

**MEMO# 31448**

October 22, 2018

## **ICI Files Letter Urging Volcker Rule Reforms Relating to Regulated Funds**

[31448]

October 22, 2018 TO: ICI Members  
Investment Company Directors  
ICI Global Members SUBJECTS: International/Global  
Systemic Risk RE: ICI Files Letter Urging Volcker Rule Reforms Relating to Regulated Funds

As we reported previously, the five agencies (collectively, “Agencies”) responsible for implementing Section 619 of the Dodd-Frank Act, known as the “Volcker Rule,” issued a notice of proposed rulemaking (“Proposal”) to amend the implementing regulations adopted in 2013.<sup>[\*]</sup> The preamble to the Proposal states that the proposed amendments “are intended to provide banking entities with clarity about what activities are prohibited and to improve supervision and implementation of” the Volcker Rule. Although the Proposal does not include proposed rule changes specific to registered investment companies (“RICs”) and similar funds organized outside the United States (collectively, “regulated funds”), it poses detailed questions about the treatment of regulated funds under the Volcker Rule and inquires about potential solutions.

ICI has filed a comment letter focused on Volcker Rule concerns for regulated funds. The letter calls on the Agencies to adopt reforms to the Volcker Rule implementing regulations in two areas:

- *First, reforms to avoid impeding the activities and investments of regulated funds.* The current lack of sufficient exclusions for regulated funds and their activities leaves open the possibility that such a fund could be deemed to be a “banking entity” and thus subject to the full panoply of trading and investment restrictions in the Volcker Rule. This is an untenable result, and one that is directly at odds with the intent of Congress.
- *Second, reforms to eliminate unnecessary constraints on banking entities’ ability to offer regulated funds in jurisdictions outside the United States.* In contrast to the exclusion for RICs, the “foreign public fund” exclusion from the definition of “covered fund” is available only to regulated non-US funds that adhere to certain additional conditions, including regarding their distribution. These conditions are at odds with the Agencies’ intent to treat regulated non-US funds in a manner similar to RICs and to limit the extraterritorial application of the Volcker Rule.

In the letter, ICI strongly urges the Agencies to resolve regulated fund issues through

formal rule changes, which provide greater certainty and permanence than Agency or staff guidance. The letter includes proposed rule text for the Agencies' consideration.

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Associate General Counsel & Corporate Secretary

Rachel H. Graham  
Associate General Counsel

## [Attachment](#)

### **endnotes**

[\*] See Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, 83 Fed. Reg. 33432 (July 17, 2018).

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