

**MEMO# 16135**

June 2, 2003

## **NASDAQ RULEMAKING PETITION TO REPEAL NYSE RULE 500**

[16135] June 2, 2003 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 11-03 SEC RULES COMMITTEE No. 49-03 RE: NASDAQ RULEMAKING PETITION TO REPEAL NYSE RULE 500 The Nasdaq Stock Market has filed a petition for rulemaking with the Securities and Exchange Commission to repeal New York Stock Exchange Rule 500.1 NYSE Rule 500 requires that in order to delist its securities from the NYSE, a domestic issuer must (1) provide actual written notice to at least its 35 largest shareholders of record and publish a press release announcing the delisting proposal; (2) delay delisting for 20 to 60 business days from the later of the written notice or the press release; and (3) obtain the approval of the issuer's audit committee, in addition to the approval of the issuer's board. Nasdaq states that it is requesting that the SEC repeal NYSE Rule 500 for three reasons. First, Nasdaq believes that the rule serves no legitimate investor protection purpose under the current market structure. Second, Nasdaq states that the rule's mandatory shareholder notice provisions and waiting periods, as well as the requirement of audit committee approval, are detrimental to the interests of shareholders. Finally, Nasdaq believes the rule does not promote the development of the most efficient securities markets by impeding fair competition between markets. Ari Burstein Associate Counsel 1 Nasdaq's petition can be found on the SEC's website at <http://www.sec.gov/rules/petitions/petn4-482.htm>.

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