

**MEMO# 27015**

February 14, 2013

## **ICI Comment Letter on NASDAQ Proposal for New ETF Order Type Pegged to INAV**

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TO: ETF (EXCHANGE-TRADED FUNDS) COMMITTEE No. 12-13

ETF ADVISORY COMMITTEE No. 12-13

EQUITY MARKETS ADVISORY COMMITTEE No. 6-13 RE: ICI COMMENT LETTER ON NASDAQ PROPOSAL FOR NEW ETF ORDER TYPE PEGGED TO INAV

On October 12, 2012, the Securities and Exchange Commission ("SEC") published for comment a proposal by the NASDAQ Stock Market LLC ("NASDAQ") to implement a new order type, pegged to intraday net asset value ("INAV"), for exchange-traded funds ("ETFs") comprised of U.S. component stocks. [1] On November 8, ICI filed a comment letter on the proposal. [2] While the letter did not object to the proposal, it questioned the purpose and benefit of an INAV pegged order, sought further clarity on the operation of the proposed order type, and raised concerns about the value of pegging orders to INAV. ICI was the only commenter on the proposal. On January 13, 2013, NASDAQ filed a letter with the SEC responding to ICI's comments.

On January 16, the SEC instituted proceedings under Section 19(b)(2)(B) of the Securities Exchange Act of 1934 to determine whether to approve or disapprove the proposed rule change. [3] As part of that process, the SEC solicited additional comments on the proposal. On February 13, the Institute filed the attached comment letter. The letter states that after further consideration, ICI members continue to have questions and concerns about certain aspects of the proposed INAV pegged order type, particularly those surrounding the benefit of the proposal to retail investors, the utility of INAV as a reference point for pricing an ETF order, and the potential for error in calculating INAV. It states that ICI members also believe there is a need for robust education regarding the proposed order type, should it be approved. The letter recommends that the SEC explore these issues further before determining whether to approve or disapprove the proposal.

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Associate Counsel

[Attachment](#)

## endnotes

[1] See NASDAQ Stock Market LLC: Notice of Filing of Proposed Rule Change With Respect to INAV Pegged Orders for ETFs, 77 Fed. Reg. 64167 (October 18, 2012).

[2] The letter is available at <http://www.sec.gov/comments/sr-nasdaq-2012-117/nasdaq2012117-1.pdf>.

[3] See NASDAQ Stock Market LLC: Order Instituting Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Change With Respect to INAV Pegged Orders for ETFs, 78 Fed. Reg. 4949 (Jan. 23, 2013).

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