

MEMO# 10510

November 24, 1998

SEC SOLICITS COMMENTS ON NYSE'S PROPOSED AMENDMENTS TO ITS SHAREHOLDER APPROVAL POLICY REGARDING STOCK OPTION PLANS

1 SEC Release No. 34-40679; File No. SR-NYSE-98-32 (Nov. 13, 1998); 63 Fed. Reg. 64304 (Nov. 19, 1998). 2 See Memorandum to Investment Advisers Committee No. 33-98 and SEC Rules Committee No. 100-98, dated October 8, 1998. See also, Memorandum to Investment Advisers Committee No. 30-98 and SEC Rules Committee No. 82-98, dated August 14, 1998 (Institute comment letter on NYSE's proposed amendments). [10510] November 24, 1998 TO: INVESTMENT ADVISERS COMMITTEE No. 37-98 SEC RULES COMMITTEE No. 120-98 RE: SEC SOLICITS COMMENTS ON NYSE'S PROPOSED AMENDMENTS TO ITS SHAREHOLDER APPROVAL POLICY REGARDING STOCK OPTION PLANS

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Securities and Exchange Commission recently issued a release soliciting comment on the New York Stock Exchange's proposed amendments to its shareholder approval policy concerning stock option and similar plans.¹ Specifically, as we reported to you earlier, the NYSE Board of Directors approved modifications to the Exchange's shareholder approval requirements regarding the definition of broadly-based stock option plans.² As modified, any plan would be deemed to be "broadly based" if (1) at least a majority of the issuer's full-time, exempt U.S. employees are eligible to participate under the plan, and (2) at least a majority of the shares of stock awarded under the plan (or shares of stock underlying options awarded under the plan) during the shorter of the three-year period commencing on the date the plan is adopted by the issuer, or the term of the plan itself, are made to employees who are not officers or directors of the issuer. This definition would be an exclusive test and not a safe harbor, as was proposed earlier. In addition, the definition of the term "officer" would conform to Rule 16a-1(f) under the Securities Exchange Act of 1934. Comments on the attached proposal are due Thursday, December 10, 1998. If you have any comments that you would like the Institute to consider including in its comment letter, please contact me by Thursday, December 3rd at (202) 326-5923 (phone), (202) 326-5839 (fax), or simmonbe@ici.org (e-mail). Barry E. Simmons Assistant Counsel
Attachment