

**MEMO# 28831**

March 13, 2015

# **ICI Submits Statement to Congress on CFTC Fiscal Year 2016 Appropriations Request**

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TO:

REGISTERED FUND CPO ADVISORY COMMITTEE  
CLOSED-END INVESTMENT COMPANY MEMBERS No. 7-15  
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 16-15  
SMALL FUNDS MEMBERS No. 11-15  
SEC RULES MEMBERS No. 17-15

RE:

ICI SUBMITS STATEMENT TO CONGRESS ON CFTC FISCAL YEAR 2016 APPROPRIATIONS REQUEST

ICI filed today a statement for the record (“Statement”) with the U.S. House of Representatives, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, Committee on Appropriations (“Committee”), in connection with the hearing held by the Committee to consider the appropriations request for the Commodity Futures Trading Commission (“CFTC”). [\[1\]](#) The Statement, which is attached and is summarized briefly below, focuses on ICI’s concerns regarding the CFTC’s amendments to CFTC Rule 4.5 and ICI’s support of an amendment (the “Garrett amendment”) to a CFTC reauthorization bill in the last Congress that would have exempted many registered fund advisers from having to register with the CFTC as commodity pool operators (“CPOs”). [\[2\]](#)

The Statement questions the CFTC’s decision to modify Rule 4.5 as part of a 2012 rulemaking that was not mandated (or even contemplated) by the Dodd-Frank Wall Street Reform and Consumer Protection Act. It emphasizes the significant implications the Rule 4.5 amendments have had for many asset management firms, and that most of the costs imposed by this additional regulation will be indirectly borne by registered investment company (“registered fund”) shareholders. The Statement explains that mutual funds and

other types of registered funds are extensively regulated, and asserts that the CFTC failed to demonstrate the need for registration as CPOs by registered fund advisers.

The Statement explains that the Garrett amendment would have addressed these concerns in a manner that is consistent with the CFTC's stated intent in adopting the Rule 4.5 amendments. The Garrett amendment would have exempted registered fund advisers from having to register with the CFTC as CPOs if their funds invest in commodity interests limited to "financial commodities," e.g., S&P 500 swaps and other securities-like derivatives, and do not invest in traditional commodities, such as natural resource and agricultural commodities.

Sarah A. Bessin  
Associate General Counsel

## [Attachment](#)

### **endnotes**

[1] The Committee hearing was held on February 11, 2015, but statements for the record were not due until after that date. A webcast of the hearing is available at: <http://appropriations.house.gov/calendararchive/eventsingle.aspx?EventID=393962>.

[2] See ICI Memorandum No. 28228 (June 28, 2014), available at [http://www.ici.org/my\\_ici/memorandum/memo28228](http://www.ici.org/my_ici/memorandum/memo28228).

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