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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

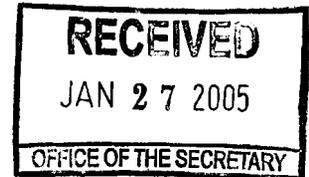
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110 STATE STREET  
ALBANY, NEW YORK 12236

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January 25, 2005

Chairman William Donaldson  
U.S. Securities and Exchange Commission  
450 Fifth Street, NW  
Washington, DC 20549



Re: File No. S7-10-04 Proposed Rule on Regulation NMS

Dear Chairman Donaldson:

As the State Comptroller of New York, an investor, shareholder, and sole trustee of the nation's second largest pension fund valued at over \$120 billion in assets, I am writing to express my concern for the U.S. Securities and Exchange Commission's ("SEC") reproposal of *Regulation NMS*. I understand that the Commission and its staff have been working arduously to resolve some issues with the recently debated "Trade-Through Rule" as it strives to modernize the regulatory scheme of our national securities market system.

I am concerned, however, by one of the options in the proposal that suggests depth-of-book ("DOB") order routing. Through this provision, the SEC would essentially be dictating to customers of exchanges how to buy and sell market shares by encouraging limit orders through what could result in a consolidated limit order book system ("CLOB") constructively.

In your opening statement at the December 15, 2004 SEC Open Meeting on regulation NMS, you said that "...more limit orders means more liquidity". I am not convinced that liquidity has been a problem for the markets while operating under current trading structures. You also stated that "...we ought not lose sight of the fact that the U.S. equity markets today work pretty well both for investors and for issuers. Spreads are thin. Volatility is manageable." Those are the comments that strike me as most important from a customer's point of view. It can be argued that the CLOB system will eliminate the healthy competitive nature of the markets and limit liquidity, causing prices to become more volatile.

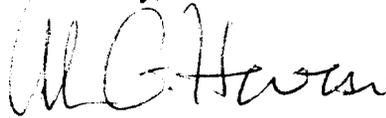
I support the notion of a trade through rule that strongly considers the customer objective of trading at the best price. Any changes with regard to the NMS rules should keep that objective in the forefront. As a large institutional investor, I am apprehensive about the effect on execution and transaction costs a CLOB system may have.

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I appreciate the time and attention that the SEC staff has given to the matter of updating the market system. However, I strongly urge the commissioners to go forward in their contemplation of any changes with great caution and only where there is a proven and identified need to make those changes.

Thank you for giving me the opportunity to comment on this very important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan G. Hevesi". The signature is written in a cursive style with a large initial "A" and "H".

Alan G. Hevesi