

ICI Encourages SEC to Modernize Nation's Equity Markets, April 2004

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Increased Efficiencies Will Benefit Fund Shareholders

Washington, April 21, 2004 – John Wheeler, Vice President and Director of U.S. Equity Trading at the American Century Funds, testified on behalf of the Investment Company Institute at the Securities and Exchange Commission's public hearing on proposed Regulation NMS, an initiative to enhance and modernize the regulatory structure of the U.S. equity markets. Wheeler noted that the Institute had "strongly supported past regulatory efforts to improve the quality of the U.S. markets" and praised the SEC for issuing the proposed Regulation NMS. However, Wheeler stated that "[d]espite all the recent changes to the securities markets, the markets still do not facilitate efficient trading by mutual funds."

Wheeler testified at the hearing in New York City that the "structure of the securities markets has a significant impact on the Institute's mutual fund members. Increased efficiencies in the markets will clearly benefit mutual fund shareholders." The Institute and its members, who represent the "buy side" of the equity market and more than 90 million shareholders, "have a strong interest in ensuring that the securities markets are highly competitive, transparent and efficient, and that the regulatory structure that governs the securities markets encourages, rather than impedes, liquidity, transparency, and price discovery."

With respect to the trade-through proposals, Wheeler said investors should not have to choose between best price and execution, "[I]nvestors deserve to have their orders executed under a market structure that provides immediate and certain execution at the best available price."

"The Institute supports the establishment of a uniform trade-through rule for all market centers which would be a significant step forward in providing protection for limit orders and encourage investors to place limit orders into the securities markets," Wheeler said. "At the same time, the Institute supports the exception to the trade-through proposal that permits an 'automated' market to trade through a better priced displayed bid or offer on a 'non-automated' market."

Wheeler called upon the SEC to provide a stronger definition of an automated market, "we believe that the Commission should establish a minimum performance standard." Wheeler further stated that "in order to be considered an 'automated' market, a market should be required to provide automatic execution to their entire limit order book and not only their best bid and offer. If the Commission does not adopt a stronger definition of an 'automated' market and permits disparities to remain in the ability to execute orders between "automated" markets under proposed Regulation NMS, we believe that the inefficiencies investors are experiencing in the markets today could remain. Under those circumstances, in order to allow investors to avoid having their orders routed to an inefficient market, an 'opt-out' may be necessary."