

MEMO# 17246

March 18, 2004

NYSE PROPOSED RULE CHANGE ESTABLISHING PILOT PROGRAM TO PROVIDE AUTOMATIC EXECUTION FOR INSTITUTIONAL XPRESS ORDERS

[17246] March 18, 2004 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 9-04 RE: NYSE PROPOSED RULE CHANGE ESTABLISHING PILOT PROGRAM TO PROVIDE AUTOMATIC EXECUTION FOR INSTITUTIONAL XPRESS ORDERS The Securities and Exchange Commission has issued a notice of the filing of a proposed rule change by the New York Stock Exchange (a copy of which is attached) relating to the establishment of a pilot program providing that Institutional XPress orders be executed immediately against an Institutional XPress eligible LiquidityQuote bid or offer and not be exposed for price improvement.¹ Currently, the NYSE's Institutional XPress rules provide that XPress orders are entitled to trade against an XPress eligible bid or offer without interference but must be exposed for price improvement. The Release states that in order to address concerns that, among other things, the current rules may disincent the entry of large limit orders on the Exchange, the NYSE is proposing to implement a six-month pilot program in selected stocks to eliminate the requirement that an XPress order be exposed for price improvement before trading with an XPress eligible liquidity bid or offer. The proposal states that members who wish to participate in executions in these pilot stocks when an XPress eligible liquidity bid or offer is published could do so by bidding or offering at higher (lower) prices prior to the specialist's receipt of an XPress order. Alternatively, members seeking to interact with any XPress order at the XPress eligible liquidity bid or offer price would have to first have their interest reflected in the XPress eligible liquidity published quotation. The Release states that although the NYSE is seeking the authority at this time to institute the pilot program, the NYSE would not actually implement the program until certain technological enhancements are completed that would enable floor brokers to electronically input their trading interest into the Exchange's published quotation. Ari Burstein Associate Counsel Attachment (in .pdf format) 1 Securities Exchange Act Release No. 49391 (March 10, 2004), 69 FR 12884 (March 18, 2004) ("Release"). Comments on the proposed rule change must be received by the SEC no later than April 8, 2004.