

MEMO# 24437

July 23, 2010

ICI Letter Regarding SRO Clearly Erroneous Execution Rules

[24437]

July 23, 2010

TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 38-10
ETF (EXCHANGE-TRADED FUNDS) COMMITTEE No. 21-10
ETF ADVISORY COMMITTEE No. 30-10
EQUITY MARKETS ADVISORY COMMITTEE No. 28-10
SEC RULES MEMBERS No. 65-10 RE: ICI LETTER REGARDING SRO CLEARLY ERRONEOUS
EXECUTION RULES

As we previously informed you, the Securities and Exchange Commission has published proposals by the national securities exchanges and the Financial Industry Regulatory Authority ("FINRA") to clarify the process for breaking clearly erroneous trades. [\[1\]](#) Under the proposals, the rules would provide for uniform treatment: (1) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing exchange and subsequent transactions that occur before the trading pause is in effect on another exchange; and (2) of clearly erroneous execution reviews in events involving 20 or more stocks. In addition, the rules would limit the ability of the exchanges and FINRA to deviate from the proposed standards. The Institute's comment letter on the proposals is attached.

The letter supports the concept of amending the rules to provide greater certainty to the process for breaking clearly erroneous trades. It explains that the ambiguity of, and lack of uniformity under, the current rules was a contributing factor to the events of May 6. The letter raises the concern, however, that the proposed parameters for breaking trades would result in unintended consequences (e.g., manipulation). The letter also notes that the proposals only would address the procedural component of the clearly erroneous execution rules. Accordingly, the letter encourages the Commission to ensure that exchanges are vigilant in ascertaining that trades are broken only when truly erroneous -i.e., obviously incorrect or resulting from extraordinary market conditions or circumstances in which the

cancellation of the trade is necessary to maintain a fair and orderly market or to protect the public interest.

Heather L. Traeger
Associate Counsel

[Attachment](#)

endnotes

[1] See [Memorandum](#) to Closed-End Investment Company Members 36-10, ETF (Exchange-Traded Funds) Committee 19- 10, ETF Advisory Committee 27-10, Equity Markets Advisory Committee 26-10, and SEC Rules Members 63-10 [24415], dated July 12, 2010.

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