

MEMO# 27742

December 5, 2013

ICI Submits Supplemental Comment Letter on SEC's Proposed Rules on Capital, Margin and Segregation

[27742]

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TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 97-13
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 85-13
SEC RULES MEMBERS No. 110-13 RE: ICI SUBMITS SUPPLEMENTAL COMMENT LETTER ON SEC'S PROPOSED RULES ON CAPITAL, MARGIN AND SEGREGATION

ICI submitted a supplemental comment letter to the Securities and Exchange Commission ("SEC") on its proposed capital, margin, and segregation requirements for security-based swap dealers ("SBSDs") and major security-based swap participants ("MSBSPs") after meeting with the SEC staff this fall. [\[1\]](#) A copy of the letter is attached. ICI previously submitted a comment letter on February 4, 2013 ("February Letter"). [\[2\]](#)

After briefly reiterating the significant points from the February Letter, the letter focuses on the SEC's proposed capital charge on an SBSB when its counterparty elects an independent custodian to hold collateral (which was specifically discussed in the meeting with SEC staff). The letter argues that the imposition of such a capital charge on an SBSB would result in adverse consequences and that such a result is unnecessary to satisfy the SEC's regulatory objectives for the reasons discussed in the letter.

The letter provides detailed information regarding the arrangements currently in place for holding collateral of registered funds that may be helpful to the SEC. Specifically, the letter describes: (1) how the current tri-party agreements should satisfy the requirements under Proposed Rules 18a-3 and 18a-4; (2) the significant protections provided by the tri-party arrangements; (3) the current use of these arrangements and industry efforts to expand their use with the implementation of the Dodd-Frank requirements; and (4) terms that should be required in tri-party collateral agreements to address any residual concerns that the SEC staff may have regarding appropriate control by SBSBs over collateral posted by counterparties.

Jennifer S. Choi

[Attachment](#)

endnotes

[1] Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers, 77 FR 70214 (Nov. 23, 2012) (“Proposal”), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-11-23/pdf/2012-26164.pdf> implementing regulations under Title VII of The Dodd Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”), Pub. L. 111-203, 124 Stat. 1376 (2010).

[2] Letter from Karrie McMillan, General Counsel, Investment Company Institute, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated February 4, 2013, available at <http://www.ici.org/pdf/26967.pdf>.

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