MEMORANDUM

TO: File
FROM: Division of Trading and Markets
RE: Meeting with representatives of the Investment Company Institute
DATE: June 1, 2012

On June 1, 2012, staff from the Division of Trading and Markets, Division of Investment Management, Division of Corporation Finance, and Division of Risk, Strategy and Financial Innovation met with Karrie McMillan (General Counsel), Frances Stadler (Senior Counsel – Securities Regulation), and Rachel Graham (Senior Associate Counsel – Securities Regulation) from the Investment Company Institute.

The purpose of the meeting was to discuss the proposed implementation of the Volcker Rule and the comment letters on the proposal from ICI and ICI Global. ICI also provided a handout to the Staff as a supplement to the discussion.

Attachment

ICI Global

ICI INVESTMENT COMPANY INSTITUTE®

Concerns with the Volcker Rule Proposal

June 1, 2012*

*Other than the date, these slides are identical to the slides used in a meeting with Chairman Schapiro on February 3, 2012.

Do Not Impede U.S. Registered Fund Activities

- Exclude funds registered under the Investment Company Act of 1940 from the definition of "banking entity"
  - Example: Banking entity sponsors/advisers commonly provide "seed" capital to new mutual funds – need to ensure this does not make the fund itself a "banking entity"
- Clarify that no 1940 Act registered fund will be a "covered fund"
- Authorized Participant ("AP") transactions related to registered exchange-traded funds -- exempt from the proprietary trading prohibition

Do Not Limit Investment Opportunities for Registered Funds and Their Shareholders

- Exempt asset-backed commercial paper ("ABCP") and municipal tender option bond ("TOB") programs from the proprietary trading, covered fund and Super 23A restrictions
  - Banking entities often sponsor ABCP and TOBs in reliance on Sections 3(c)(1) or 3(c)(7)
- Use Regulation S standards for the "solely outside the U.S." exemption to proprietary trading
  - The proposed standard could limit U.S. registered funds' ability to invest in non-U.S. securities, harming U.S. investors and the liquidity of foreign markets

Do Not Impair the Liquidity and Functioning of the Financial Markets

- Reduce complexity of, and difficulties complying with, the Proposal to ensure sufficient liquidity for registered funds
  - Eliminate the presumption that principal trading constitutes prohibited proprietary trading
  - Tailor the market making exemption to accommodate less liquid markets and securities
  - Ensure flexibility for risk mitigating hedging activities to facilitate market making activities
  - Expand government obligations exemption to cover *all* municipal securities and non-U.S. government securities

Limit Extra-Territorial Reach

- Non-U.S. retail funds are similar to U.S. registered funds, e.g., eligible for sale to the retail public, and subject to government oversight, and subject to substantive regulation
- Proposed definition of "covered fund" is broad, encompassing non-U.S. retail funds
  - Includes as any issuer organized or offered outside the United States that would be a covered fund (i.e., a fund relying on Section 3(c)(1) or 3(c)(7) of the 1940 Act) *were it organized or offered in the United States*
- Non-U.S. retail funds should be treated like U.S. registered funds and excluded from definitions of both "covered fund" and "banking entity"