

**MEMO# 25970**

March 8, 2012

## **Developments Relating to Recent Regulatory Proposals Applicable to "SIFIS" and Large Bank Holding Companies**

[25970]

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TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 9-12

MONEY MARKET FUNDS ADVISORY COMMITTEE No. 16-12

SEC RULES COMMITTEE No. 17-12 RE: DEVELOPMENTS RELATING TO RECENT REGULATORY PROPOSALS APPLICABLE TO "SIFIS" AND LARGE BANK HOLDING COMPANIES

Earlier this year, we alerted you to two proposals to implement certain provisions in Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") that apply to (1) bank holding companies with at least \$50 billion in total consolidated assets ("large BHCs") and (2) nonbank financial companies designated as systemically important financial institutions ("SIFIs") by the Financial Stability Oversight Council ("FSOC"). [\[1\]](#)

Below is an update on recent developments relating to these proposals.

### **Enhanced Prudential Standards - Comment Deadline Extended**

As we indicated previously, the Federal Reserve Board ("FRB") issued proposed rules to implement various portions of Section 165 of the Dodd-Frank Act, under which the FRB is required to establish enhanced prudential standards for large BHCs and SIFIs, and Section 166, concerning early remediation requirements for such entities. [\[2\]](#) Last Friday, the FRB announced that "[d]ue to the range and complexity of the issues addressed in the rulemaking" and in response to requests from the public, it has extended the comment deadline for the Section 165/166 Proposal from March 31, 2012 to April 30, 2012.

### **Office of Financial Research Assessments - ICI Comment Letter Filed**

As discussed in our earlier memorandum, the Treasury Department ("Treasury") issued a proposed rule to implement Section 155 of the Dodd-Frank Act, which directs the Treasury to establish an assessment schedule to collect from large BHCs and SIFIs assessments

equal to the total expenses of the Office of Financial Research (“OFR”). [3] The proposal would establish procedures to estimate, bill, and collect, on a semiannual basis beginning on July 20, 2012, the total budgeted expenses of the OFR, including expenses of the FSOC (as estimated separately by the FSOC) and the Title II “implementation expenses” (as defined in Section 210(n)(10)(C) of the Dodd-Frank Act) of the Federal Deposit Insurance Corporation. Under the proposal, these expenses would serve as the basis for an assessment imposed on individual companies according to each company’s total consolidated assets.

ICI has filed the attached comment letter on the OFR Assessment Proposal. The letter begins by noting that on previous occasions, ICI has expressed its view that SIFI designation would not be appropriate for registered investment companies or their investment advisers because these entities do not present the risks that SIFI designation is intended to address. The letter explains that, while ICI is hopeful that the FSOC will reach the same conclusion, ICI decided to comment on the proposal because the scope of SIFI designations remains an open question at this time.

The letter then addresses two aspects of the proposal. First, the letter argues that it is premature to apply the proposal to SIFIs, noting that it is difficult, if not impossible, to provide meaningful substantive comments on the proposal’s application to SIFIs when the public does not yet know with any degree of certainty what a SIFI is. The letter expresses concern that adopting an assessment methodology now that nominally applies to SIFIs will create a bias against tailoring the methodology for SIFIs in the future.

Second, the letter points out that Treasury’s proposed assessment methodology— under which assessments would be determined solely on the basis of a company’s total consolidated assets—is inconsistent with the requirements of Section 155 of the Dodd-Frank Act. The letter notes that Section 155 directs Treasury to establish an assessment schedule that takes into account differences among assessed companies, based on considerations that include the various risk-related factors set forth in Section 113 of the Dodd-Frank Act (e.g., extent of the company’s leverage, extent and nature of its off-balance-sheet exposures, amount and types of the company’s liabilities).

The letter recommends that Treasury remove references to SIFIs from the proposal and develop an assessment methodology that reflects the considerations specifically required by the Dodd-Frank Act.

Frances M. Stadler  
Senior Counsel - Securities Regulation

[Attachment](#)

#### **endnotes**

[1] See ICI [Memorandum](#) No. 25849 (January 27, 2012).

[2] Board of Governors of the Federal Reserve System, Enhanced Prudential Standards and Early Remediation Requirements for Covered Companies, 77 Fed. Reg. 594 (Jan. 5, 2012) (“Section 165/166 Proposal”), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-01-05/pdf/2011-33364.pdf>.

[3] Department of the Treasury, Assessment of Fees on Large Bank Holding Companies and Nonbank Financial Companies Supervised by the Federal Reserve Board To Cover the Expenses of the Financial Research Fund, 77 Fed. Reg. 35 (Jan. 3, 2012) (“OFR Assessment Proposal”), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-01-03/pdf/2011-33659.pdf>.

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