

MEMO# 27893

February 18, 2014

EU Commission Adopts Standards on Derivatives Contracts Between Non-EU Entities Subject to EU Regulations

[27893]

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TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 5-14
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 12-14
ICI GLOBAL MEMBERS No. 4-14
INVESTMENT ADVISER MEMBERS No. 5-14
INTERNATIONAL MEMBERS No. 4-14 RE: EU COMMISSION ADOPTS STANDARDS ON
DERIVATIVES CONTRACTS BETWEEN NON-EU ENTITIES SUBJECT TO EU REGULATIONS

On February 13, the European Commission adopted regulatory technical standards (“RTS”) specifying the circumstances in which derivatives transactions between two counterparties established outside the European Union (“EU”) would be subject to the European Market Infrastructure Regulation (“EMIR”). [1] The European Commission adopted the RTS, which were issued by the European Securities and Markets Authority (“ESMA”), without modification. [2]

The RTS will become effective 20 days after the date of their publication in the Official Journal of the European Union. The relevant portions of the RTS addressing non-EU counterparties will become applicable six months after the RTS become effective. The RTS will be binding and apply directly in all Member States of the European Union.

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endnotes

[1] Commission Delegated Regulation Supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to Regulatory Technical Standards on Direct, Substantial, and Foreseeable Effect of Contracts within the Union and to Prevent the Evasion of Rules and Obligations, available at http://ec.europa.eu/internal_market/financial-markets/docs/derivatives/140213-otc-derivativ

[es-technical-standards_en.pdf](#).

[2] Final Report, Draft Technical Standards under EMIR on Contracts with a Direct, Substantial and Foreseeable Effect within the Union and Non-Evasion (Nov. 15, 2013), available at

http://www.esma.europa.eu/system/files/2013-1657_final_report_on_emir_application_to_third_country_entities_and_non-evasion.pdf ("Final Report"). For a summary of the Final

Report, see ICI memorandum No. 27708 (Nov. 19, 2013), available at

http://www.ici.org/my_ici/memorandum/memo27708. For a summary of ICI's comment letter on ESMA's consultation paper, see ICI Memorandum No. 27564 (Sept. 16, 2013), available at http://www.ici.org/my_ici/memorandum/memo27564.

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