regarding the suspension or removal of an instrument. Second, ESMA proposes the forms, templates and

procedures that data reporting service providers would provide to competent authorities or follow when applying to become authorized. Third, ESMA proposes the timing, format, and process for publishing position reports that the trading venues that trade commodity derivatives, emission allowances or derivatives thereof above certain minimum thresholds must submit weekly to ESMA. [2] ESMA also proposes an automatic validation and error management process by which the ESMA system would validate the information submitted.

Jennifer S. Choi
Associate General Counsel

Kenneth C. Fang
Assistant General Counsel

endnotes

[1] See European Securities Market Authority, Consultation Paper, Draft implementing technical standards under MiFID II (Aug. 31, 2015), available at <http://www.esma.europa.eu/content/Consultation-Paper-Draft-implementing-technical-standards-under-MiFID-II> (“Consultation Paper”).

[2] Article 58(1)(a) of MiFID II requires that trading venues produce and make public, a weekly report of the aggregate positions in commodity derivatives, emission allowances or derivatives of emission allowances on that trading venue. See Article 58(1)(a) of MiFID II.