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Via Email: rule-comments@sec.gov

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Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Purchases of Certain Equity Securities by the Issuer and Others, Release No. 34-61414; File No. S7-04-10 (Jan. 26, 2010) ("Proposing Release")

Dear Ms. Murphy:

On behalf of CIGNA Corporation ("CIGNA"), I am writing regarding the request for comments by the Securities and Exchange Commission (the "SEC" or the "Commission") on its proposed amendments to Rule 10b-18 under the Securities Exchange Act of 1934 (the "Exchange Act'). The Commission's periodic assessments of regulations, as reflected by the proposal cited above, are an important component of the effective regulation of the U.S. capital markets, and CIGNA appreciates the opportunity to comment on the Commission's proposals.

I. BACKGROUND ON CIGNA

CIGNA (NYSE:CI) is a global health services company that is dedicated to helping people improve their health, well-being and sense of security. It is one of the largest investor-owned health services organizations in the United States. CIGNA's operating subsidiaries provide an integrated suite of medical, dental, behavioral health, pharmacy and vision care benefits as well as group life, accident and disability insurance, to more than 46 million people throughout the United States and around the world. As of December 31, 2009, CIGNA had annual revenues of $18.4 billion and 30,300 employees.

II. DISCUSSION OF PROPOSED AMENDMENTS

A. Introduction

CIGNA commends the SEC and its staff for undertaking to modernize and update the safe harbor for issuer repurchases, and recognizing the legitimate purposes and beneficial effects on the capital markets that such transactions can have. We appreciate the opportunity

to provide the following comments on the proposed amendments, which we respectfully ask the Commission to consider.

B. Proposed Amendments to the Price Condition - Volume Weighted Average Price ("VWAP") Transactions

The Commission proposes to except eligible VWAP purchases from Rule 10b-18's price condition in paragraph (b)(3) of the rule. CIGNA believes that purchases effected pursuant to an end of day or intra-day passive pricing algorithm, including a VWAP, a time-weighted average price, or a mid-point price between the national best bid and national best offer, should be excepted from the rule's pricing condition.

Once an issuer decides to effect repurchases based on a pre-determined, passive pricing algorithm, neither it, nor its broker, has discretion over the price at which its purchases are effected. Rather, the price at which the issuer will repurchase its securities is derived independently from the collective marketplace based on the pre-determined formula. This means that there is little risk that an issuer would (or could) effect algorithmically determined purchases for manipulative purposes. Because these prices are independently derived, and are not susceptible to the manipulative concerns that the safe harbor is designed to off-set, CIGNA believes that Rule 10b-18's price condition should not apply to Rule 10b-18 purchases whose prices are determined through passive pricing algorithms.

The SEC also proposes capping the size of an excepted VWAP purchase to 10% of the average daily trading volume in the relevant security. CIGNA respectfully suggests that the Commission consider whether an additional volume limitation should apply to VWAP purchases because Rule 10b-18(b)(4) already includes a volume condition for reliance on the safe harbor. The additional 10% Volume Limit for VWAP purchase will increase issuers' costs for these transactions because it will add to the compliance burden for brokers effecting repurchase programs on their behalf.

In addition, the VWAP exception will be available only for securities that qualify as "actively-traded security" for purposes of Rule 101(c)(1) of Regulation M.[1] As the Commission stated when it adopted this exception from Rule 101, these securities "have a sufficient market presence to make them less likely to be manipulated," and, as the SEC noted, it is generally very expensive to manipulate these securities because of the size of transactions required to affect a price movement; these securities are generally widely followed by market participants, which means that any price aberrations are quickly discovered and corrected; and the securities are typically exchange-traded and subject to the exchange's high levels of transparency and surveillance.[2] The Commission cites a VWAP exception from the short sale

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[1] An "actively-traded security" is defined in Rule 101 of Regulation M as a security that has an average daily trading volume value of at least $1 million and a public float value of at least $150 million.

[2] 62 Fed. Reg. 520, 527 (Jan. 3, 1997) (adopting release for Regulation M).

price test under prior 1934 Act Rule 10a-1, and proposed to be included in Rule 201 of Regulation SHO, as the genesis for this volume limitation; however, those caps limit the size of a broker-dealer's pre-trade position in a security that it seeks to trade as principal with its customers who sell the security short on a VWAP basis, and does not set a limit on the volume of the customers' VWAP sales.[3]

C. Scope of the Safe Harbor -"Flickering Quotes"

Six years ago, the Commission noted in its release proposing Regulation NMS that an increase in flickering quotes "could make it a practical impossibility for brokers to determine with reasonable certainty whether displayed prices are likely to be available," and thus make it difficult to satisfy regulatory responsibilities.[4] Similarly, the Commission noted in the Proposing Release that the speed at which securities trade in today's markets has made it difficult for issuers to ensure that all purchases of their securities meet the price condition of Rule 10b-18.

Currently, Rule 10b-18 provides that failure to meet any one of the four conditions of the safe harbor removes all of the issuer's purchases from the safe harbor for that day.[5] The Commission acknowledges, however, that issuers, or their brokers, often enter orders in accordance with the rule's price condition, but as a result of rapid and unpredictable price changes before execution of the orders, those repurchases inadvertently fall outside of the safe harbor's price condition. Accordingly, the Commission proposes to limit the disqualification provision from the safe harbor in instances where an order is entered on behalf of an issuer in accordance with the four conditions, but is, immediately thereafter, executed outside of the price condition solely due to flickering quotes. As proposed only the non-compliant purchase would be disqualified from the safe harbor.

CIGNA appreciates the Commission's efforts to limit the scope of transactions that are disqualified during a trading day as a result of an inadvertent violation of the price condition due to rapidly changing prices in an issuer's securities. However, we believe that it would be appropriate and consistent with the purpose of the safe harbor for the Commission to extend the rationale prompting the proposed flickering quotes exception to the specific transaction that fails to satisfy the price condition at execution. Rather than excluding such transaction, we respectfully suggest that the transaction be eligible for the safe harbor subject to (1) the broker-dealer acting as the issuer's Rule 10b-18 broker having reasonable procedures in place to ensure that the Rule 10b-18 purchases are effected in compliance with the four conditions of the safe harbor, (2) the failure to satisfy the price condition is inadvertent and solely due to flickering quotes, and (3) the purchase is not effected for the purpose of creating actual, or

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[3] *See* 74 Fed. Reg. 18042, 18058 (Apr. 20, 2009) (proposing amendments to Rule 201 of Regulation SHO, which were adopted by the SEC on February 24, 2010).

[4] 69 Fed. Reg. 11126 (Mar. 9, 2004) (proposing release for Regulation NMS).

[5] *See* Preliminary Note 1 to Rule 10b-18.

apparent, active trading in or otherwise affecting the price of any security. If this exception is conditioned on the presence of reasonable procedures and the inadvertent nature of the violations, we believe that it would be appropriate for the Commission to limit the number of times that an issuer may rely on the disqualification limitation.

D. Additional Requests for Comment

1. Purchases during sales by insiders

The Commission asks whether the safe harbor should be available for issuer repurchases during periods when an issuer's insiders are selling their own shares of the issuer's stock. Generally, CIGNA does not believe that the safe harbor should be made unavailable during times when insiders of an issuer are selling their own shares.

First, through Rule 144 under the Securities Act of 1933 (the "1933 Act"), the SEC already has in place a framework governing sales of securities by insiders who, directly or indirectly, control the issuer of the securities. Among the conditions of Rule 144 are specified limitations on the amount of securities that can be sold, manner of sale restrictions, and notice and disclosure requirements. These conditions are designed to ensure that an insider's resales of securities "are in such limited quantities and in such a manner so as not to disrupt the trading markets."[6] Consistent with this approach, insider sales pursuant to Rule 144 are meant to be conducted as routine trading transactions and may not be effected by means of the solicitation of buy orders or the payment of extra compensation.[7] CIGNA notes that the Rule 10b-18 safe harbor is not available during sales of securities by an issuer or its selling shareholders that are "distributions" under Regulation M, as determined by the magnitude of the offering and the presence of special selling efforts and selling methods. Accordingly, there already are protections in situations where insider sales are of a nature that would affect the marketplace.

Second, absent the use of a 1934 Act Rule 10b5-1 plan, issuer purchases and insider stock sales, can only occur during narrow "open window" periods when the company and insiders are not aware of material nonpublic information. By default, this means that these purchases and sales generally must occur at the same time. If the SEC further restricts the window for issuer repurchases, or insider sales, by limiting the availability of Rule 10b-18, this would greatly diminish the use of the rule with no apparent benefit to the marketplace.

Finally, we note that Rule 10b5-1 already addresses the issue of when insider trading liability arises in connection with an insider's "use" or "knowing possession" of material nonpublic information.[8] Because this rule specifies that a person trades "on the basis of"

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[6] 37 Fed. Reg. 591 (Jan. 11, 1972) (adopting release for Rule 144).

[7] *Id.*

[8] 65 Fed. Reg. 51716 (Aug. 24, 2000) (adopting release for Rule 10b5-1).

material nonpublic information when the person purchases or sells securities while aware of the information, we believe that the Commission already has in its arsenal a prophylactic tool to address situations when an insider would abuse his or her knowledge of material nonpublic information in connection with an issuer's repurchase program in order to profit from sales of the issuer's securities. Rule 10b-18 does not provide a safe harbor from insider trading, and instead operates only as a safe harbor for manipulation concerns. Given that Rule 10b-18 addresses only whether an issuer's repurchases are manipulative, there does not appear to be a logical connection to whether an insider is engaged in open market sales.

2. Policies and procedures requirement

The Commission asks whether issuers should be required "to maintain written policies and procedures reasonably designed to assure that the issuer's VWAP purchase was effected in accordance with the proposed criteria and that it has a supervisory system in place to produce records that enable the issuer to accurately and readily reconstruct, in a time-sequence manner, all orders effected in reliance on this exception." Similarly, the Commission requests comment on whether issuers wishing to rely on the disqualification limitation for flickering quotations should be required to have specific data management strategies to retain and recall order and trade history to demonstrate compliance with the safe harbor's price condition at the time of order entry.

CIGNA strongly urges that the Commission not require issuers to make or maintain trading records. Issuers do not independently have the trade detail that the Commission is considering requiring. In order to comply with such a requirement, issuers would have to obtain the information from their brokers, and would have no ability to independently verify its accuracy. Broker-dealers, however, are already required to make and maintain detailed trading records pursuant to 1934 Act Rules 17a-3 and 17a-4 and additional requirements of self-regulatory organizations ("SROs"), including the Financial Industry Regulatory Authority's Order Audit Trail System requirements, and the New York Stock Exchange's Order Tracking System requirements. In addition, as the Commission noted in the Proposing Release, most broker-dealers already maintain the appropriate market data, order status, and execution report elements to provide a comparison of market conditions at the time of order entry versus trade execution.

3. Disclosure Requirements

The Commission requests comment on whether requiring specific disclosure as a condition of the Rule 10b-18 safe harbor would provide a useful way to monitor the operation of the safe harbor and, among other things, whether such disclosure should be made on a daily basis, or other mechanism, such as the type of disclosure required pursuant to Regulation D under the 1933 Act, or Rule 144's Form 144.

As noted in the Proposing Release, Item 703 of Regulation S-K already requires issuers to disclose repurchases of their shares without regard to whether the repurchases were conducted in reliance on the safe harbor. Transaction-specific disclosure, or more frequent disclosure would be extremely costly for issuers, and could also make repurchases more expensive if market participants seek to profit from issuers' repurchasing activities. Prior to

imposing such requirements, we respectfully recommend that the Commission conduct a study to ascertain the costs and benefits from such disclosure and to assess the additive value to the markets and investors that would be provided above the current information available in the market. Absent data supporting the need for additional disclosure, we respectfully urge the Commission not to impose additional reporting or disclosure requirements on issuers.

4. Eligible Securities

The Commission asks whether the safe harbor should be available for purchases of securities other than common stock, including preferred stock, warrants, rights, and convertible debt securities. Because Rule 10b-18 is a safe harbor from liability for manipulation, if the four conditions of the rule are met, CIGNA believes that it makes sense for the Commission to extend Rule 10b-18's safe harbor to other issuer purchases of its securities, subject to compliance with the rule's conditions.

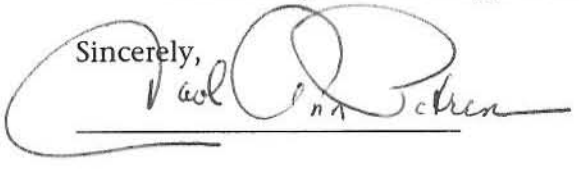
5. Accelerated Share Repurchase Plans

In the Proposing Release, the Commission notes that the safe harbor provided by Rule 10b-18 is not available for issuers and broker-dealers engaging in accelerated share repurchase plans or using forward contracts to repurchase issuer stock. The Commission requests comment on whether any manipulative concerns are raised by such methods of repurchasing securities, and the extent to which limitations should apply to such repurchases to address those concerns.

The Commission and its staff have historically taken the view that accelerated share repurchase plans and forward repurchase contracts as well as the broker-dealer's hedging transactions are ineligible for the safe harbor because the issuer's actual purchases involve private, off-market transaction.[9] We believe that Rule 10b-18 should be available for all eligible securities purchases in connection with an issuer's repurchase of its securities, whether the securities are purchased directly for the issuer's account, or as part of hedging transactions by its broker. In either case, the availability of the safe harbor would be subject to compliance with the rule's single broker, timing, pricing and volume conditions, and the purchase not being effected for the purpose of creating actual, or apparent, active trading in or otherwise affecting the price of any security. The likelihood of manipulation is not increased merely because the issuer leg of the transaction is conducted in a privately negotiated transaction separate from the open-market leg of the transaction, and if the open-market leg of the transaction satisfies the four conditions of Rule 10b-18, there is no fair reason to exclude the overall transaction from the protections of the safe harbor.

Thank for you for the opportunity to comment on this important rulemaking initiative.

Sincerely,



9 *See* SEC, Division of Market Regulation, *SEC Answers to Frequently Asked Questions Concerning Rule 10b-18*, Questions 9, 13, (Nov. 17, 2004).