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July 30, 2007

**By Electronic Submission and Overnight Delivery**

Ms. Nancy Morris  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549

**Re: American Stock Exchange Response to the SIFMA Comment Letter  
Regarding File No. SR-Amex-2007-49**

Dear Ms. Morris:

The American Stock Exchange LLC (the “Amex” or “Exchange”) appreciates the opportunity to respond to the July 3<sup>rd</sup> letter from the Market Data Subcommittee of the Securities Industry and Financial Markets Association (“SIFMA”) Technology and Regulation Committee on Amex’s rule filing regarding its proposed Amex Real-Time Trade Prices service (“AMEX Trade Prices”). The AMEX Trade Prices service is a proposal to create a market data feed for last sale prices for trades taking place on Amex and to distribute the new feed through a one year pilot. SIFMA has raised a number of issues that we have addressed below.

**Commission Review of Market Data Issues Raised by the NetCoalition Petition.**

SIFMA has requested that the Commission staff not approve this or other market data rule filings on delegated authority until the Commission itself addresses the issues raised *In the Matter of NetCoalition*. As stated in our previous letters to the commission on this issue,<sup>1</sup> the Amex supports the action taken by the Securities and Exchange Commission (the “SEC” or the “Commission”) staff pursuant to delegated authority to approve NYSEArca’s fees that were the subject of the NetCoalition complaint. The Amex believes that the SEC staff would be acting in accordance with applicable law and

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<sup>1</sup> See letter from Oscar N. Onyema, Senior Vice President and Chief Administrative Officer, Amex, dated January 18, 2007, to Nancy Morris, Secretary, Securities and Exchange Commission, supporting action made by delegated authority in Securities Exchange Act Release No. 54597 (October 12, 2006), 71 FR 62029 (October 20, 2006)(File No. SR-NYSEArca-2006-21). See also letter from Oscar N. Onyema, Senior Vice President and Chief Administrative Officer, Amex, dated January 26, 2007 to Nancy Morris, Secretary, Securities and Exchange Commission, responding to a SIFMA comment letter in connection with File No. SR-Amex-2006-89 (Amex Depth of Book Data).

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SEC precedents in reviewing and approving this filing, and that the broader public policy questions being raised by SIFMA and NetCoalition should be addressed (if at all) in the context of Commission rulemaking, rather than in connection with any specific market data fee filing that is pending at the SEC.

### **Amex Intends to make AMEX Trade Prices Available to Broker-Dealers**

Amex wishes to clarify that it intends to distribute its new real-time trade prices feed to broker-dealers and others that operate websites for investors under the same terms as ISPs or other market data vendors. Amex market data distribution agreements already treat broker-dealers as vendors and Amex intends to continue this inclusive approach.

### **Amex Real Time Trade Prices Service vs. CTA Last Sale Data**

The AMEX Trade Prices service is designed to compete with the CTA delayed data service and other exchange's real-time last sale data, and is not intended to compete with CTA real time last sale feed. It is an innovative attempt by the Amex to respond to market need for simplified pricing, reduction of administrative burdens, and data products that provide investors with more accurate balance and position information about their portfolio. Under Reg NMS, the AMEX Trade Prices service can not be used as an alternative to the consolidated last sale data that CTA distributes. It can not be used for making trading and order routing decisions, and therefore does not take advantage of any perceived inefficiency in CTA operations.

SIFMA asserted in its letter that a logical competitive response with normal market forces in operation would be for CTA to segregate its last sale data from quotation data and price them separately. This is already the case, as CTA Network B last sale and quotation data are already priced and can be entitled separately.

SIFMA's observation that further evidence of no competition at work in the field of exchange market data is that Amex's filing is similar to NYSE's but cheaper, is illogical. This is precisely an example of the price based competition that the Securities Exchange Act of 1934 (the "1934 Act") seeks to foster.

With regards to the branding issues raised by SIFMA, the Amex is willing to forego any branding requirements associated with the display of the AMEX Trade Prices data.

**Amex Demonstration of Fairness, Reasonableness and Equity in Allocation of Costs Associated with the Amex Real-Time Trade Prices Service**

The Amex has always held the view that the price of proprietary data, which is purchased on a voluntary basis, should be determined by the value the data provides to its subscribers. We differentiate this type of data from Core data distributed by the national market system plans, which firms are required to purchase for trading and routing decisions.

In addition to comparing favorably with the level of fees that other national securities exchanges have filed to sell similar data, the Amex also took into consideration other factors in setting the level of fees that it believes are fair and reasonable. For example, the Exchange looked at the potential contribution that revenues from the AMEX Trade Prices service would make toward the Exchange's market data business. While the Exchange can not predict the amount of revenue it will receive from the AMEX Trade Prices service, the Exchange anticipates that its market data revenue as a percentage of total revenue will likely be lower than its 2006 total, which was approximately 15.9% of the Exchange's revenues. The remainder of Exchange revenues come from transaction fees (52.3%) and listing fees and other sources (31.8 %). The Exchange also looked at the contribution the revenues accruing from Amex market data would make towards meeting the overall costs of the Exchange's operations. The Exchange believes that the revenue generated by market data compares favorably to its costs of producing the data. Producing market data is a primary exchange output, and therefore, most amounts that the Exchange spends on systems, infrastructure and development is properly allocated to market data production. For 2006, market data revenues covered approximately 14.5% of total Exchange expenses. It is not expected that the revenues generated by the AMEX Trade Prices service will significantly affect the percentage of total Exchange expenses covered by market data revenue. We anticipate that if ten syndicates subscribe to the service the Exchange would gross about \$3 million per annum.

**Amex Use of CTA Network B Vendor Contract and Exhibit C of the Contract**

In the Amex filing the Exchange clearly indicated the terms of agreement under which the AMEX Trade Prices data would be distributed; by stating that it will use the SEC approved Network B vendor agreements. These agreements have become the de facto industry standard, and have been properly reviewed and approved by the SEC. The vendor community and subscribers of market data feeds are familiar with these agreements and they are widely available<sup>2</sup>. The Amex believes that there is no need to replicate these agreements in the Exchange's rule filing. Further, the exhibits to the

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<sup>2</sup> The Network B subscriber agreements are available on [www.amexdata.com](http://www.amexdata.com)

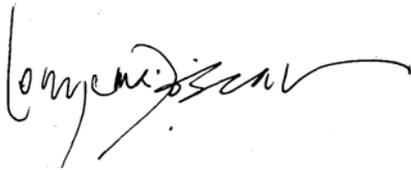
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Network B vendor agreement are generally available and understood by the market data community. Since the Exchange has agreed to eliminate the "Amex Data" requirement and also adopt NASDAQ's approach of requiring broker/ dealers and others to execute an indemnity addendum to the vendor agreement, instead of our original requirement of a "warning notice about the end-user's receipt and use of market data," the issues SIFMA raised about Exhibit C are no longer valid.

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We believe we have adequately addressed the issues raised by SIFMA, the lone commenter on this rule filing. We urge the Commission and/or its staff under delegated authority to approve this proposal. The Exchange submits that the proposal supports innovation and competition among markets, and is consistent with the 1934 Act. If you have any questions, please contact me at 212-306-1243.

Sincerely yours,



Oscar N. Onyema  
Senior Vice President and Chief Administrative Officer

cc: The Hon. Christopher Cox, Chairman  
The Hon. Paul S. Atkins, Commissioner  
The Hon. Roel C. Campos, Commissioner  
The Hon. Annette L. Nazareth, Commissioner  
The Hon. Kathleen L. Casey, Commissioner  
Eric Sirri, Director, SEC Division of Market Regulation  
Robert Colby, Deputy Director, SEC Division of Market Regulation