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January 20, 2005

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Re: File No. S7-10-04 Regulation NMS

Dear Mr. Katz:

The primary purpose of this letter is to respond to the Commission's call for comments on several items contained in the "reproposal" of NMS. In particular we will address the "Voluntary Depth Alternative" which, we believe, will result in a national virtual Consolidated Limit Order Book (CLOB).

Before we begin to review the negatives clearly inherent in a national CLOB, we would be remiss if we did not briefly review our previous comments in light of the dialogue and events since their filing.

In hundreds of comments sent to the Commission and the thousands of pages of other dialogue on Reg. NMS, we find nothing that invalidates the key points made in our initial commentary.

Briefly the points we made were:

- Speed does not assure better or fairer prices.

- Speed does not assure "certainty" (especially when multiple players have similar speed options).

- The bulk of the problems that Reg. NMS sought to address were (and are) pervasive in the unlisted arena, not in exchange trading.

- A variety of studies, including many on the SEC's own website, attest to the price improvement, narrowed spreads and resultant diminished volatility found in listed trading, especially on the NYSE.

- Trade throughs, step outs and de minimis exemptions are antithetical to fair pricing. Further no one has demonstrated a need nor a benefit from them except by rhetorical posturing.

- The equity markets in the U.S. have become the largest and most envied in the world through competition not by fiat.

- Even the most well intentioned regulation can have negative unintended consequences as some contend in Sarbannes/Oxley.

We believe those points are as valid today as they were when we first commented on Reg. NMS in June 2004 (File No. S7-10-04).

The "Voluntary Depth Alternative" or the Birth of a National CLOB

The proposal for "Voluntary Depth Alternative" would result in a virtual national CLOB. The only thing missing is absolute time priority on a national basis.

We mentioned the CLOB concept in our previous comment. Somewhat like that other pest, the Cicada, the CLOB seems to reappear every seventeen years or so. Each time, when exposed to the sunlight of discussion and thorough scrutiny, its flaws have been exposed and it has been discarded as a bad idea. Yet here it is again.

Our experience has been that a bad idea like a day-old fish rarely improves with the passage of time.

To save space, and the Commission's time, we shall synopsize a few of the many obvious negatives in the Depth or CLOB alternative. If the Commission would like more, we will be happy to respond to the request.

The CLOB:

- Would stifle or even eliminate competition by turning the U.S. securities markets into a "one size fits all" national utility.

- Lacking the motivation of competition, innovation would likely only come by fiat. The processing of equity shares would occur at the direction of the government - a strange twist in capitalism.

- Since all markets would have an imposed uniformity in order to comply with the CLOB, they would only differentiate themselves and attract order flow through less desirable means - such as payment for orderflow.

- The necessity to fully expose all orders at all prices within the CLOB may have the boomerang effect of inhibiting order exposure rather than encouraging it. We remind the Commission that the move to pennies not only dispersed orders across 100 price points rather than sixteen, it resulted in participants reducing the size of their orders. Similarly required exposure might induce participants to see alternatives regulated differently. (See European Fragmentation)

- The CLOB would make the U.S. securities markets more closely resemble those found off-shore, especially in Europe. That in turn would make the U.S. markets far more vulnerable, not just to poaching but to outright absorption.

The SEC has a long and successful history of regulating trading and the markets in a manner that enhances improvement through competition. That process has been so successful that, as previously noted, U.S. equity markets are the envy of the world. The SEC has been an important partner in that growth to excellence.

We believe it would be a grievous error to change that role from encouraging competition to one of actually mandating the very structure of the markets themselves. In doing so the Commission will not only have changed its role, it will eliminate the competition that has served it, and the markets it regulates, so well.

On behalf of the Alliance of Floor Brokers
Sincerely,

Brendan R. Dowd
Ronald Zdrojeski

cc: Chairman William H. Donaldson
Commissioner Paul S. Atkins
Commissioner Roel C. Campos
Commissioner Cynthia A. Glassman
Commissioner Harvey J. Goldschmid