

MEMO# 11752

March 22, 2000

DRAFT INSTITUTE COMMENT LETTER ON REGULATION OF MARKET INFORMATION FEES AND REVENUES

1 See Memorandum to Equity Markets Advisory Committee No. 1-00 and SEC Rules Committee No. 3-00, dated January 7, 2000. [11752] March 22, 2000 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 19-00 SEC RULES COMMITTEE No. 46-00 RE: DRAFT INSTITUTE COMMENT LETTER ON REGULATION OF MARKET INFORMATION FEES AND REVENUES

As we previously informed you,¹ the Securities and Exchange Commission ("SEC") has published for comment a concept release (the "Release") regarding the regulation of market information fees and revenues. The Institute has prepared a draft comment letter (attached) on the Release. The draft comment letter states that the Institute believes that the issues raised by the Release are very important to the effective functioning of the markets. As the Release notes, the consolidated, real-time stream of market information is an important means of enhancing the transparency of the buying and selling interest in a security, for addressing the fragmentation of buying and selling interest among different market centers, and for facilitating the best execution of customers' orders by their broker-dealers. The Release also states that one of the developments in the securities industry prompting the SEC's review of market information arrangements are the NYSE's and Nasdaq's plans to become for-profit entities. The draft comment letter notes that the Institute stated in a letter to SEC Chairman Levitt last fall that the demutualization of the NYSE and Nasdaq raises a concern, which stems from the overwhelming dominance that these entities currently enjoy in the marketplace and are likely to continue to enjoy after they become for-profit enterprises, that the NYSE and Nasdaq might raise their fees to inappropriate levels. The letter states that the Institute is therefore pleased that the SEC is reevaluating the arrangements for disseminating market information and that we agree with the approach outlined in the Release that market information fee levels should be tied to some type of flexible cost-based standard in order to prevent entities from raising fees to inappropriate levels and realizing excessive profits. Comments on this proposal are due to the SEC no later than March 31, 2000. If you have any comments on the draft Institute letter, please provide them to the undersigned by phone at (202) 371-5408, by fax at (202) 326-5841, or by e-mail at aburstein@ici.org no later than March 24. Ari Burstein Assistant Counsel Attachment

should not be considered a substitute for, legal advice.