SULLIVAN & CROMWELL LLP
125 BROAD STREET
NEW YORK, NEW YORK 10004-2498
212-558-4000

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Via email: rule-comments@sec.gov

Ms. Nancy M. Morris,
Secretary,
Securities and Exchange Commission,
100 F Street, NE,
Washington, DC 20549-9303.

Re: Proposed Amendments to New York Stock Exchange Rule 312(f) (File No. SR-NYSE-2005-58)

Dear Ms. Morris:

This letter is in response to Release No. 34-53840 in which the Commission solicits comments on the New York Stock Exchange's proposed amendments to NYSE Rule 312(f) (File No. SR-NYSE-2005-58).

As a general matter, we strongly support the proposed amendments and believe that they are a helpful and long overdue improvement on the existing prohibitions on member organization activities. We believe the amended Rule will remove unnecessary obstacles to efficient trading activity and will not diminish investor protection from conflicts of interest.

We do, however, have a concern regarding the expansion of the Rule 312(f) prohibitions to non-publicly held securities. As the background discussion in the NYSE's proposal acknowledges, Rule 312(f) was adopted when public ownership of member corporations was first permitted, in order to protect public security holders from potential conflicts of interest of member organizations. We believe that extending this Rule to transactions between an issuer or its affiliate and a holder of its non-public securities will create a technical impediment to certain negotiated transactions without any countervailing benefit. The U.S. securities laws have long recognized that purchasers in private transactions, whether by reason of the nature of the transaction or the sophistication of the purchaser, do not require the same level of protection as public

security holders. Transactions between issuers and holders of their non-public securities are often only one component of a more complex business relationship between sophisticated counterparties. Extending the prohibitions and disclosure requirements of Rule 312(f) to transactions in non-publicly held securities would not advance the purposes of the Rule and would merely impose unnecessary administrative burdens and structural impediments of the type that the proposed amendments are seeking to reduce.

As a more general matter, it does not seem clear to us that the prohibitive aspects of proposed Rule 312(f)(1) are warranted at all, and we believe that the potential conflicts of interest that the Rule seeks to address can be ameliorated through disclosure rather than prohibition. Given the consolidation and diversification of financial institutions over the past 35 years, Rule 312(f)(1) as proposed to be amended would prohibit transactions where there is only a remote connection between the member organization and the affiliated entity. In many of these situations, a counterparty or customer with a full understanding of the relationship would still want to engage in the prohibited transaction. We recommend that, at least in the case of securities of entities other than the member, Rule 312(f)(1) be recast to require disclosure of the control relationship, as contemplated by proposed Rule 312(f)(2). Otherwise, the Rule will necessarily serve as an impediment to transactions by willing parties, and will act to diminish the efficiency of the trading markets. We note that, despite its extensive regulation of broker-dealers, the NASD has not seen the need for an analogous prohibition.

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We appreciate this opportunity to comment on the proposed revisions to Rule 312(f), and would be happy to discuss any questions the SEC or the NYSE may have with respect to this letter. Any such questions may be directed to Glen Schleyer (212-558-7284) or to David B. Harms (212-558-3882) in our New York office.

Very truly yours,

SULLIVAN & CROMWELL LLP