

Correction

Comment on Releases SR-NYSE-2006-65 and SR-NYSE-2006-36

I would like to make but one point about the NYSE's proposals in their Hybrid Market.

There never is—and cannot ever be—any discretion in an order entered electronically.

All of the preconditions under which the order will be executed, cancelled or changed **must** be determined and entered **before** its arrival at the execution engine (the processor).

It makes no difference if it is called a floor broker's so-called "discretionary" order or a specialist's algorithmic order.

The terms which will decide any action on these orders have been predetermined.

Since this is a fact, and since investors and **all** other market participants have the theoretical or practical capacity to place complex conditions on orders entered electronically, there is absolutely **no** regulatory reason to prevent them from having exactly the same ability to enter so-called "discretionary" orders or algorithmic orders.

As a result of the Commission's apparent willingness to permit the NYSE to have such unfair competitive advantages for their floor brokers and specialists, I assume that all broker/dealers and investors will be able to enter so-called discretionary orders and use algorithmic orders on all market centers except the NYSE.

Section 11A (a) C of the 1934 Securities Exchange Act states:

- A. *It is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure--*
- i. *economically efficient execution of securities transactions;*
 - ii. *fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets;*
 - iii. *the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities;*
 - iv. *the practicability of brokers executing investors' orders in the best market; and*
 - v. *an opportunity, consistent with the provisions of clauses (i) and (iv) of this subparagraph, for investors' orders to be executed without the participation of a dealer .*

I cannot believe the Commission's intent is to approve proposed rules of the NYSE that would create unfair competition among brokers and dealers, among exchange markets and markets other than exchange markets, as well as denying investors' orders to be

executed without the participation of a dealer (floor brokers are also registered as broker-dealers).

Junius W. Peake
Monfort Distinguished Professor Emeritus of Finance
1618 Lakeside Drive
Greeley CO 80631-5434