

OPENING STATEMENT OF CHAIRMAN ARTHUR LEVITT

S.E.C. OPEN MEETING, DECEMBER 22, 1993

AMENDMENTS TO THE NASD'S SMALL ORDER EXECUTION SYSTEM

This is an open meeting of the Securities and Exchange Commission. The only item on today's agenda is consideration of an NASD proposal to address issues related to the NASD's Small Order Execution System or SOES.

As many of you know, today is not the first time the Commission has addressed SOES trading. In 1988, and again in 1991 the NASD proposed and the Commission approved a series of rule changes to prohibit so-called "professional trading accounts" from using SOES. Last August, in response to a challenge to the 1991 rules, the D.C. Circuit court issued an opinion acknowledging that the SOES rules proceeded from a "sound theory of market behavior." However, in light of concerns raised by the court, and to eliminate confusion resulting from the current professional trading account standards, the Commission approved the NASD's withdrawal of the professional trading account rules earlier this month.

The NASD has proposed further amendments to its rules regarding trading on SOES. This rule change addresses trading activity rather than the status of an individual trader's account. In that regard, the rule is a more narrowly focused attempt to solve the NASD's concerns than the original proposal.

At the same time, however, we must recognize that while the rule change addresses a particular issue for a single market, issues about the use, or abuse, of order routing and execution

systems will be raised in other contexts. As technology increases the ability of non-professionals to trade actively, and to directly interact with market professionals at the point of execution, I expect we will be called on to mediate similar controversies. The Commission should begin to look now at how users obtain access to markets and whether there are circumstances when such access should be limited or conditioned.

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