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Rule-Comments@sec.gov

SR-NYSE-2006-59 and SR-NYSE-2006-36

The two following paragraphs tell it all:

First, from the NYSE's application for NYSE-2006-59:

"This information includes...existing quotes, publicly available information the specialist chooses to supply to the algorithm, incoming orders as they are entering Exchange systems, and information about orders on the Display Book such as limit orders, percentage orders, stop orders, and auction limit and auction market orders. This latter information stream is known as "state of the book" information."

Second, from the comment letter from IBAC on SR-NYSE-2006-36:

"The Discretionary Order Type ("d-Quote") goes a long way towards recreating market balance in the hybrid environment because the d-Quote interacts with orders in the pipeline before orders are visible to the specialists' algorithms. Consequently, the floor broker in the crowd can use his feel and sense of the market to create price improvement and can react to the environment around him by placing a d-Quote without being picked off by an algorithmic trade."

These raise two questions the Commission should answer fully before deciding whether or not to approve these two NYSE Rule proposals:

1. Why shouldn't **all** market participants have the same public *"state of the book" information*? After all this is supposed to be a part of a **national** market system, not a NYSE market system.
2. Since every order that can be entered by computer **must** have all the conditions under which it can be executed predetermined, why does the NYSE claim there is "discretion" involved? All market participants should have equal access to the national market system.

The drafters of Section 11A of the '34 Act should be rolling their eyes (or in their graves) if they were to see the way the Commission is continuing to give the NYSE its traditional anticompetitive advantages. (I was there during the drafting of 11A.)

Very truly yours,

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