The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 27356

July 5, 2013

IRS Proposal to Except from the Wash Sale Rule De Minimis Losses When Shares of a Floating NAV Money Market Fund are Redeemed

[27356]

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TO: ACCOUNTING/TREASURERS MEMBERS No. 21-13
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MONEY MARKET FUNDS ADVISORY COMMITTEE No. 14-13
MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 14-13
TRANSFER AGENT ADVISORY COMMITTEE No. 51-13 RE: IRS PROPOSAL TO EXCEPT FROM THE WASH SALE RULE DE MINIMIS LOSSES WHEN SHARES OF A FLOATING NAV MONEY MARKET FUND ARE REDEEMED

The Internal Revenue Service, in Notice 2013-48, [1] proposes to issue a revenue procedure excepting from the wash sale rule [2] certain de minimis losses on redemptions of shares in a money market fund with a net asset value ("NAV") that floats under the June 2013 SEC proposal . [3] Specifically, a loss would be treated as de minimis for wash sale purposes if the per-share redemption proceeds were not more than one half of one percent (50 basis points) less than the cost basis of the securities redeemed. The IRS rationale for the proposed de minimis exception is that money market fund share redemptions, "which have relatively stable values even when share prices float, do not give rise to the concern that section 1091 is meant to address."

The IRS Notice states that the proposed guidance "is intended to mitigate tax compliance burdens that may result" from the money market fund changes proposed by the SEC. [4] Under one of the SEC's proposals, prime and tax-exempt institutional money market funds would be required to float their NAV.

The IRS requests that comments on the proposed revenue procedure be submitted no later than October 28, 2013.

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endnotes

[1] http://www.irs.gov/pub/irs-drop/n-13-48.pdf.

[2] Under Internal Revenue Code section 1091, a taxpayer may not realize a loss from a securities sale if, within 30 days before or after the sale the taxpayer acquires substantially identical securities. Instead, the amount of the disallowed loss is added to the cost basis of the acquired shares.

[3] See Money Market Fund Reform; Amendments to Form PF, SEC Release No. IC-30551 (June 5, 2013), available at http://www.sec.gov/rules/proposed/2013/33-9408.pdf. See also Institute Memorandum (27287), dated June 10, 2013.

[4] The discussion of tax issues arising from a floating NAV are on pages 115 – 120 of the SEC’s proposal.