

MEMO# 27340

June 28, 2013

CFTC Grants Partial Relief in Response to Request by ICI and SIFMA AMG to Extend Compliance Date for Certain FX Transactions

[27340]

June 28, 2013

TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 57-13
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 52-13
INVESTMENT ADVISER MEMBERS No. 44-13
SEC RULES MEMBERS No. 61-13 RE: CFTC GRANTS PARTIAL RELIEF IN RESPONSE TO REQUEST BY ICI AND SIFMA AMG TO EXTEND COMPLIANCE DATE FOR CERTAIN FX TRANSACTIONS

On June 27, 2013, the Division of Swap Dealer and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“CFTC”) issued partial relief in response to a request by ICI and the Asset Management Group (“AMG”) of the Securities Industry and Financial Markets Association regarding the documentation requirements in Regulations § 23.500 through § 23.505 (“Final Swap Documentation Rules”) under the Commodity Exchange Act. [\[1\]](#) ICI and AMG had requested an extension of the compliance date of the Final Swap Documentation Rules for foreign exchange (“FX”) swaps and forwards exempted from the definition of swap by the Secretary of the Treasury (“Exempt FX Transactions”). [\[2\]](#) The Division’s relief also extends to FX transactions that are swaps (“Swaps on FX”). A copy of the letter is attached.

Under the relief, a swap dealer (“SD”) or a major swap participant (“MSP”) must comply with Regulation 23.504 by (1) September 1, 2013 with respect to a counterparty that is an active fund; or (2) December 31, 2013 with respect to any other counterparty except a registered SD or MSP, subject to certain conditions. The conditions include that: (a) the SD or MSP has established and is maintaining the written policies and procedures required under Regulation 23.504(a)(2); (b) the only swaps that are currently in effect between the SD or MSP and the counterparty as of June 27, 2013 are Exempt FX Transactions and Swaps on FX; (c) from June 27, 2013 until the expiration of the no-action relief, the SD or MSP only enters into swaps with the counterparty that are Exempt FX Transactions and Swaps on FX; and (d) as of June 27, 2013, Exempt FX Transactions and Swaps on FX currently in effect

between the SD or MSP and the counterparty are not governed by relationship documentation that is, or is substantially similar to, an ISDA Master Agreement.

Jennifer S. Choi
Senior Associate Counsel – Securities Regulation

[Attachment](#)

endnotes

[1] The letter also responds to separate requests by the Global Financial Markets Association, Global Foreign Exchange Division, the Financial Services Roundtable, State Street Bank and Trust Company, and the International Swaps and Derivatives Association.

[2] For a summary of the request letter, see ICI Memorandum No. 27275 (June 6, 2013), available at http://www.ici.org/my_ici/memorandum/memo27275.

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.