

MEMO# 16685

October 20, 2003

SEC POLICY STATEMENT ON BUSINESS CONTINUITY PLANNING FOR TRADING MARKETS

[16685] October 20, 2003 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 24-03 END OF DAY PRICING FORUM No. 9-03 TECHNOLOGY ADVISORY COMMITTEE No. 16-03 RE: SEC POLICY STATEMENT ON BUSINESS CONTINUITY PLANNING FOR TRADING MARKETS The Securities and Exchange Commission has issued a Policy Statement setting forth basic principles that it believes self-regulatory organizations operating trading markets ("SRO Markets") and ECNs should apply in their business continuity planning.¹ The most significant aspects of the Policy Statement are summarized below. Comments on the Policy Statement must be received by the SEC no later than October 31, 2003. If you have any comments that you would like the Institute to consider including in its comment letter on the Policy Statement, please contact the undersigned by phone at 202- 371-5408 or by e-mail at aburstein@ici.org no later than October 27. The Policy Statement states that it is important for the SRO Markets and ECNs to take concrete steps to address the continuing, serious risks to the U.S. financial system posed by the post-September 11 environment and to prepare for the resumption of trading in the event of a "wide-scale disruption."² Specifically, the SEC expects each SRO Market and ECN to apply the following principles in its business continuity planning: • Each SRO Market and ECN should have a business continuity plan that anticipates the resumption of trading, in the securities traded by that market, no later than the next business day following a wide-scale disruption.³ The resilience of the SRO Market or 1 Securities Exchange Act Release No. 48545 (September 25, 2003), 68 FR 56656 (October 1, 2003). The Policy Statement can be found on the SEC's website at <http://www.sec.gov/rules/policy/34-48545.htm>. 2 A "wide-scale disruption" is defined as "an event that causes a severe disruption or destruction of transportation, telecommunications, power, or other critical infrastructure components across a metropolitan or other geographic area and the adjacent communities that are economically integrated with it; or that results in a wide-scale evacuation or inaccessibility of the population within normal commuting range of the disruption's origin." 3 The Policy Statement states that the next-day resumption objective should not be regarded as a hard and fast deadline that must be met in every emergency situation and that various external factors, such as time of day, scope of disruption, and status of critical infrastructure can affect actual recovery times. In addition, depending on the facts 2 ECN prescribed by such plans should reflect the extent of alternative trading venues for the securities traded by that market, including the number of sole listings on the market, the market share of the market, and the number of sole members or subscribers of the market. • Assuring resumption of trading activities by a market by the next business day generally requires geographic diversity between primary and backup sites. To be fully resilient, backup sites

should not rely on the same infrastructure components used by the primary site, and the operation of such sites should not be impaired by a wide-scale evacuation at or the inaccessibility of staff that service the primary site. • The SRO Markets should assure the full resilience of important shared information systems, such as the consolidated market data stream generated for the equity and options markets. • The effectiveness of back-up arrangements in recovering from a wide-scale disruption should be confirmed through testing. • Each SRO Market and ECN should implement plans reflecting these principles as soon as practicable and strive to do so no later than the end of 2004. Ari Burstein Associate Counsel and circumstances of a given event, it may be prudent to defer the reopening of a particular market or markets even if, from a technical standpoint, the resumption of trading is possible. Deciding when to reopen the markets will involve an assessment of the operational capabilities of the markets and major market participants, as well as the clearance and settlement system.

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