

VIA ELECTRONIC SUBMISSION AND OVERNIGHT DELIVERY

June 19, 2009

Ms Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549

**Re: Proposed Amendments to Regulation SHO
File Number S7-08-09**

Dear Ms. Murphy:

NYSE Euronext, on behalf of all of its U.S. market subsidiaries, appreciates the opportunity to comment on the Securities and Exchange Commission's proposal to amend Regulation SHO. We support the Commission's goal of restoring public confidence in the markets, and strongly believe that an always-on bid test would best achieve that goal.

The subject of short selling arouses passions on all sides of the issue. We applaud the Commission for its thorough and thoughtful analysis, and for its willingness to invite public comment on all aspects of the issue, including whether short selling should be restricted at all, and if so, whether the proper restriction should be effected through a tick or bid test or by some kind of circuit breaker. Through this letter, we seek to explain our position and add our thoughts on short selling to the debate.¹

¹ We note that the proposing release addresses only short sale restrictions and not the measures undertaken by the Commission in its Interim Final Temporary Rules amending Regulation SHO Rule 204T and Securities Exchange Act Rules 10a-3T and 10b-21, all of which are part of regulatory scheme around short selling. NYSE Euronext generally supports these measures, and believes that the Commission should adopt the Interim Final Temporary Rules as permanent amendments. We would welcome the opportunity to address those amendments in a separate letter.



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I. **Background**

NYSE Euronext is the world's most liquid equities exchange group, representing 40% of the world's cash equities trading volume. We also represent the interests of a highly diverse group of constituents – retail investors, institutional investors, agency trading firms, proprietary trading firms and issuers – all of whom have been profoundly affected by the turmoil in the U.S. markets over the last two years, and the resulting loss of public confidence. Indeed, the equity markets in particular have suffered dramatically as a result, and have been down as much or more than 40% from their highs.

Many have laid the blame for this decline at the feet of short sellers. NYSE Euronext takes no position as to whether, or to what degree, this crisis was exacerbated by short selling, but notes that there was an unusual and unfortunate confluence of variables in play in the financial crisis over the past year, including, among others, the seizing up of the credit markets, poor risk management at some key financial institutions, fundamental weaknesses in the overall economy, and significant changes in the way that market participants manage their order flow following the imposition of Regulation NMS. Any one or more of these factors may have contributed to, or exacerbated the economic turmoil that we have seen in the past year.

Given this, we are not convinced that short selling is a culprit, or the only culprit, responsible for the market's decline. Indeed, we note that not all short selling is bad; to the contrary, properly regulated short sales enable markets to operate more efficiently, by, among other things, providing needed liquidity to smooth out temporary disparities between supply and demand. At the same time, we agree with the Commission that abusive short selling harms investors and public companies, and erodes overall confidence in the U.S. capital markets, and therefore, it is worth investigating longer-term solutions that would supplement the short-term measures that the Commission took last Fall and earlier this year.

II. **The Commission Should Adopt a Price Test for Short Sales**

NYSE Euronext strongly agrees with the Commission's decision to consider reinstating some form of price test for short sales. We note, however, that the real challenge will be to craft restrictions on short selling that check abusive practices but do not impose unreasonable restrictions or undue costs on legitimate short selling.²

² We note that in comments to the SIFMA Market Structure conference, James Brigagliano, co-director of the Division of Trading and Markets, expressed a similar sentiment. In particular, he noted that "we should never forget that 'operability' is a key component of market confidence."



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As a preliminary matter, we believe that a price test could have a real impact on investors' and issuers' confidence in the equities market. Studies in behavioral finance show that market participants engage in group-think, which can lead to over reactions in the markets. Diether, Lee and Werner (2005)³, for example, found that removal of price and bid tests resulted in increased intraday volatility for Regulation SHO pilot stocks, when compared to control stocks. Similarly, unfettered and abusive short selling may lead to runs on issues, decreasing confidence. Wagner (2006)⁴ found that fund managers are inclined to join in "fire-sales" to avoid short term under-performance. Decreasing volatility, combined with regulatory measures that make it more difficult to execute abusive short programs, can therefore lessen the negative impact to investor confidence from short selling, while still permitting the positive effects of legitimate short sales.

NYSE Euronext's own research among issuers also suggests that a price test would boost confidence. In fact, over 95% of our issuers who participated in a recent survey believed that the market would function better with one of the proposed short sale restrictions.

NYSE Euronext believes that, because short selling can be beneficial to price discovery, the primary purpose of any short sale price restrictions should be to prevent unwarranted momentum that can destabilize the market, thereby eroding investor confidence. In other words, a properly designed short sale price test should dampen or limit the rate of a decline, but not prevent market participants from selling short, or restrict participants from executing legitimate and generally useful trading strategies. Accordingly, the litmus test of these proposals should be whether they have the potential to bring more order to a declining market, and prevent cascading destabilizing selling, not whether they would prevent declines in the first place.

A. NYSE Euronext Opposes Any Ban on Short Selling

NYSE Euronext believes that legitimate short selling provides a benefit to the market. Among other things, short selling is an essential component of market making by NYSE and NYSE Amex equities designated market makers and NYSE Arca equities market makers, as well as NYSE Arca and NYSE Amex options market makers and specialists. It is also an essential element of many hedging strategies. Without the ability to go short in the equities

³ It's SHO Time! Short-Sale Price Tests and Market Quality, Diether, Lee, Werner (2005,2007)

⁴ Performance Evaluation and Financial Market Runs, Wagner (2006)



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markets, even temporarily following the triggering of a circuit breaker, market makers and block positioners would not be in a position to provide liquidity to the market at precisely the time when it may be most needed.

Short selling is also a necessary tool in price discovery, particularly where a security is perceived by the market to be overvalued. Participants who believe that a security is undervalued can actively signal that belief to the market by going long in a security; if short selling is prohibited, even briefly, there is no parallel mechanism by which a participant can signal its belief that a security is overvalued to the market. The result is price discovery that has an upward bias, and does not necessarily reflect the true value of a security. For these reasons, NYSE Euronext believes that any outright ban on short selling, even if only temporary, will have a negative effect on the market.

B. A Bid Test is Preferable to a Last-Sale Price Test

As the Commission's proposal recognizes, there are several ways that a price test can be effectively implemented. Of these, we believe that a bid test that is always in effect is the fairest and easiest to implement for both the exchanges and market participants. Among other things, an always-on bid test has the benefit of being familiar – markets operated for many years with a price or bid test in place – so the basic mechanics of this approach are well-known and understood. In addition, a test that is always in force is simpler to administer than one that toggles on and off depending on market conditions and the time of day. It is also predictable for market participants and can thus be factored into trading strategies. In contrast, the triggering of a circuit breaker is by design erratic, and therefore adds an additional element of trading risk that could result in a decrease in certain market participant's willingness to supply liquidity in securities perceived to be potentially subject to triggering of a circuit breaker.

We agree with the Commission that a bid test is preferable to a last-sale price test, given the fragmented nature of the market and the delays inherent in trade reporting. In particular, we are concerned that the speed of today's marketplace, combined with trade reporting rules and policies that permit delays of up to 90 seconds, results in a sequencing of trades that is not orderly. Given this, a price test based on the last reported sale price would essentially become an exercise in randomness. By contrast, the mechanics of sequencing bids has been effectively resolved in connection with Regulation NMS, and securities participants have adapted their systems to read and respond to fast quotations. As a result, tying short sales to permissible quotes does not present the same problem of randomness that exists in tying them to last sales.



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We note that there have been numerous studies that have examined the efficacy of a price test by comparing trading before and during the Regulation SHO pilot period, when short sale restrictions were relaxed in certain securities. The Commission's decision to eliminate short sale bid and price test restrictions was based, at least in part, on the results of these studies. However, and as noted in the Commission's proposing release, none of the studies were performed during periods of extreme volatility. We would therefore urge the Commission to exercise caution in attempting to extrapolate from these studies to predict how the highly volatile markets of 2008 and early 2009 would have been different had there been a price test in place.

Significantly, none of the studies showed that the tick or bid tests were detrimental to the market. The studies did show, however, that price tests may help slow the rate of selling when the market declines. Specifically, the SEC found:

“Both for Listed Stocks and Nasdaq NM stocks, we find that price restrictions reduce the volume of executed short sales relative to total volume, indicating that price restrictions indeed act as a constraint to short sales. However, in neither market do we find significant differences in short interest across pilot and control stocks.”⁵

This is the precise impact a short sales price test should achieve: controls on short selling should limit the potential for abuse, but not choke off legitimate short sale activity that aids price discovery.

C. If Adopted, the Bid Test Should be Applicable at All Times

While we continue to believe that there is merit to the circuit breaker proposal that we and three other national securities exchanges suggested in March, we believe, after consideration of the Commission's proposals, that an always-on bid test would be far more preferable.⁶ In particular, we believe that a circuit breaker approach raises two critical concerns:

⁵ Economic Analysis of the Short Sales Price Restrictions Under the Regulation SHO Pilot, Office of Economic Analysis, U.S. Securities and Exchange Commission, Feb. 6, 2007, page 6

⁶ See Letter from NYSE Euronext, The Nasdaq OMX Group, Inc., BATS Exchange, Inc., and National Stock Exchange to The Honorable Mary Schapiro, Chairman, U.S. Securities and Exchange Commission, dated March 24, 2009 (available at <http://www.sec.gov/comments/s7-08-09/s70809-49.pdf>).



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First, since there would be no restrictions in place at times when the circuit breaker has not been triggered, we believe that the restrictions imposed when a circuit breaker is triggered should be commensurately more impactful on short sellers' behavior than a bid or tick test. In our view, neither a bid nor tick test are likely to sufficiently dampen downward pressure if only instituted during extreme market conditions following triggering of a circuit breaker. At the same time, the restriction that is imposed should not be too draconian, lest anticipation of its imposition unnaturally distort the "normal" market when the restriction has not been triggered. In the exchanges' joint letter, therefore, we advocated that if the Commission adopted a circuit breaker, it should, if triggered, impose a passive short selling requirement, which would be more restrictive than the bid or tick test but not as harsh as a temporary prohibition against short selling in the subject security. As currently proposed, we do not believe that the circuit breaker tests under consideration would strike the proper balance of curbing abuse but permitting beneficial short selling.

Second, a circuit breaker raises several logistical complications that are not presented by an always-on bid test. Among these are:

- Whether differently priced stocks warrant different circuit breaker levels;
- What to do if a stock subsequently rises significantly during the same trading day;
- How to handle news situations;
- Whether stocks become stigmatized when they approach a circuit breaker level; and
- How market centers should disseminate that a circuit breaker has been reached, and how market participants would read such a feed.

Third, and as noted earlier, because the triggering of a circuit breaker is by design erratic, this approach would add an additional element of trading risk that could result in a decrease in certain market participant's willingness to supply liquidity in securities perceived to be potentially subject to triggering of a circuit breaker.

An always-on test does not present these issues, and therefore we recommend such a test over the circuit breaker test. However, if the Commission determines to adopt a circuit breaker approach, the restriction imposed should only apply to orders submitted subsequent to the trigger. Otherwise, any impacted security would need to be halted when the circuit breaker is triggered to enable each market center to cancel pending orders that would not be eligible for execution while the circuit breaker is in effect.



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D. The Commission Should Enforce Any Restriction Through Policies-and-Procedures Reviews

Regardless of which approach the Commission adopts, NYSE Euronext believes that the restrictions should be enforced through a policies-and-procedures approach rather than on a trade-by-trade basis. As the Commission noted in adopting Regulation NMS, a policies-and-procedures regulatory scheme is the most appropriate one for modern intermarket trading since the pace and complexity of trading may make it impossible to prevent inadvertent violations. Among other things, the Commission noted that an absolute prohibition would be ineffective in view of “timing discrepancies resulting from technology limitations, latencies in the delivery and receipt of quotation updates, and data discrepancies.” In place of an absolute bar, the Commission adopted a policies-and-procedures approach that was designed to achieve the objective of eliminating all trade-throughs that reasonably could be prevented, while also recognizing the inherent difficulties of eliminating trade-through transactions that, despite a trading center’s reasonable efforts, may occur.⁷

NYSE Euronext believes that the concerns that the Commission outlined in connection with Regulation NMS would be similarly present in implementing and enforcing an absolute bar on violative short sales, for all of the same reasons (technological limitations, latencies in delivering and receiving quotation updates, discrepancies in data). To address this, we would urge the Commission to apply the logic it adopted in Regulation NMS to any short sale price test.

III. **Any Restriction on Short Sales Must Include Targeted Exemptions**

NYSE Euronext also believes that, with respect to any of the proposed approaches, the exceptions that were previously in effect under Securities Exchange Act Rule 10a-1 should be specifically reinstated in order to ensure the continuation of an orderly and liquid market. We recognize that the various proposals incorporate a number of the former exemptions under Rule 10a-1, but note that there are several crucial omissions. We believe that instituting any of the proposed short sale restrictions without all appropriate exemptions would have an adverse impact on market quality, market efficiency and the overall liquidity in the market. In addition, we believe it would fundamentally impair price discovery.⁸

⁷ Exchange Act. Rel. No. 34-51808 (June 9, 2005) at 147-148, 70 FR 37496 at 37534.

⁸ We note that these exemptions would not be new, and that reviving them would not create new or novel issues; to the contrary, the Commission would only be reinstating exemptions that it had previously considered carefully in light of well-understood market forces and conditions, and determined to be beneficial to the marketplace. In view of this, we do not believe that it is useful to argue at length here



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A. The Commission should include an exemption for Market Makers

The most crucial exemption that the Commission has omitted from its proposals is an exception relating to market making activities by bona fide market makers in equities, options and derivatives. We believe that it is essential that any rule include a market maker exemption, including appropriate restrictions to define who meets the qualifications as a market maker.

1. Market Making Generally

Our view that market making should be exempted from short sale restrictions has been previously articulated by others, including in a recent report by the Technical Committee of the International Organization of Securities Commissions (“IOSCO”),⁹ which laid out several principles for effective short selling regulations. Of particular relevance here, IOSCO noted that “short selling regulation should allow appropriate exceptions for certain types of transactions for efficient market functioning and development.” Notably, IOSCO’s report specifically identified market making among the types of market activity that should be considered for exemption from any restrictive rules on short selling, since market makers “generally provide benefits to the market and are unlikely to pose risks that will destabilize the market.” We agree with IOSCO’s conclusion and urge the SEC to adopt an exemption for market makers.

2. Options Market Making

NYSE Euronext believes that a market maker exemption is particularly important, not only for equities market makers, but also for options market makers. Without an exemption, options market makers may unnecessarily incur significant risk when their market making activity requires them to take a short position. As a result, they may decline to make markets that are as liquid or with spreads that are as tight as they

for the reinstatement of each separate exemption, other than to say that we agree with the previous Commission decisions to grant the various exemptions, and believe them to be essential to the proper functioning of the market today. We would be happy to comment further on specific exemptions if the Commission believes that such comments would be useful.

⁹ Consultation Report on the Regulation of Short Selling, Technical Committee of the International Organization of Securities Commissions (March 2009)



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would with such an exemption. This could have a deleterious effect on the quality of both the options and the equities markets.

Options market makers are not like other short sellers, and should not be treated as such. Because of the risks associated with options trading, options market makers generally need to hedge their options positions with stock or another instrument related to the option. The underlying stock is usually the best hedge since it is generally more liquid than other derivative products, and both the price and availability of the underlying security are usually accounted for in options pricing models. Significantly, options market makers look to effect their hedging transactions as quickly as possible, in order to lock in their hedges.

In the absence of an exemption, the burden on options market makers who are required to sell short as a hedge could be substantial, particularly if the Commission adopts a circuit breaker that precludes further short selling once the circuit breaker has been triggered. Even if the Commission adopts a price test or bid test, such a restriction could affect market quality in the options market, since it introduces uncertainty about when a hedge order will be filled (while it waits for the correct tick or bid), which could affect pricing decisions in the option or cause orders to go unfilled. This is particularly true for options related to thinly-traded equities, where a correct tick or bid may take several minutes (or longer) to occur, even though the hedging order was marketable upon entry.

Simply put, NYSE Euronext does not believe that registered market makers pose the kind of systemic risk that the original short sale rules were intended to deter or prevent. Accordingly, we would respectfully suggest that if the Commission determines that a short sale price restriction is necessary, then regardless of the type of restriction it adopts, the Commission should include a market-maker exemption.

B. The Commission should include exemptions for ETFs and other Exchange Traded Products

We also believe it is important that the rule include exemptions for exchange-traded products (ETPs), which include exchange-traded funds (ETFs), exchange-traded vehicles (ETVs) and exchange-traded notes (ETNs). The Commission staff previously granted no-action relief from Rule 10a-1 for ETPs when that rule was in effect, and we believe it is critical to efficient trading of these securities that they not be subject to short sale restrictions, consistent with previous Commission no-action positions. ETFs are the most well known of the ETPs, and are investment companies registered under the Investment Company Act of 1940, either as



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unit investment trusts or as open-end investment companies.¹⁰ Shares of ETPs are traded by both institutional and retail investors on securities exchanges (and over the counter markets) and generally ETPs share two common features – transparency and the redeemable nature of the security – that are important to this analysis. First, ETPs are transparent and are generally designed to replicate a basket of securities or other underlying assets or mimic the performance of a reference index. Because trading is based on the last sale prices of their holdings, thus derivatively priced, ETPs do not present the same concerns for short-selling abuse that equity securities present.

Second, ETPs differ from equity securities, which have a fixed supply of shares outstanding, in that the supply of ETP shares outstanding is effectively unlimited.¹¹ Market makers in such ETPs (and other market participants) have the ability to create or redeem units with the issuer at net asset value each day in response to market supply or demand for shares.

The interplay of these two factors – transparency of pricing and an elastic supply of units – blunts the impact of short selling in ETPs and facilitates trading of ETPs at or near net asset value. Unlike short selling in standard equities, which creates downward price pressure by temporarily increasing the supply of securities for sale, short selling generally has minimal, if any, impact on the pricing of ETPs. Moreover, it is economically far more difficult to manipulate the price of an ETP downward using short selling in the ETP, since it would generally require simultaneously manipulating a substantial weighting of the component securities in the index.

As such, when the tick test in Rule 10a-1 was operative, the Commission staff considered and granted numerous exemptions for ETFs and other ETPs from various federal securities laws and rules, including Rule 10a-1.¹² In 2001, the Commission granted class relief from Rule

¹⁰ In contrast to ETFs, ETNs and ETVs are registered under the Securities Act of 1933 and not the Investment Company Act of 1940.

¹¹ In theory, the number of ETP units is limited by the number of outstanding shares of the underlying components, since a market maker or participant would have to purchase the underlying securities in order to create new units. In practice, however, this theoretical limitation has not prevented the creation of new ETP units.

¹² See, e.g., Appendix A to Letter from Ira Hammerman, Senior Vice President and General Counsel, Securities Industry Association, to James A. Brigagliano, Esq., Assistant Director, Division of Market Regulation, dated January 3, 2005 (available at <http://www.sec.gov/divisions/marketreg/mr-noaction/sia010305-appenda.pdf>).



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10a-1 to ETFs that met certain criteria,¹³ and extended that relief in 2006.¹⁴ In addition, the Commission has granted relief from Rule 10a-1 to ETNs and other ETVs for similar reasons as noted in previous Commission no-action relief letters.¹⁵

In extending the relief from the tick test to a broader group of ETFs, the Commission staff noted that after the issuance of the 2001 Class Relief, they had continued to grant additional exemptions to ETFs that did not qualify under the 2001 Class Relief, because as a result of “the additional experience [they had] gained in this area,” it was “appropriate to expand the scope of the relief”. In specific reference to Rule 10a-1, the Commission staff explained that “Rule 10a-1 [was] designed to prevent the market price of a stock or other ‘reported security,’ as defined in Rule 11Aa3-1(a)(4) under the Exchange Act, from being manipulated downward by unrestricted short selling” and then granted relief from the rule wherever “the composite or derivative nature of an ETF is such that it would not appear that trading in the ETF’s shares would be susceptible to the practices that Rule 10a-1 [was] designed to prevent.”

In the event the Commission reinstates a price test (whether based on the national best bid or the consolidated last sale), there will have been no significant change in the nature of ETFs and other ETPs, or in their impact on market quality in their component securities that would justify changing the treatment of ETPs under the new rule. As a result, we would urge the Commission to heed the experience of the staff in this regard, and to codify the exemptive

¹³ See Letter from James A. Brigagliano, Esq., Assistant Director, Division of Market Regulation, to Claire P. McGrath, Esq., Vice President and Special Counsel, The American Stock Exchange, dated August 17, 2001 regarding Exemptive Relief for Exchange Traded Index Funds.

¹⁴ See Letter from James A. Brigagliano, Esq., Acting Associate Director, Division of Market Regulation, to Stuart M. Strauss, Clifford Chance US LLP, dated October 24, 2006, regarding Class Relief for Exchange Traded Index Funds.

¹⁵ See, e.g., letter from James A. Brigagliano, Acting Associate Director, SEC Division of Market Regulation, to George H. White, Sullivan & Cromwell, dated July 27, 2006 (no-action relief regarding iPath Exchange Traded Notes); letter from Racquel L. Russell, Branch Chief, SEC Division of Market Regulation, to George T. Simon, Foley & Lardner, dated June 21, 2006 (letter granting no-action relief under Rule 10a-1, Rules 101 and 102 of Regulation M and Rule 200(g) of Regulation SHO with respect to ETVs, including those that hold physical commodities or foreign-based currency, or that are organized as commodity pools); letter from James A. Brigagliano, Assistant Director, SEC Division of Market Regulation, to Kathleen Moriarty, Carter, Ledyard & Milburn, dated November 17, 2004 (no-action relief for streetTRACKS Gold Trust).



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relief that was previously granted under Rule 10a-1 to transactions in redeemable securities, such as ETFs, ETVs, and ETNs.

- C. The Commission should include an exemption for point-in-time matching systems

The uptick rule (i.e., tick test) proposal includes an exemption for any sale of a covered security in an electronic trading system that matches buying and selling interest at various times throughout the day that meets certain enumerated criteria, including that the trade occurs above the national best bid. The Commission notes in support of the exemption that these systems use passive price mechanisms and lack price discovery, and as a result, trades executed through these systems generally would not involve the types of abuses the proposed uptick rule would be designed to prevent. Similarly, the proposal notes that if the modified uptick rule (i.e., bid test) were adopted, any trades executed in such matching systems would necessarily be compliant, in that these systems generally execute between the national best bid and offer, and thus above the national best bid. However, in the event that the Commission adopts the circuit breaker halt proposal, there does not appear to be an exception for trades executed in such matching systems. NYSE Euronext believes that a parallel exception is warranted.

IV. **Reinstatement of Short Sale Price Restrictions is Feasible within a Reasonable Time Frame**

In its proposing release, the Commission seeks comment on whether a three-month implementation schedule for any short sale restrictions is reasonable. NYSE Euronext believes that a three month timeline is feasible and in line with our internal estimates, but notes that the necessary amount of time to implement changes will be affected by when such changes are mandated, and the scope of the mandated changes.¹⁶

As an alternative to a full-scale implementation across all securities, at the SEC's Roundtable Discussion on the proposed short sale rules, NYSE Euronext suggested establishing a pilot to test the reinstatement of short sale price restrictions. A pilot would permit the Commission to create a controlled environment in which to study the effects of short sale price restrictions under contemporary market conditions, rather than merely extrapolating from studies conducted when market conditions were dramatically different from the conditions prevailing

¹⁶ We note, as a caveat, that a three-month time frame is fairly aggressive, in that it would not provide any significant cushion to resolve unexpected contingencies, should they arise.



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today. And although such an approach would still impose costs on firms, we believe that a pilot would result in an improved rule.¹⁷

V. **Conclusion**

NYSE Euronext applauds the Commission for its thoughtful analysis of the complex regulatory issues raised by short selling. We believe that the leadership demonstrated by the Commission in undertaking this review is an important factor in restoring public confidence in the United States securities markets. To that end, we respectfully urge the Commission to adopt a market-wide short sale bid test based on the national best bid, with appropriate exemptions for market makers and other key market participants who facilitate fair and orderly markets, as well as appropriate exemptions necessary to reinstate the relief that was previously provided for ETFs and other redeemable securities.

Very truly yours,

Janet M. Kissane
Senior Vice President -Legal
& Corporate Secretary

cc: The Hon. Mary Schapiro, Chairman
The Hon. Luis Aguilar, Commissioner
The Hon. Kathleen Casey, Commissioner
The Hon. Troy Paredes, Commissioner
The Hon. Elisse Walter, Commissioner
Mr. James Brigagliano, Co-Director, Division of Trading and Markets
Mr. Daniel Gallagher, Co-Director, Division of Trading and Markets

¹⁷ We acknowledge that in the event that market conditions are not volatile during such a pilot period, there is a risk that the pilot results would not reflect how markets react to extreme volatility. Nevertheless, we believe that a pilot could produce useful data.