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MEMBER NEW YORK STOCK EXCHANGE, INC.

February 8, 2007

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OFFICE OF THE SECR

Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington DC 20549–1090

RE: File Number SR-NYSEArca-2007-07

Dear Ms. Morris

I am the Co-CEO of Miller Tabak + Co., LLC, a broker/dealer that specializes in handling orders for institutional customers in equities and listed options. The firm currently has the status as an Independent Research Firm and does not engage in proprietary trading. It does, from time to time, facilitate option orders for customers. The firm has been engaged in the activities described above for more than 20 years and has developed considerable expertise on the structure and workings of the equity and option markets.

I am writing to submit to the SEC Miller Tabak's protest of the actions of the NYSE Arca Options with respect to its introduction of a new fee program concurrent with the SEC Option Penny Pilot. The new NYSE Arca fee program is structured to charge customers 50 cents per contract when liquidity is taken and credit customers 25 cents per contract when liquidity is provided. Miller Tabak believes that the introduction of the program is a stealth move by NYSE Arca to introduce an inequitable allocation of fees, almost certainly to be followed by other option exchanges, that ultimately will impose close to a $1 billion tax on public option orders without any justification. As we understand the options market, the entire effect and apparent purpose of this proposal is to transfer enormous amounts of fee proceeds from market participants to market makers.

On first glance the NYSE Arca program appears to resemble a practice that emerged as ECNs became a major factor in the OTC markets. Typically, ECNs credit a party accessing their system .2¢ per share when providing liquidity and charge a party .3¢ per share when taking liquidity. However the equity market is structured quite differently from the options market. The equity market is an auction market where buyers and seller exchange a pre-existing asset – an issued share of stock. Buyers and seller play hide and seek with each other as they attempt to obtain the best possible price. Algorithmic trading techniques are frequently used to control the flow of orders into a central marketplace sometimes hidden from view – the so-called dark book.

This description applies to both the listed and the OTC markets and in the case of the latter constitutes a major change from its days as a dealer market. In this environment, the imposition of the give-and-take liquidity fee model represents a rather harmless addition to the impact cost/opportunity loss calculus that traders employ in determining how to place orders in the marketplace. There is nothing inequitable in the allocation of these fees among the various market participants, nor, as far as we know, is the net fee of .1¢ per share earned by the ECN used for some non-transparent purpose.

A review of the options market reveals important structural differences from the equity market. To begin with, the asset being exchanged in the options market typically does not exist and must be created and after it expires must be created again. This single truth has led to the creation of two sets of players in the options market. One is the public player who seeks to buy or sell an option and the second is market maker/dealer who will take the other side of the public player's trade and hedge it with the underlying asset, the equity. It is our firm's belief that the vast majority of orders we execute have a market maker on the other side. In the lexicon of the market place we, as the agent of the public orders, are seen as the taker of liquidity, and the market maker/dealer is seen as the provider. Of course the opposite is actually the case. Without the public order the option would not come into existence.

If all options exchanges impose a give/take liquidity model, and if it is true that options orders do, in fact, involve a public purchase or sale and a market maker/dealer response, then the NYSE Arca program, if not checked, can be seen as the first step in imposing a massive tax on the public. This is hardly an equitable allocation of reasonable fees among persons using the exchange facilities. Further it is our firm's belief that the net fee of .25¢ per contract that will be retained by NYSE Arca will be remitted to exchange members acting as market markers, a hidden and further distorting inequitable allocation of the fees.

In short, the give/take liquidity fee is intended to replace the dealer turn, the traditional source of profit to market makers. We believe that NYSE Arca officials are worried about the ability of market makers to earn money in the penny environment and are maneuvering to the artificially support their earnings. We believe that the Commission should consider these significant structural issues and not be swayed by what is merely an apparent – but not real – similarity to the equity markets. We respectfully submit that the Commission should block NYSE Arca Options from implementing this fee change.

I and my colleagues at Miller Tabak stand ready to answer any questions the Commission may have.

Sincerely

Jeffrey D. Miller
Co. Chief Executive Officer