

*LaBranche & Co.*  
*LLC*

James J. Maguire, Sr.  
Managing Director

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June 18, 2004

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Mr. Jonathan Katz, Secretary  
Securities and Exchange Commission  
450 5<sup>th</sup> Street N.W.  
Washington, DC 20549

RE: File # S7-10-04

Dear Mr. Katz:

Herewith, my commentary in regard to the Reg. NMS discussion. My thrust is that a 5 cent minimum price variation (MPV) would impact the dynamics of the study significantly, particularly with respect to its modifying effect on the trade through/opt-out question. I have also enclosed two reports that I feel are further evidence of the negative consequences of a 1 cent MPV.

Sincerely,

*James J. Maguire*  
James J. Maguire

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June 10, 2004

On January 29, 2001 the NYSE began trading with a 1cent minimum price variation (MPV), a reduction of 84% from the previously existing 6 ¼ CENT MPV. This extreme reduction has created a trading dynamic that makes it nearly impossible to show transparency and size (liquidity) consistent with that which we are capable of providing. This obtains whether it be trading desks, specialists or the vast cadre of traders.

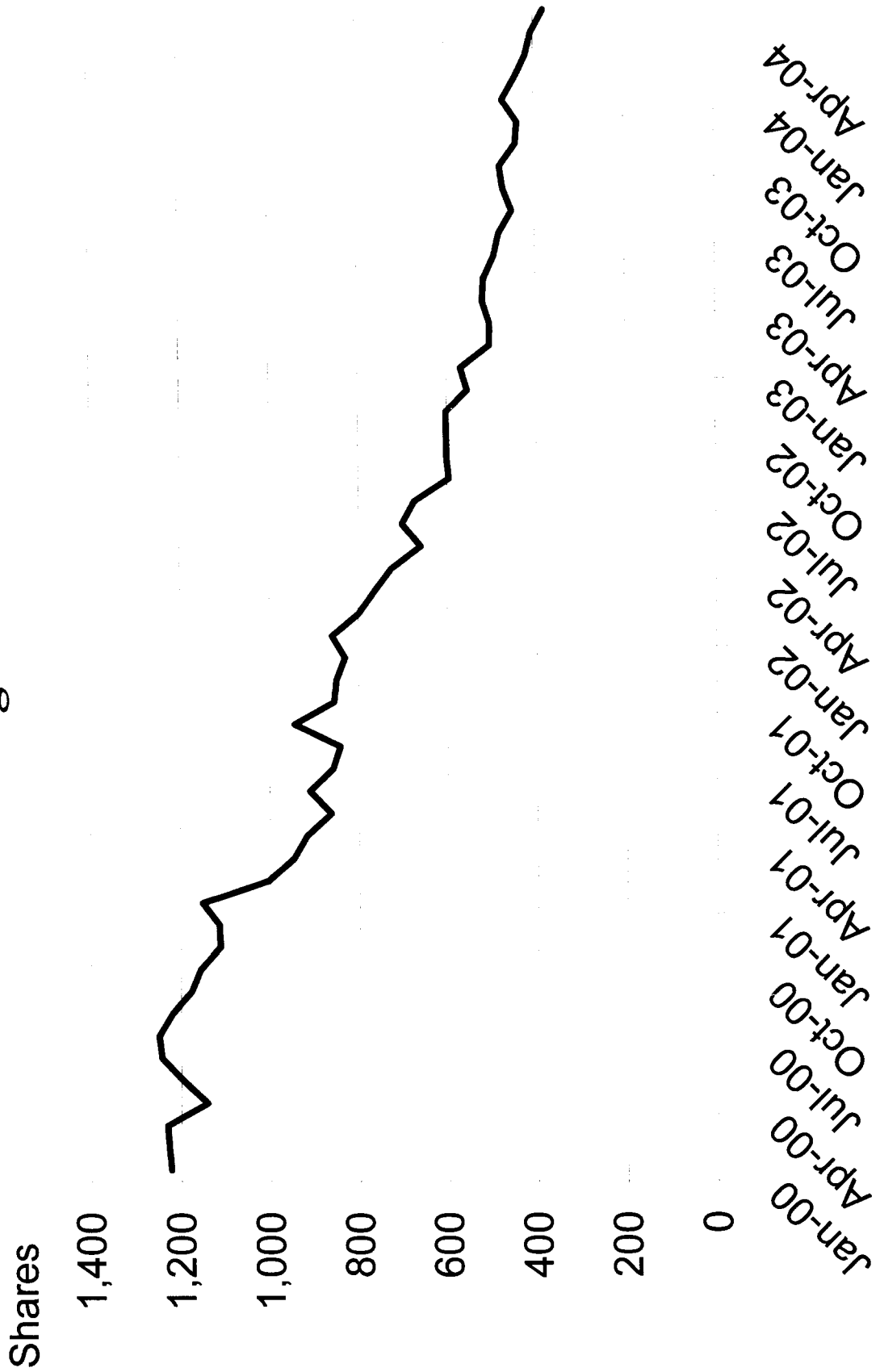
While there is no doubt that the NYSE will continue to fulfill its mission with distinction, the real question is what kind of market will we be able to provide. As currently structured, with a 1 cent MPV we produce a market that falls woefully short (I estimate 50%) of achieving its full potential. I am confident that with a 5 cent MPV where liquidity naturally manifests itself at 5 cent increments in our high volume stocks, we would be able to provide a preeminent world-class market featuring cost efficiency, speed, and simplicity of execution by giving investors the choice of automatic execution at the published bid and offer or the opportunity for auction price improvement— precisely what the buy side wants and deserves. Upon implementation of the SEC's national market system proposals I am confident the NYSE will be designated a "Fast Market". This status, in a 5 cent MPV would significantly increase the efficacy of our "Institutional Express" and "NYSE Direct" products. Therefore, I propose that a high priority project be undertaken by the Securities and Exchange Commission to form a coalition of buy side, sell side and floor interests to set up a comprehensive pilot program across all markets using a 5 cent MPV standard. I believe that such a test would produce a result that would redound to the benefit of all concerned — most importantly those ninety million Americans who own stock.

Most will agree that the decision to trade in pennies has been an unmitigated disaster for the quality of our equity markets. I believe with all my being that this genie can be "put back in the bottle" simply because a 5 cent MPV is the most effective way to address the concerns of our customers by providing a market of unparalleled liquidity and efficiency. **I am totally frustrated to know that we have it within our grasp to structure a preeminent market as mentioned above or preside over one that will be mediocre at best. Given the enormity of the consequences, there can be no legitimate objection to a pilot program the results of which would be controlled by the Securities and Exchange Commission. I submit that such an initiative is a compelling obligation to the public trust that cannot be taken lightly.**

We owe it to our great nation and to the investing public to work tirelessly toward this end.

The opinions expressed herein are mine and do not necessarily reflect those of LaBranche & Co. LLC, its management or any of its employees.

# NYSE Average Trade Size



**QUICK FACTS**

Market Capitalization 10 Largest NYSE - Listed Companies Best Ex/11Ac1-5

**NYSE quick reference sheet**

		MAY 2004 YTD	MAY 2003 YTD	2003 FULL YEAR
<b>MARKET ACTIVITY:</b>				
NYSE Average Daily Stock Volume (includes CSI & CSII)(millions)	05/31	1,528.2	1,434.2	1,398.4
NYSE Annual Turnover Rate (%)	05/31	106%	103%	99%
NYSE Average Price per Share Traded	05/31	\$31.37	\$25.55	\$27.50
NYSE Average Trade Size Per Sale	05/31	421	522	488
NYSE Average Daily Dollar Value of Trading (billions of dollars)	05/31	\$47.9	\$36.6	\$38.5
<b>MARKET ACTIVITY - INTERNATIONAL</b>				
NYSE ADV in Non-US Stocks (millions)	05/31	174.1	136.7	138.4
<b>PROGRAM TRADING:</b>				
Average Daily Program Volume on NYSE (millions)	05/21	682.4	532.4	557.5
Programs as % of Total NYSE (%)	05/21	44.9%	37.7%	39.6%
<b>DIRECT+</b>				
Direct+ Average Daily Stock Volume	05/31	120.3	74.6	83.8
Direct+ Volume as Percent NYSE Volume	05/31	7.9%	5.2%	6.0%
<b>STOCK PRICES: (index value and % change from 12/31)</b>				
Dow Jones Industrial Average	05/31	10188.45 (-2.54%)	8850.26 (+6.10%)	10453.92 (+25.32%)
S&P 500 Index	05/31	1120.68 (+0.79%)	963.59 (+9.52%)	1111.92 (+26.38%)
NYSE Composite Index	05/31	6484.72 (+0.69%)	5435.37 (+8.71%)	6440.30 (+28.81%)
<b>IPO ACTIVITY AT THE NYSE: (Billions of dollars raised)</b>				

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