

MEMO# 16581

September 26, 2003

DRAFT INSTITUTE COMMENT LETTER ON NYSE PROPOSED RULE CHANGE REPEALING RULE 500

[16581] September 26, 2003 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 21-03 SEC RULES COMMITTEE No. 76-03 RE: DRAFT INSTITUTE COMMENT LETTER ON NYSE PROPOSED RULE CHANGE REPEALING RULE 500 As we previously informed you, the SEC has issued a notice of the filing of a proposed rule change by the New York Stock Exchange repealing NYSE Rule 500 relating to the delisting of a security by an issuer.¹ The Institute has prepared a draft comment letter (a copy of which is attached) on the proposed rule change. The most significant aspects of the draft comment letter are summarized below. Comments on the proposed rule change must be received by the SEC no later than October 1, 2003. If you have any comments on the Institute's draft letter, please contact the undersigned by phone at 202-371-5408 or by e-mail at aburstein@ici.org by September 30. The draft comment letter supports the proposed rule change. In particular, the draft letter states that easing the NYSE's delisting requirements should: create a more level playing field for markets trading securities currently listed on the Exchange; bring the NYSE's requirements in line with the requirements of other exchanges; and continue to provide adequate investor protection if an issuer chooses to delist its shares from the Exchange. The draft letter states, however, that while the Institute supports the easing of the Exchange's voluntary delisting requirements, we hope that the NYSE and other exchanges will, at the same time, maintain strong listing standards and not engage in a "race to the bottom" in an attempt to maintain and/or increase listings on their respective markets. In addition, we would expect the boards of companies currently listed on the Exchange that consider delisting under the amended requirements would ensure that this decision is in the best interest of investors. Ari Burstein Associate Counsel Attachment (in .pdf format) 1 Memorandum to Equity Markets Advisory Committee No. 20-03 and SEC Rules Committee No. 74-03, dated September 12, 2003.

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