

**MEMO# 27111**

March 14, 2013

# **ICI and ICI Global Comment Letter to Basel Committee and IOSCO in Response to Near-Final Proposal on Margin Requirements for Uncleared Derivatives**

[27111]

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TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 26-13  
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 26-13  
ICI GLOBAL MEMBERS  
INTERNATIONAL MEMBERS No. 20-13  
SEC RULES MEMBERS No. 31-13 RE: ICI AND ICI GLOBAL COMMENT LETTER TO BASEL COMMITTEE AND IOSCO IN RESPONSE TO NEAR-FINAL PROPOSAL ON MARGIN REQUIREMENTS FOR UNCLEARED DERIVATIVES

ICI and ICI Global have submitted a comment letter in response to the second consultative document on the margin requirements for non-centrally cleared derivatives published by the Basel Committee on Banking Supervision ("BCBS") and the International Organization of Securities Commissions ("IOSCO"). [\[1\]](#) A copy of the comment letter is attached.

In the Consultation Paper, the BCBS and IOSCO specifically request comment on issues relating to: (1) the treatment of physically-settled foreign exchange ("FX") forwards and swaps under the framework; (2) the ability to engage in limited re-hypothecation of collected initial margin; (3) the proposed phase-in schedule of the requirements; and (4) the adequacy of the quantitative impact study conducted by the BCBS and IOSCO.

Before addressing the questions raised by the BCBS and IOSCO, the letter states its general support for the near-final policy framework. In particular, the letter supports the determination by the BCBS and IOSCO to require all covered entities to exchange on a bilateral basis initial and variation margin and to permit the use of a universal threshold (i.e., an amount under which a covered entity would have an option of not collecting initial margin) for all covered entities.

With respect to the questions raised in the Consultation Paper, the comment letter responds to the first three questions raised in the near-final policy margin framework. First, the letter states that FX forwards and swaps should be exempt from margin requirements

because the FX forwards and swaps market is markedly different than other derivatives markets and imposing margin requirements on these instruments would not likely produce the benefits that would result for other types of derivative instruments. Second, the letter supports the BCBS and IOSCO proposal to impose restrictions on the re-hypothecation of collateral collected as initial margin and requests within the framework the ability to use a third-party custodian to hold collateral. Third, the letter generally supports the proposed phase-in schedule of the margin requirements but seeks confirmation regarding the level at which the threshold and de minimis amounts would apply. Finally, the letter provides two other comments regarding the calculation of margin (i.e., 10-day liquidation horizon) and the international coordination of derivatives regulations.

Jennifer S. Choi  
Senior Associate Counsel – Securities Regulation

#### [Attachment](#)

#### **endnotes**

[1] Second Consultative Document, Margin Requirements for Non-Centrally-Cleared Derivatives, Basel Committee on Banking Supervision and Board of the International Organization of Securities Commissions, February 2013, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD403.pdf> (“Consultation Paper”). For a summary of the Consultation Paper, see ICI Memorandum No. 27033 (February 20, 2013), available at [http://www.ici.org/my\\_ici/memorandum/memo27033](http://www.ici.org/my_ici/memorandum/memo27033).