

Mary Yeager
Assistant Secretary

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Via email to www.rule-comments@sec.gov

September 29, 2005

Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-9303

Re: Amex Proposal to Trade Through
Release No. 34-54413; File No. SR-AMEX-2006-72

Dear Ms. Morris:

The New York Stock Exchange opposes the American Stock Exchange's ("AMEX") attempt to move forward the effective date of the Reg. NMS Order Protection Rule from February 5, 2007 to whenever the AMEX is ready to implement AEMI-One. Under current ITS and AMEX rules, AMEX is required to avoid trading through the best displayed prices of all markets whether they are "fast" or "slow" quotes. AMEX proposes to honor all quotes at the NBBO, but only fast quotes outside the NBBO when it would trade at a price inferior to those quotes. Further, the AMEX proposes that, even prior to the implementation of Reg. NMS, that if it were unable to determine if a quote is fast or slow (before any such designation is required), it would deem it a slow quote. Approval of the AMEX rule would ignore all the compelling reasons the Commission set forth in its order extending the original implementation date of June 29, 2006 to February 5, 2007.¹

When the AMEX presented this proposal to the ITS Operating Committee on July 20, 2006, the AMEX failed to gain even majority support. At that time, the AMEX stated

¹ Securities Exchange Act Release No. 34-53829; File No. S7-10-04 (May 18, 2006). Some of these compelling reasons include providing SROs and industry participants with "greater certainty" concerning Reg. NMS phase-in and giving industry participants a period in time in which to gain practical experience trading on new systems in advance of the initial compliance date for trade-through protection. The Commission also noted that implementation of Reg. NMS must be managed appropriately so that it does not risk market disruption.

that the proposal did not arise from technical implementation issues as programming AEMI to route orders to all quotes at a price was no more or less difficult than programming to route to only 'fast' quotes. Several other markets responded that the AMEX proposal would, in contrast, have a negative impact on their technology implementation schedules.

We urge the Commission to institute a disapproval proceeding, if the AMEX continues to seek this unusual rule proposal and any private request for exemptive relief from the ITS Plan in the face of the objections of several market centers and the carefully deliberated decision by the Commission in establishing the effective date of the Order Protection Rule, and to maintain its previously announced launch date for that Rule. The NYSE has coordinated its systems development calendar and priorities according to that directive.

We would be happy to discuss these concerns and public policy issues with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Yeager". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mary Yeager
Assistant Secretary

c: Chairman Christopher Cox
Commissioner Paul S. Atkins
Commissioner Kathleen L. Casey
Commissioner Roel C. Campos
Commissioner Annette L. Nazareth
Mr. Erik Sirri, Director, Market Regulation
Mr. Robert L.D. Colby, Deputy Director, Market Regulation