

MEMO# 11485

December 21, 1999

DRAFT INSTITUTE COMMENT LETTER ON NASDAQ ORDER DISPLAY FACILITY

1 See Memorandum to Equity Markets Advisory Committee No. 38-99, dated December 10, 1999. 1 [11485] December 21, 1999 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 40-99 RE: DRAFT INSTITUTE COMMENT LETTER ON NASDAQ ORDER DISPLAY FACILITY

As we previously informed you,¹ the Securities and Exchange Commission ("SEC") has published for comment a proposed rule change filed by the NASD to enhance the Nasdaq quotation montage by creating a new facility for the display of trading interest (the "Nasdaq Order Display Facility") and to substantially modify the proposed Nasdaq National Market System ("NNMS"). The Institute has prepared a draft comment letter on the proposal. Under the proposal, Nasdaq market makers and ECNs would be able to display to the marketplace multiple agency and principal quotes/orders at single, as well as multiple, price levels that would be electronically accessible if and when the trading interest falls within the best three prices on either side of the market. The draft letter states that the proposed rule change thus would represent an important step in increasing transparency, increasing liquidity, and facilitating best execution in securities traded on the Nasdaq market and would increase access to the full depth of a security's trading interest by all market participants. In addition, the draft letter states that the Institute agrees with Nasdaq that the reserve size feature of the proposed system should benefit the market by allowing Nasdaq Quoting Market Participants to show the Nasdaq system, but not the market in general, additional trading interest. The reserve size feature therefore should increase liquidity in the Nasdaq market since reserve size will be electronically accessible to market participants while at the same time minimizing the potential market impact of displaying very large size. The proposing release also notes that with the implementation of the Order Collector Facility, locked and crossed markets should be virtually eliminated. The draft letter states that locked and crossed markets are a serious impediment to the efficient operation of the Nasdaq market as they interfere with the best execution of trades by market participants, especially in a fast moving, volatile market. The Institute therefore supports industry efforts to eliminate locked and crossed markets and we support this portion of the proposed rule change. Finally, the draft letter states that given the extremely short comment period (21 days from publication in the Federal Register) for the proposal, the comments contained in the letter are only ²preliminary comments and that the Institute will continue to examine the proposal and will submit additional comments if necessary. Comments on this proposal are due to the SEC no later than December 27, 1999. If you have any comments on the draft Institute letter, please provide them to the undersigned by phone at (202) 371-5408, by fax at (202) 326-5841, or by e-mail at aburstein@ici.org no later than December 22. Ari Burstein Assistant Counsel Attachment

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.