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July 20, 2006

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

Re: File Number SR-NYSE-2005-68

Dear Ms. Morris:

We appreciate the opportunity to comment on the New York Stock Exchange's (NYSE) proposed rule changes, and in particular, Rule 203.01, the Annual Financial Statement Distribution Requirement. Our comments are based on our longstanding interest in providing the Securities and Exchange Commission (SEC) and other interested parties with factual information on shareholder communications and with analyses of the implications of proposed regulatory changes to investor participation and process efficiency.

Today, a listed company is required to send its annual financial report to its shareholders by mail or, if its shareholders so choose, by email. In calendar year 2005, for example, 10,491 publicly-held companies distributed their annual financial reports to approximately 90 million shareholders. During the 2006 proxy season (February 15 – May 1, 2006), 82% of issuers utilized e-delivery. The 12.3 million shareholders that received information electronically during the 2006 proxy season represented a 14.8% increase over the number of shareholders receiving information electronically during the 2005 proxy season. Under proposed Rule 203.01, the NYSE no longer would require its listed companies to make such distributions, by mail or by email -- instead, a NYSE-listed company would be required to make its annual financial report available on its website and state, by website posting and press release, that it filed its report with the SEC and that it would mail its audited financial statements to shareholders upon request.

We understand that the proposed rule, as a practical matter, would impact only foreign private issuers that are listed on the NYSE, given the applicability of SEC proxy rules to U.S. issuers. We are concerned, however, about the potential broader ramifications of the proposed rule given the "access equals delivery" model upon which it is based. Research and analyses indicate that such a model for the dissemination of annual financial reports

would eliminate an important communication channel between publicly-held companies and their shareholders, and result in a number of unintended consequences.

While we support the broad goals of Rule 203.01, we respectfully submit that it has been proposed in the absence of any meaningful data supporting its underlying premise. In this regard, it is noteworthy that the proposing release is generally devoid of any research on shareholder access to the Internet, the viewing preferences of shareholders, the costs and benefits of the proposed rulemaking, or its implications or consequences to investors.<sup>1</sup>

In contrast to the lack of research and analysis contained in the NYSE rulemaking, substantial research and analyses were submitted to the SEC by ADP and other sources, including the AARP, in comment letters regarding the Internet Availability of Proxy Materials rulemaking (“Notice & Access,” File Number S7-10-05). Those letters, which included studies concerning access to the Internet and the viewing preferences of individual shareholders, reveal the following information that is germane to the NYSE’s proposed rule changes:

- Shareholders prefer having annual financial reports sent automatically to them over: (i) going online to obtain them; (ii) requesting that the information be sent to them; or, (iii) printing materials themselves;
- Shareholders prefer hard copy annual financial reports to soft copy, for several reasons, including: (i) they do not like reading lengthy documents online; (ii) many consider online access to be less convenient; and, (iii) they have concerns about Internet usage and security;
- Shareholders are aware that they are sent annual financial reports;
- A majority of shareholders look at the information received;
- Shareholders are aware that e-delivery is an option for receiving the information, and most do not prefer to receive annual financial reports and proxy information electronically.
- Shareholders react negatively to the cost shifting that would occur.

In addition to providing information about shareholder preferences, the studies discussed above suggest that the proposed rule changes may have potential unintended consequences. Specifically, these potential consequences are:

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<sup>1</sup>The proposal makes reference to a single study, “A recent Nielsen/Net Ratings study (2004) shows that 75% of Americans have access to the Internet in their homes, and that those numbers are steadily increasing among all age groups. As a result, the NYSE believes that the vast majority of people in this country that review company financials access them online – either through the company’s own website, EDGAR, or some other service provider.”

- Fewer shareholders would have *access to* annual financial statements;
- Fewer shareholders would *look at* annual financial statements;
- Separating the annual report or proxy statement from the voting card would likely result in votes being cast without the benefit of financial statement information being reviewed; and
- Costs would be shifted to shareholders, and costs/benefits to issuers are uncertain.

We recognize that these unintended consequences generally will be limited to the U.S. holders of the securities of NYSE-listed foreign private issuers. The effect on such investors should not, however, be overlooked because distributions to such investors represent a significant number of annual financial report distributions processed by ADP in 2005.<sup>2</sup> Moreover, in light of the SEC's "Notice and Access" rule proposals, we are concerned that approval of the NYSE rulemaking may be viewed as the first step towards adoption of an access equals delivery model that would apply to all issuers without taking into account the effects of such a model on investors. As we indicated in our comment letter to the SEC, dated February 13, 2006, on that rulemaking, we support initiatives to improve shareholder communications, and encourage the policymakers - the SEC and in this case, the NYSE, to undertake a thorough analysis of the potential rulemaking, including an assessment of the costs and benefits of any such rulemaking.

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<sup>2</sup> Analysis of ADP data on mailings by ADP for non-U.S. companies in calendar year 2005 indicates the following:

- There were 595 mailings on behalf of foreign private issuers, 396 of which involved the distribution of an annual financial report. These numbers are comprised largely of issuers of American Depositary Receipts.
- These 595 foreign private issuers were held in over 19.5 million investor accounts and represent over 23.5 billion shares.
- 7.6 million, out of a total of 19.5 million accounts, received materials by mail. Nearly 1 million accounts received materials by email.

Thank you for the opportunity to share our experiences with the SEC. We hope that this information is of assistance to the SEC and its staff in the context of rulemakings such as this, which may have significant effects on communications between issuers and their shareholders. We would be happy to provide you with any additional information that you require or that you might find of use in your analysis of the NYSE's proposed rule. We also would welcome the opportunity to discuss these matters with you in person.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard J. Daly". The signature is written in black ink and is positioned to the left of a vertical red line.

Richard J. Daly  
Group Co-President  
ADP Brokerage Services Group

cc: The Honorable Christopher Cox  
The Honorable Paul S. Atkins  
The Honorable Roel C. Campos  
The Honorable Kathleen L. Casey  
The Honorable Annette L. Nazareth