

MEMO# 11532

January 7, 2000

SEC ISSUES CONCEPT RELEASE ON THE REGULATION OF MARKET INFORMATION FEES AND REVENUES

1 Securities Exchange Act Release No. 42208 (December 9, 1999), 64 FR 70613 (December 17, 1999) ("Release"). [11532] January 7, 2000 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 1-00 SEC RULES COMMITTEE No. 3-00 RE: SEC ISSUES CONCEPT RELEASE ON THE REGULATION OF MARKET INFORMATION FEES AND REVENUES

The Securities and Exchange Commission ("SEC") has issued a concept release¹ reviewing the arrangements for disseminating "market information", i.e., information concerning quotations for and transactions in equity securities and options that are actively traded in the U.S. markets. In particular, the release: describes the current arrangements for disseminating market information; sets forth the fees, revenues, and expenses of the self-regulatory organizations ("SROs") and the joint plans they have formed to disseminate market information; discusses the relevant statutory standards that govern market information fees and revenues; analyzes the financial structures of the SROs and the cost of market information; and identifies a number of issues on which the SEC specifically is requesting comment. The concept release states that a number of developments in the securities industry have led the SEC to initiate its review of the arrangements currently in place for disseminating market information. According to the SEC, each of these developments is attributable, in large part, to improved technology for communicating and organizing information. For example, new technology has greatly expanded the opportunity for retail investors to obtain access to real-time market information through on-line accounts with their broker-dealers. In addition, the structure of the securities industry has been dramatically changing, particularly due to the growth of alternative trading systems ("ATs") that compete with markets operated by the SROs. The release notes that some of these ATs, which are operated by for-profit entities, have applied for registration or indicated an interest in registering as exchanges and thereby becoming SROs themselves. In addition, existing SROs are exploring the possibility of converting from membership organizations to for-profit corporations as one means to compete more effectively. The concept release requests comment on a number of matters being considered by the SEC. These include: a conceptual approach to evaluating the fairness and reasonableness of fees that, among other things, could establish a link between the cost of market information and the total amount of market information revenues; a conceptual approach to distributing market information revenues to the SROs that could provide for more direct funding of SRO functions that enhance the integrity and reliability of market information; greater public disclosure concerning fees, revenues, and the SROs' use of revenues; and broader industry and public participation in the process of setting and administering fees. ²In formulating

comments, the SEC encourages commenters to consider the four principal objectives relating to market information set forth in Securities Exchange Act Section 11A: availability of information; neutrality of fees; quality of information; and fair competition/equal regulation. In addition, the SEC encourages commenters to consider the extent to which proposals are capable of being implemented in an objective and reasonably efficient manner, particularly given the other uses to which the SEC's resources could be devoted. Comments on the concept release are due to the SEC no later than March 31, 2000. If you have any comments you would like the Institute to consider including in a possible comment letter, please provide them to Ari Burstein by phone at (202) 371-5408, by fax at (202) 326-5839, or by e-mail at aburstein@ici.org no later than February 18. Ari Burstein
Assistant Counsel Attachment

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.