

MEMO# 24043

December 23, 2009

ICI Comment Letter on CESR's Consultation on a Common Definition for European Money Market Funds

[24043]

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TO: INTERNATIONAL COMMITTEE No. 20-09
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 60-09
MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 69-09
SEC RULES MEMBERS No. 144-09 RE: ICI COMMENT LETTER ON CESR'S CONSULTATION
ON A COMMON DEFINITION FOR EUROPEAN MONEY MARKET FUNDS

The Committee of European Securities Regulators (CESR) issued a proposal for a common definition of European money market funds. [\[1\]](#) Specifically, CESR is proposing two classifications: (1) short-term money market funds and (2) longer-term money market funds. The definitions will apply to European UCITS money market funds and CESR recommends that the same approach be followed by member states for national-level non-UCITS money market funds. We have prepared a comment letter, which is attached and briefly summarized below, supporting CESR's efforts to establish a common definition for money market funds.

The letter notes that in the U.S., money market funds have been governed very effectively by the Securities and Exchange Commission, both as mutual funds generally and pursuant to Rule 2a-7, a carefully crafted rule under the Investment Company Act of 1940 that strictly limits the risks these funds can take. The letter states that it is this single framework of Rule 2a-7, combined with all the regulatory protections applicable to registered investment companies, that has made these funds uniquely identifiable and highly desirable to U.S. investors for more than 25 years. Although different from the single money market fund framework under Rule 2a-7 in the U.S., the letter supports CESR's

efforts to narrow and bring more clarity to the classification of money market funds in Europe. Indeed, given the narrow approach to a money market fund in the U.S., the letter limits its comments to those relating to CESR's proposed "short-term money market fund" definition, funds that we believe would be most similar to U.S. money market funds that are registered with the SEC and that comply with Rule 2a-7.

Common Definition of Money Market Funds

The letter commends the efforts of CESR to improve investor protection by harmonizing the definition of European money market funds. Based on similar concerns in the U.S., the letter notes that ICI has in the past advocated to the SEC that funds that appear to be similar to money market funds (because they use a name that could lead an investor to believe that it was investing in a money market fund or maintain a stable net asset value) be required to comply with the risk-limiting provisions of Rule 2a-7. The Institute was concerned that gaps in the regulatory structure could cause investors to be misled about the exact nature of their investments. The letter states that we believe that such concerns are equally applicable to European money market funds, which do not currently share a common definition of money market fund.

Strong Risk-Limiting Provisions

The letter notes that we are particularly pleased to see that CESR's proposed definition of short-term money market fund includes strict limits on portfolio quality (including an explicit responsibility on the fund's investment manager to perform credit analysis on all portfolio instruments that is in addition to the credit rating of the instruments) and maturity (including limitations relating to weighted average maturity and weighted average life). The letter also supports the proposed requirement that such funds perform stress testing, a requirement that was recommended by, among others, the ICI's Money Market Working Group. We believe that together these provisions would impart substantial benefits to European money market funds and allow money market funds to be more resilient to widespread credit market disruptions, such as those that occurred in 2008.

To provide further protection for investors in European money market funds, the letter recommends that CESR consider a requirement that money market funds maintain a minimum ready supply of cash to fund redemptions through explicit liquidity requirements and a provision relating to diversification.

On the other hand, as part of the proposed definition, the letter opposes CESR's suggested option that would restrict a short-term money market fund from investing in structured financial instruments or asset-backed commercial papers. The letter notes that asset-backed securities come in many different forms and structures with very different risks, including significantly varying collateral and structural risks. The letter concludes by stating that we believe that investment advisers to European money market funds should continue to be permitted to invest in asset-backed securities when appropriate and consistent with the investment objective of the money market fund.

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[Attachment](#)

endnotes

[1] Committee of European Securities Regulators, Consultation Paper: A Common Definition of European Money Market Funds (CESR/09-850), October 20, 2009, available at http://www.cesr-eu.org/data/document/09_850.pdf.

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