

MEMO# 28349

August 28, 2014

ICI Global Submits Comments to Hong Kong Regulators on Proposed Reporting Rules for OTC Derivatives

[28349]

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 54-14

ICI GLOBAL MEMBERS No. 31-14

INTERNATIONAL MEMBERS No. 28-14 RE: ICI GLOBAL SUBMITS COMMENTS TO HONG KONG REGULATORS ON PROPOSED REPORTING RULES FOR OTC DERIVATIVES

ICI Global recently submitted a comment letter in response to a consultation paper issued by the Hong Kong Monetary Authority (“HKMA”) and the Securities and Futures Commission (“SFC”) on the mandatory reporting and related recordkeeping requirements for OTC derivatives. [\[1\]](#) The comment letter, which focuses on concerns with respect to how the proposed reporting requirements would affect non-Hong Kong (“HK”) funds, is attached.

The comment letter, which was submitted on behalf of US funds that are regulated under the Investment Company Act of 1940 (“ICA”) and non-US regulated funds publicly offered to investors (collectively, “Regulated Funds”), makes recommendations to avoid imposing duplicative and overlapping reporting obligations on cross-border transactions. Specifically, the letter urges the HKMA and the SFC to tailor the rules appropriately to require reporting only by entities that are sufficiently connected to Hong Kong. The letter also recommends that the HKMA and the SFC implement a “substituted compliance” or “equivalence” regime similar to those that may become available in the United States, European Union, and Singapore.

The letter also suggests that the HKMA and the SFC modify certain of their proposed exemptions. First, the letter asks the regulators to expand the proposed exemption for HK persons for transactions that are reportable by their HK Authorized Institutions (“AIs”) counterparties because AIs that are dealers and engage in a substantial volume of derivatives transactions would be better situated to report their transactions than would Regulated Funds and their managers. Second, the letter requests that a foreign fund manager not be required to report trades for a non-HK Regulated Fund that falls under the same reporting thresholds available to HK persons.

Finally, the letter urges the HKMA and the SFC to provide all market participants

(particularly foreign Regulated Funds and managers) sufficient time following the promulgation of final rules to implement reporting. The letter requests a minimum of one year for compliance with any new reporting rules.

Jennifer S. Choi
Senior Associate Counsel Securities Regulation

[Attachment](#)

endnotes

[1] Consultation paper on the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping) Rules (July 2014), available at <http://www.sfc.hk/edistributionWeb/gateway/EN/consultation/openFile?refNo=14CP6> (“Consultation Paper”).

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