

MEMO# 30615

March 2, 2017

Draft ICI Global Comment Letter on FSB Consultation on Central Counterparty (Clearinghouse) Resolution and Resolution Planning; Member Feedback Requested by March 9

[30615] March 2, 2017 TO: Derivatives Markets Advisory Committee
ICI Global Trading & Markets Committee
International Committee
Securities Operations Advisory Committee RE: Draft ICI Global Comment Letter on FSB Consultation on Central Counterparty (Clearinghouse) Resolution and Resolution Planning; Member Feedback Requested by March 9

As previously reported, the Financial Stability Board (FSB) recently proposed guidance on central counterparty (CCP) resolution and resolution planning.^[1] This Consultation is intended to assist authorities with developing a consistent international process for CCP resolution.

ICI Global has prepared the attached draft comment letter in response to the Consultation. If you have comments on the draft letter please send them to George Gilbert at george.gilbert@ici.org by **Thursday, March 9, 2017**.

The draft letter urges the FSB to focus on enhancing market confidence by recommending that CCP resolution plans strike an appropriate balance between providing a level of certainty regarding the resolution process and allowing resolution authorities sufficient flexibility to respond to unanticipated circumstances. The letter explains the importance of regulatory supervision to monitoring CCPs and reducing the likelihood of the need to trigger a resolution plan. The letter also details how the nearly limitless discretion the Consultation proposes to afford CCPs and resolution authorities risk undermining market confidence. In addition, we caution against adopting the elements of the proposed guidance that promote resolution strategies that would enable a distressed CCP or its resolution authority to seize the assets of non-defaulting customers of clearing members through margin haircuts or contract tear ups.

Jennifer S. Choi

Associate General Counsel

George M. Gilbert
Counsel

[Attachment](#)

endnotes

[1] See ICI Memorandum No. 30567 (February 7, 2017), *available at* https://www.ici.org/my_ici/memorandum/memo30567; FSB, *Guidance on Central Counterparty Resolution and Resolution Planning, Consultative Document*, February 1, 2017, *available at* <http://www.fsb.org/wp-content/uploads/Guidance-on-Central-Counterparty-Resolution-and-Resolution-Planning.pdf> (Consultation).

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.