

MEMO# 27946

March 11, 2014

ICI Submits Petition for Recordkeeping Relief to the CFTC

[27946]

March 11, 2014

TO: ACCOUNTING/TREASURERS COMMITTEE No. 6-14
CLOSED-END INVESTMENT COMPANY COMMITTEE No. 7-14
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 14-14
OPERATIONS COMMITTEE No. 10-14
SECURITIES OPERATIONS ADVISORY GROUP
TRANSFER AGENT ADVISORY COMMITTEE No. 13-14 RE: ICI SUBMITS PETITION FOR
RECORDKEEPING RELIEF TO THE CFTC

On March 11, ICI submitted a petition for rulemaking ("Petition") to the Commodity Futures Trading Commission ("CFTC") requesting that the CFTC amend (i) CFTC Regulation 4.12(c), which contains exemptions from certain of the CFTC's Part 4 regulations for CPOs to investment companies registered under the Investment Company Act of 1940 ("Investment Company Act") that are unable to rely on the exclusion in CFTC Regulation 4.5 ("Registered Fund CPOs"), (ii) CFTC Regulation 4.23, which contains recordkeeping requirements applicable to commodity pool operators ("CPOs"), and (iii) CFTC Regulation 4.33, which contains recordkeeping requirements applicable to commodity trading advisors ("CTAs"). The Petition, which is attached, requests that the following entities may satisfy their recordkeeping obligations under Part 4 of the CFTC's regulations through substituted compliance with the Securities and Exchange Commission's recordkeeping rules under the Investment Company Act and the Investment Advisers Act of 1940:

- (i) Registered Fund CPOs,
- (ii) CTAs that are sub-advisers to Registered Funds whose operators are unable to rely on the exclusion in Regulation 4.5, and
- (iii) CPOs and CTAs to controlled foreign corporations ("CFCs") of Registered Funds.

In the Petition, ICI requests: (i) relief regarding the content of records to be kept; and (ii) relief regarding the manner of keeping such records, which relates to who may keep such records, and how such records must be kept (i.e., the technological requirements relating

to recordkeeping). ICI is also requesting temporary no-action relief on an expedited basis to last until final rules relating to the Petition are adopted and effective.

Sarah A. Bessin
Senior Counsel

Rachel H. Graham
Senior Associate Counsel

[Attachment](#)

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.