

MEMO# 24834

January 5, 2011

ICI Letter on CFTC Request for Comment on Anti-Disruptive Trading Practices Authority Contained in Dodd-Frank Act

[24834]

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TO: EQUITY MARKETS ADVISORY COMMITTEE No. 1-11
ETF (EXCHANGE-TRADED FUNDS) COMMITTEE No. 1-11
ETF ADVISORY COMMITTEE No. 1-11
CLOSED-END INVESTMENT COMPANY MEMBERS No. 1-11
SEC RULES MEMBERS No. 2-11 RE: ICI LETTER ON CFTC REQUEST FOR COMMENT ON ANTI-DISRUPTIVE TRADING PRACTICES AUTHORITY CONTAINED IN DODD-FRANK ACT

As we previously informed you, the Commodity Futures Trading Commission issued an advance notice of proposed rulemaking (“ANPR”) to request comment on authority provided by Section 747 of the Dodd-Frank Act to address certain disruptive trading practices. [\[1\]](#) ICI has filed a comment letter, a copy of which is attached, on the ANPR.

Need for Clarity as to Prohibited Trading Practices

The letter supports the CFTC’s examination of the issues surrounding the authority provided by Section 747 and states that it is critical that the rules governing the financial markets keep pace with the significant changes in the trading practices used by market participants. The letter notes, however, that the series of questions raised in the ANPR highlight the complexities of the trading practices that are the subject of Section 747 and the need for clarity as to the nature of the conduct that is prohibited under the section. The letter therefore recommends that in any future proposal implementing Section 747, the CFTC provide additional guidance as to the types of conduct that would constitute violations under the statute. The letter notes that it is important that any rulemaking surrounding trading does not create unintended consequences for funds or impede the use of legitimate trading practices.

“Spoofing” and the Cancellation of Orders

While the ANPR requests comment on a number of trading practices, the letter notes that it asks several questions regarding the practice of “spoofing” and the cancellation of orders. The letter strongly supports actions by the CFTC to address issues surrounding the increasing number of order cancellations in the markets, particularly when numerous orders are cancelled shortly after submission. The letter notes that ICI members report that certain of the practices and strategies surrounding cancellations often are designed to detect the trading of large blocks of securities by funds and to trade with or ahead of those blocks.

Ari Burstein
Senior Counsel - Securities Regulation

[Attachment](#)

endnotes

[1] Specifically, Section 747 of the Dodd-Frank Act amends the Commodity Exchange Act to make it unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that: (A) violates bids or offers; (B) demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or (C) is, is of the character of, or is commonly known to the trade as, “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution). In addition, the Dodd-Frank Act grants the CFTC authority to prohibit other trading practices that are disruptive of “fair and equitable trading.”

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