The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 11740

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INSTITUTE COMMENT LETTER ON RESCISSION OF NYSE RULE 390

[11740] March 20, 2000 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 17-00 SEC RULES COMMITTEE No. 42-00 RE: INSTITUTE COMMENT LETTER ON RESCISSION OF NYSE RULE 390 ____ The Institute has filed a comment letter (attached) with the Securities and Exchange Commission in connection with the proposed rule change filed by the New York Stock Exchange ("NYSE") to rescind NYSE Rule 390. The comment letter states that, in general, the Institute supports the rescission of NYSE Rule 390. The letter states, however, that the Institute shares the NYSE's concerns that approving the rescission of the rule without fully considering the collateral effects on internalization may have unintended adverse effects on the securities markets. The letter also states that we agree with the NYSE that the practice of broker-dealer internalization raises concerns about whether agency orders are being afforded an opportunity to receive the best possible price that may be available, as these orders do not interact with other public orders in the markets, and questions whether true price discovery occurs in these securities. The Institute therefore supports the NYSE's recommendation that the SEC adopt a market- wide requirement that broker-dealers not be permitted to trade as principal with their own customer orders unless they provide for "price improvement," i.e., a price to the order that is better than the national best bid or offer against which the order might otherwise be executed. The letter states that the Institute believes, however, that the rescission of Rule 390 should not be delayed while the SEC considers adopting a price improvement requirement. Ari Burstein Assistant Counsel Attachment

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