

MEMO# 14253

December 17, 2001

SEC APPROVES PROPOSED RULE CHANGE RELATING TO FEES FOR NYSE OPENBOOK SERVICE

[14253] December 17, 2001 TO: EQUITY MARKETS ADVISORY COMMITTEE No. 51-01 RE: SEC APPROVES PROPOSED RULE CHANGE RELATING TO FEES FOR NYSE OPENBOOK SERVICE The Securities and Exchange Commission has issued an order (a copy of which is attached) approving a proposed rule change filed by the New York Stock Exchange¹ establishing a set of fees for the NYSE OpenBook service, a new service in which subscribers will be able to view limit orders contained in the NYSE limit order book. In particular, for every limit price, OpenBook will include the aggregate order volume associated with that price. The NYSE will make the OpenBook data feed available through its Common Access Point ("CAP") network and, initially, will update OpenBook every ten seconds. The NYSE will charge two fees for the OpenBook service. First, the NYSE will collect a fee of \$5,000 per month from each entity that elects to receive the OpenBook data feed. Second, the NYSE will collect an end-user fee of \$50 per month for each terminal through which the end user is able to display the OpenBook. The SEC notes that in the proposed rule change, the NYSE also proposed several conditions for the NYSE vendor or subscriber agreements that must be entered into in order to utilize the OpenBook service. The SEC states that the approval order only approves the aspect of the filing relating to the fees for the NYSE OpenBook service and that the SEC is not approving or disapproving the terms of the NYSE's vendor or subscriber agreements. In particular, the SEC notes that the NYSE's proposed restrictions on vendor redissemination of OpenBook data, including the prohibition on providing the full data feed and providing enhanced, integrated, or consolidated data found in these agreements are on their face discriminatory, and may raise fair access issues under the Securities Exchange Act. Ari Burstein Associate Counsel Attachment (in .pdf format) 1 See Memorandum to Equity Markets Advisory Committee No. 42-01, dated November 8, 2001.