

MEMO# 26644

November 5, 2012

Draft ICI Comment Letter in Response to Reopening of Comment Period by Banking Regulators on Proposed Margin Requirements for Uncleared Swaps; Member Comments Requested by November 12

[26644]

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TO:

CLOSED-END INVESTMENT COMPANY COMMITTEE No. 41-12
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 62-12
SEC RULES COMMITTEE No. 69-12

RE:

DRAFT ICI COMMENT LETTER IN RESPONSE TO REOPENING OF COMMENT PERIOD BY BANKING REGULATORS ON PROPOSED MARGIN REQUIREMENTS FOR UNCLEARED SWAPS; MEMBER COMMENTS REQUESTED BY NOVEMBER 12

The banking regulators have re-opened the comment period on their proposed margin and capital requirements for uncleared swaps and security-based swaps in light of efforts by the Basel Committee on Banking Supervision (“BCBS”) and the International Organization of Securities Commissions (“IOSCO”) to develop harmonized international margin standards for uncleared swaps . [\[1\]](#)

ICI has prepared a draft comment letter, which is attached and briefly summarized below. If you have comments on the draft letter, please provide them to Jennifer Choi at jennifer.choi@ici.org by Monday, November 12.

The draft letter is intended to supplement our prior submission to the banking regulators in view of the BCBS/IOSCO Consultation Paper. [2] The letter urges the banking regulators to require equivalent two-way margin obligations for both counterparties to a swap transaction. To better protect counterparties and the swaps markets more generally, the letter recommends that the banking regulators adopt final rules to require covered swap entities [3] to post initial and variation margin to their non-covered swap entity counterparties at the same level and in the same manner as required for the counterparty.

The letter also urges the banking regulators to permit registered funds to use thresholds and not to post margin under certain thresholds. ICI recommends that the banking regulators recognize that funds are highly regulated, financially sound swap counterparties and should be included in the category of counterparties that are allowed to use an initial margin threshold below which they would not be required to post collateral.

Jennifer S. Choi
Senior Associate Counsel – Securities Regulation

[Attachment](#)

endnotes

[1] The banking regulators include the Board of Governors of the Federal Reserve System, Farm Credit Administration, Federal Deposit Insurance Corporation, Federal Housing Finance Agency, and Office of the Comptroller of the Currency. See Margin and Capital Requirements for Covered Swap Entities; Reopening of Comment Period, 77 FR 60057 (Oct. 2, 2012), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-10-02/pdf/2012-24276.pdf>; Margin and Capital Requirements for Covered Swap Entities, 76 FR 27563 (May 11, 2011), available at <http://www.gpo.gov/fdsys/pkg/FR-2011-05-11/pdf/2011-10432.pdf>. See Margin Requirements for Non-Centrally-Cleared Derivatives, Basel Committee on Banking Supervision and Board of the International Organization of Securities Commissions, July 2012, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD387.pdf> (“Consultation Paper”).

[2] See [Letter](#) from Karrie McMillan, General Counsel, ICI, to David A. Stawick, Secretary, CFTC, dated July 11, 2011.

[3] Covered swap entities are swap dealers, security-based swap dealers, major swap participants and security-based major swap participants within the scope of the banking regulators’ oversight.