

MEMO# 13334

April 3, 2001

AMENDMENT TO NYSE RULE RELATING TO THE DISSEMINATION OF DEPTH INDICATIONS AND DEPTH CONDITIONS

[13334] April 3, 2001 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 11-01 RE: AMENDMENT TO NYSE RULE RELATING TO THE DISSEMINATION OF DEPTH INDICATIONS AND DEPTH CONDITIONS The Securities and Exchange Commission has issued a notice of the filing and immediate effectiveness of an NYSE proposed rule change¹ amending NYSE Rule 60 -- "Dissemination of Quotations." In particular, the amendment permits a specialist to disseminate a depth indication and a depth condition to reflect additional market interest in a security below the current published bid and above the current published offer. Under the amendment, a specialist would make such a depth indication and depth condition dissemination only on a "best efforts basis." In addition, the specialist would be allowed to use "his or her professional judgment as to whether dissemination of the existence of additional market interest would be expected to be useful with respect to current conditions in the security or the market in general." Finally, the Release notes that the depth indication and depth condition are simply informational in nature, and therefore, would not, in themselves, constitute a "firm" quotation for purposes of NYSE Rule 60 or Rule 11Ac1-1 under the Securities Exchange Act. The NYSE plans to implement the amendment to the rule in two phases. In Phase 1, which was instituted on March 19, 2001, a depth indication would be disseminated only in securities that are components of the S&P 500 index and the 20 most active foreign stocks that are not components of that index. In addition, the depth indication would only signify that there is additional market interest of at least 20,000 shares within fifteen cents below the published bid or above the published offer. In Phase 2, which is to be initiated on April 16, 2001, in addition to the depth indication, the specialist may disseminate a depth condition showing the actual number of shares of additional market interest. The Release states that in Phase 2 there would be no specified minimum number of shares or range of prices below the published bid or above the published offer. Instead, the depth condition would constitute a "reasonable reflection of the depth of the market in a particular security." The depth condition ¹ Securities Exchange Act Release No. 44084 (March 16, 2001), 66 FR 16307 (March 23, 2001) ("Release"). Comments on the proposed rule change are due to the SEC no later than April 13, 2001. ² would be disseminated by means of the NYSE's proprietary distribution network to market data vendors and to the NYSE's own web site and data feeds. Ari Burstein Associate Counsel Attachment Attachment (in .pdf format)

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.