

COMMENT LETTER

July 23, 2010

ICI Comment Letter on Expansion of Single Stock Circuit Breakers Pilot Program (pdf)

July 19, 2010 Ms. Elizabeth M. Murphy Secretary Securities and Exchange Commission 100 F Street, N.E. Washington, D.C. 20549 Re: SRO Single Stock Circuit Breaker Proposals (File Nos. SR-BATS-2010-18, SR-BX-2010-044, SR- NASDAQ-2010-079, SR-NSX-2010-08, SR-NYSE-2010-49, SR-NYSEArca-2010-61, SR- NYSEAmex-2010-63, SR-ISE-2010-66, SR-EDGA-2010-05, SR-EDGX-2010-05, SR-CBOE-2010- 065, SR-FINRA-2010-033, SR-CHX-2010-14) Dear Ms. Murphy: The Investment Company Institute¹ strongly supports the proposed amendments, filed by the national securities exchanges and the Financial Industry Regulatory Authority, to expand the single stock circuit breaker pilot program. Specifically, the proposed amendments add securities included in the Russell 1000 Index as well as a number of exchange-traded products, including specified exchange- traded funds (“ETFs”), to the current pilot program. As the proposals note, adding the proposed additional securities is a step towards addressing concerns that the scope of the pilot currently may be too narrow. In addition, as discussed further below, including ETFs in the pilot addresses several concerns previously expressed by the Institute regarding their exclusion from the first phase of the pilot.² We appreciate the exchanges’ addressing these concerns on a timely basis. ¹The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$11.42 trillion and serve almost 90 million shareholders. ² See Letter from Karrie McMillan, General Counsel, Investment Company Institute, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated June 3, 2010. Ms. Elizabeth M. Murphy July 19, 2010 Page 2 of 3 Inclusion of ETFs in Circuit Breaker Pilot Program The proposal requests comment on a number of issues regarding the inclusion of ETFs within the circuit breaker pilot program and, in particular, the benefits and risks of including ETFs in the pilot. When the first phase of the pilot was proposed, the Institute expressed concerns over the failure to include ETFs that track the S&P 500 Index or other indices with substantially overlapping securities, many of which securities would be part of the pilot. As we explained in our prior letter, the market price of an ETF is typically highly correlated to the market price of its basket of component securities. Under normal circumstances, when trading has been halted for one or two component securities, an ETF may experience a slight deviation from the price of its basket because of the challenge of pricing the non-trading security; the ETF

may also trade with a wider spread to account for the associated risk. Still, the price of the ETF should retain a correlation to its basket. As illustrated on May 6, 2010, however, when multiple underlying securities experience trading halts or slowdowns, combined with the impact of a number of inefficiencies in our current market structure, the correlation between the prices of an ETF and its underlying basket may experience more severe dislocation. This scenario could repeat itself if circuit breakers on several S&P 500 Index or Russell 1000 Index securities are triggered before ETFs containing those securities are included in the pilot. We therefore are highly supportive that the proposal includes the proposed ETFs in the pilot. Excluding ETFs from circuit breakers that contain the individual securities comprising the ETFs' baskets creates risks that ETFs could again suffer disproportionately during a market event similar to that of May 6, which risks far outweigh any perceived benefits of excluding such ETFs. The proposals also note that the amendments include several ETFs on broad-based indices that also underlie options and futures products and that some commenters, particularly the non-equity exchanges, have raised concerns about whether halting an index-based ETF may adversely impact an index-based option or future. The events of May 6 illustrate the interdependency of the equity, options and futures markets and the need for coordinating across all types of markets. The Institute strongly supports the examination of the connection between price discovery for the equity markets and activity in the futures markets and whether rules need to be made consistent across all types of markets. We also recognize concerns that the circuit breaker pilot is not coordinated across other exchange-traded instruments whose value is correlated to securities included in the pilot, such as futures and options. The need for an examination of, and action on, these issues, however, should not prevent the inclusion in the pilot of ETFs on broad-based indices. Delaying implementation of the current proposals would put these ETFs at risk should the component securities experience volatility similar to that experienced on May 6.

3 Several questions remain regarding the parameters that should be used to determine which ETFs should be included in the pilot. For example, the proposed amendments do not include leveraged ETFs. The proposals explain that because the 10 percent trigger for circuit breakers in the pilot is not being amended, and because the exchanges do not believe that a 10 percent price movement is an appropriate threshold for leveraged ETFs, the exchanges are not proposing to include Ms. Elizabeth M. Murphy

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If you have any questions on our comment letter, please feel free to contact me directly at (202) 326-5815, Ari Burstein at (202) 371-5408, or Mara Shreck at (202) 326-5923. Sincerely, /s/ Karrie McMillan Karrie McMillan General Counsel cc: The Honorable Mary L. Schapiro The Honorable Kathleen L. Casey The Honorable Elisse B. Walter The Honorable Luis A. Aguilar The Honorable Troy A. Paredes Robert W. Cook, Director James Brigagliano, Deputy Director Division of Trading and Markets Andrew J. Donohue, Director Division of Investment Management U.S. Securities and Exchange Commission leveraged ETFs for now. We urge the Commission to continue to use the pilot program to consider whether different triggers are appropriate for different products.

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