

MEMO# 26840

January 7, 2013

Draft ICI Letter in Response to FSB Consultation on Securities Lending and Repo Markets; ICI Member Comments Requested by COB Thursday, January 11

[26840]

January 7, 2013

TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 3-13
ICI GLOBAL SECURITIES LENDING & REPO TASK FORCE No. 1-13
INTERNATIONAL COMMITTEE No. 1-13
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 1-13
SEC RULES COMMITTEE No. 3-13 RE: DRAFT ICI LETTER IN RESPONSE TO FSB
CONSULTATION ON SECURITIES LENDING AND REPO MARKETS; ICI MEMBER COMMENTS
REQUESTED BY COB THURSDAY, JANUARY 11

As you know, in November, the Financial Stability Board published for comment policy recommendations relating to securities lending and repos. [\[1\]](#) The FSB's consultation sets out recommendations for addressing financial stability risks in this area, including enhanced transparency, regulation of securities financing, and improvements to market structure. Comments are due to the FSB on January 14, 2013.

Attached is a draft ICI letter in response. [\[2\]](#) The draft ICI letter makes a number of comments, both in general and in response to specific regulatory recommendations. The principle comments are:

General Comments

- We urge the FSB to clearly distinguish securities lending from repos in making its final recommendations. The letter notes that securities lending and repo markets are distinct and often quite different and that while some of the FSB's recommendations may apply to both markets, most should be tailored to address the unique issues presented in each context.
- While we strongly support the FSB's efforts to address systemic risks, we urge it to take a balanced approach to its recommendations. We suggest that, in its final report, the FSB explicitly recognize not only the potential risks with regard to securities lending and repo financing, but also the benefits of those activities and the

ways in which existing regulation or market practices mitigate systemic risks.

- We suggest that, given the differences in securities lending and repo markets around the world and differences in the extent of existing regulation, the FSB take a less prescriptive approach with its final recommendations, in most cases encouraging national regulators to consider its recommendations in light of the particular circumstances in their market, rather than directing these regulators to adopt a specific type of requirement.

Specific Comments

- The draft letter supports many of the FSB's recommendations with respect to regulatory reporting and market transparency. The letter argues that the FSB can and should play a critical role in fostering a global approach to the collection of data, so that regulators around the world can gain access to consistent and comprehensive data without imposing duplicative or incompatible reporting obligations on market participants.
- The letter further suggests that, in gathering data, authorities should seek to obtain only the information they need in the most efficient way reasonably available. It notes that a majority of transactions in these markets involve lending agents or repo clearing banks, respectively, which should be looked to as primary sources of data. The letter recommends that reporting obligations extend to individual market participants only when the information that can be collected from these primary sources proves insufficient for the authorities' purposes.
- While we support transparency in many respects, the letter takes issue with the FSB's recommendation that the economic terms of securities lending transactions be disclosed to the public. The letter argues that it would be difficult to disclose aggregated data on these terms in a meaningful way, and even if that could be done, such disclosure is unnecessary to mitigate systemic risks.
- The letter opposes the FSB's recommendations with respect to corporate disclosure and fund manager disclosure. While supportive of transparency in these areas, the letter states that the FSB should defer to local authorities on these types of disclosure issues, which have little or no connection to systemic risk.
- For a number of reasons, the letter argues that the FSB's focus on repo haircuts is misplaced, particularly with respect to any attempt to set specific fixed or minimum numerical floors.
- The letter also questions whether the FSB needs to set forth specific minimum regulatory standards on collateral valuation and management, noting that two of the FSB's three principles in this regard have already been implemented in the U.S. and arguing that the third is based on a faulty premise. More specifically, the draft letter urges the FSB not to limit repo market participants to collateral that they are able to hold outright following a counterparty failure. The letter argues that, as proposed, the FSB's recommendation might be misinterpreted to restrict repo buyers only to collateral that they could have purchased outright and held indefinitely for investment, which would be inconsistent with the fundamental nature of a repo and would unduly restrict the market without lessening the risk of a "fire sale" of collateral following a counterparty default.

As noted above, comments are due to the FSB on January 14, 2013. Accordingly, please provide any comments, questions, or suggested edits to the draft letter to me at rcg@ici.org or 202/371-5430 by the close of business on Thursday, January 11.

Robert C. Grohowski
Senior Counsel
Securities Regulation - Investment Companies

[Attachment](#)

endnotes

[1] See Institute Memorandum No. 26711, dated November 21, 2012. The consultation is available at http://www.financialstabilityboard.org/publications/r_121118b.pdf.

[2] ICI Global also is commenting on the consultation. ICI Global members should receive a draft ICI Global letter shortly.

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.