

MEMO# 26882

January 15, 2013

ICI and ICI Global Comment Letter on FSB Proposed Policy Framework for "Other Shadow Banking Entities"

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TO: ICI GLOBAL MEMBERS
INTERNATIONAL MEMBERS No. 6-13
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 4-13
SEC RULES MEMBERS No. 9-13 RE: ICI AND ICI GLOBAL COMMENT LETTER ON FSB
PROPOSED POLICY FRAMEWORK FOR "OTHER SHADOW BANKING ENTITIES"

In November, the Financial Stability Board ("FSB") issued a consultative document ("Consultative Document") proposing a high-level policy framework that seeks to promote appropriate oversight and regulation of certain non-bank entities other than money market funds that engage in "credit intermediation." [\[1\]](#) Under the proposed policy framework, regulatory authorities would categorize non-bank financial entities based on five specified "economic functions" rather than legal forms or names. This categorization is intended to help regulators determine which of several proposed "policy toolkits" would best address the credit intermediation activities in which a given non-bank financial entity engages.

ICI and ICI Global submitted the attached comment letter in response to the Consultation Document. The letter notes that the FSB's recommendations—in particular, those regarding entities described as "client cash pools"—implicate some ICI and ICI Global member funds. It further states that as participants in the global financial markets, ICI and ICI Global members have an interest in a strong and well-regulated global financial system.

The letter begins with several general comments. It expresses disappointment that the FSB failed to address significant concerns ICI raised in its June 2011 comment letter on the FSB's background note entitled Shadow Banking: Scoping the Issues. [\[2\]](#) It reiterates an objection to the use of the inherently inaccurate and misleading terms "shadow banks" and "shadow banking" and points out the shortcomings of the bank-centric nature of the Consultative Document. The letter observes that to be credible, the FSB must take care to present a realistic and more balanced view of the financial system and financial regulation.

The letter then comments on certain aspects of the proposed recommendations. With respect to the proposed economic functions, the letter focuses on "Economic function 1:

Management of client cash pools with features that make them susceptible to runs.” Noting that the Consultative Document lists among possible examples “ultra short-term bond funds” and “short-duration exchange-traded funds,” the letter provides information about how these funds are regulated in the United States and other jurisdictions. It emphasizes that regulators must take existing regulation into account when considering additional measures and states that the FSB’s policy framework needs to respect and accommodate other, equally important policy goals that underlie regulatory approaches and requirements for non-bank financial entities in different jurisdictions.

The letter also addresses the proposed framework of policy toolkits. It supports statements in the Consultative Document indicating that the FSB intends to provide regulatory authorities with a substantial amount of discretion in whether or how they utilize the suggested policy tools to respond to perceived risks. It provides examples to illustrate why it is crucial to give regulators ample leeway. The letter strongly urges that any final FSB recommendations reflect clearly the FSB’s intent to provide flexibility to regulatory authorities to utilize the proposed policy tools as they deem appropriate in their particular circumstances.

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Senior Counsel - Securities Regulation

[Attachment](#)

endnotes

[1] Financial Stability Board, Strengthening Oversight and Regulation of Shadow Banking: A Policy Framework for Oversight and Regulation of Shadow Banking Entities, November 18, 2012, available at http://www.financialstabilityboard.org/publications/r_121118a.pdf. The Consultative Document is part of a broader FSB effort aimed at mitigating the potential risks associated with “shadow banking.”

[2] See FSB, Shadow Banking: Scoping the Issues (April 12, 2011), available at http://www.financialstabilityboard.org/publications/r_110412a.pdf. ICI’s comment letter on the background note is available at <http://www.ici.org/pdf/25258.pdf>.