

MEMO# 17346

April 2, 2004

DRAFT INSTITUTE LETTER ON NYSE PROPOSAL TO PROVIDE AUTOMATIC EXECUTION FOR INSTITUTIONAL XPRESS ORDERS

[17346] April 2, 2004 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 14-04 RE: DRAFT INSTITUTE LETTER ON NYSE PROPOSAL TO PROVIDE AUTOMATIC EXECUTION FOR INSTITUTIONAL XPRESS ORDERS As we previously informed you,¹ the Securities and Exchange Commission has published for comment a proposed rule change filed by the New York Stock Exchange relating to the establishment of a pilot program providing that Institutional XPress orders be executed immediately against an XPress eligible NYSE liquidity quote bid or offer. 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 are due to the SEC no later than April 8, 2004. If you have any comments on the draft Institute letter, please contact the undersigned by phone at 202-371-5408, by fax at 202-326-5839, or by e-mail at aburstein@ici.org no later than April 7. The draft letter states that the Institute has made numerous recommendations to the Exchange aimed at improving the NYSE's Institutional XPress and Liquidity Quote systems, most significantly, that the NYSE make XPress orders ineligible for price improvement. The draft letter therefore commends the NYSE for taking steps to begin implementing greatly needed changes to increase the automatic execution of orders on the Exchange. The draft letter notes, however, that the NYSE would not institute the pilot program until certain technological enhancements to the Exchange's trading systems are completed. The draft letter therefore urges the NYSE to move expeditiously to make these necessary technological changes and implement the proposed pilot program as soon as possible. Ari Burstein Associate Counsel Attachment (in .pdf format) 1 Memorandum to Equity Markets Advisory Committee No. 9-04, dated March 18, 2004 [17246].

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