

MEMO# 22918

September 26, 2008

ICI Receives No-Action Letter Relating to the Federal Reserve ABCP Lending Facility

[22918]

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TO: INST. MONEY MARKET FUNDS ADVISORY COMMITTEE No. 24-08
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 29-08
SEC RULES MEMBERS No. 103-08 RE: ICI RECEIVES NO-ACTION LETTER RELATING TO THE
FEDERAL RESERVE ABCP LENDING FACILITY

The staff of the SEC's Division of Investment Management today issued a no-action letter to the Institute stating that it will not recommend enforcement action under Section 17(a) of the Investment Company Act of 1940 or the rules thereunder if an eligible borrower purchases asset-backed commercial paper (ABCP) from an affiliated money market fund with cash borrowed through the Asset-Backed Commercial Paper Money Market Fund Liquidity Facility (AMLF) during the period when the AMLF is in effect. The staff's letter and the Institute's request are attached.

The AMLF enables depository institutions and bank holding companies to borrow from the Federal Reserve Bank of Boston on a nonrecourse basis if they use the proceeds to purchase certain types of ABCP from money market funds at amortized cost. Eligible borrowers include all U.S. depository institutions, bank holding companies (parent companies or U.S. broker-dealer affiliates), or U.S. branches and agencies of foreign banks. More information about the AMLF is available at <http://www.frbdiscountwindow.org/mmmf.cfm?hdrID=14>.

The Institute requested no-action relief on the basis that use of an affiliate as a counterparty was clearly contemplated by the Federal Reserve Board and, more importantly, would serve the interests of money market funds (and their shareholders) by allowing the funds to choose among as many potential AMLF counterparties as possible. Flexibility in this regard is highly desirable, given the limited number of counterparties, the restrictions they may place on their trades, and the speed with which money market funds may need to enter into AMLF transactions to protect the fund and its shareholders during periods of reduced liquidity in the ABCP market.

The staff's no-action assurances are based, in part, upon the following representations:

- The ABCP will be purchased with cash at amortized cost according to the terms of the AMLF. The transactions would satisfy the requirements of Rule 17a-9 under the 1940 Act,[1] except that the securities involved would continue to constitute Eligible Securities as defined in Rule 2a-7.
- The ABCP to be purchased from a fund will be determined by the fund's adviser depending on then-current market conditions and redemption needs. Such determinations will be made consistent with the adviser's fiduciary duty to the fund, and in the best interests of the fund's shareholders.
- The fund will keep and maintain records of these transactions as required by Rules 31a-1 and 31a-2 under the Act.

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[Attachment](#)

endnotes

[1] Rule 17a-9 exempts from Section 17(a) the purchase of a security that is no longer an Eligible Security, as defined in Rule 2a-7, from an open-end investment company holding itself out as a "money market" fund, provided that: (1) the purchase price is paid in cash; and (2) the purchase price is equal to the greater of the amortized cost of the security or its market price (in each case, including accrued interest).

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.