

MEMO# 31153

April 10, 2018

ICI and SIFMA AMG Submit Letter to US Banking Agencies Requesting Alignment of Applicability Dates with the Phased-In Compliance Schedule Under the Final QFC Stay Rules

[31153]

April 10, 2018 TO: ICI Members

Investment Company Directors

ICI Global Members

Derivatives Markets Advisory Committee

ICI Global Regulated Funds Committee

Money Market Funds Advisory Committee SUBJECTS: Compliance

Derivatives

International/Global

Investment Advisers

Money Market Funds

Trading and Markets RE: ICI and SIFMA AMG Submit Letter to US Banking Agencies

Requesting Alignment of Applicability Dates with the Phased-In Compliance Schedule Under the Final QFC Stay Rules

ICI and the Asset Management Group of the Securities Industry and Financial Markets Association (SIFMA AMG) recently submitted the attached letter to the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation ("US Banking Agencies"). The letter requests that the US Banking Agencies align the applicability date of their final rules regarding stays in qualified financial contracts ("QFCs") of covered banks so that the rules apply to a non-bank counterparty on the phased-in compliance date applicable to that counterparty.[\[1\]](#) The US Banking Agencies' final rules provide three phased-in compliance dates:

- January 1, 2019, if each party to the covered QFC is a covered entity or an excluded bank ("First Compliance Date");
- July 1, 2019, if each party to the covered QFC (other than the covered entity) is a financial counterparty that is not a covered entity or excluded bank; and
- January 1, 2020, if a party to the covered QFC (other than the covered entity) is not in

either of the categories above or is a small financial institution.

The final rules, however, require that a covered entity or excluded bank conform its QFCs to the final rules beginning on the First Compliance Date, including pre-existing QFCs when the covered entity or excluded bank enters into a new QFC with a counterparty after the First Compliance Date. The letter explains that, as a result, covered entities and excluded banks will expect their non-bank counterparties to conform their QFCs, including pre-existing QFCs, to the final rules as of the First Compliance Date, thus effectively depriving non-bank counterparties of the benefit of the phased-in compliance schedule. The letter recommends that the US Banking Agencies instead base the applicability date of the rules on the applicable phased-in compliance date for each type of counterparty.

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[Attachment](#)

endnotes

[1] For a summary of the final rules, please see ICI Memoranda Nos. 30877 (Sept. 18, 2017), *available at* https://www.ici.org/my_ici/memorandum/memo30877; 30907 (Oct. 11, 2017), *available at* https://www.ici.org/my_ici/memorandum/memo30907; and 30992 (Dec. 22, 2017), *available at* https://www.ici.org/my_ici/memorandum/memo30992.