

DENNIS A. CARDOZA
18TH DISTRICT, CALIFORNIA

COMMITTEE ON AGRICULTURE
COMMITTEE ON RESOURCES

Congress of the United States
House of Representatives
Washington, DC 20515-0518

July 30, 2004

Chairman William Donaldson
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20459
Attn: Jonathan Katz, Secretary of the Commission

Re: File No. S7-10-04;

Dear Chairman Donaldson,

As you consider the public comment on Regulation NMS, I urge you to pay particularly close attention to the comments of those who represent the working families of California: public pension funds, labor unions and elected officials. As you move towards needed reforms in our nation's financial markets, those who invest on behalf of the hard working California families that I am proud to represent are directly impacted by how you regulate these institutions.

Millions of Californians rely on the retirement funds invested in the California Public Employees' Retirement System (CalPERS), the California State Teachers' Retirement System (CalSTRS) and the private funds invested in mutual funds through their 401k programs. It is for this reason that I draw your attention to the comments of CalPERS, CalSTRS and similar institutions.

In particular, the issue of the so-called trade-through rule continues to be discussed as if its repeal, or the inclusion of an "opt out" provision, would only benefit the sophisticated investor. But this is simply not the case. As CalPERS noted in its comment letter, "The trade-through rule is obsolete....The current rule fails to allow for important factors that modern investors or pension fund managers may want to consider when trading." Similarly, CalSTRS wrote that, "The customer should come first and clearly, the customers of these national market systems want to be able to choose certainty and speed when it suits them." Our state's labor unions, including the California State Employees Association, the California Faculty Association, the California SEIU and the California School Employees Association have all submitted similar comments.

At the local level, my constituents with the Merced County Employees' Retirement Association wrote in their comment letter of their hope that the SEC will

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“explore rule changes that will modernize the national market system” and noted that the current rule “fails to allow for important factors that modern investors (including pension fund managers) may want to consider.” This retirement plan manages nearly \$400 million in assets for my constituents. Its administrator is not out for personal gain or on behalf of the elite in the region. He is working on behalf of the men and women who work hard in our community every day.

CalPERS has it right. The trade-through rule as it stands today is obsolete. Changes in the marketplace since it was introduced more than thirty years ago have not been reflected in the regulations surrounding the markets. Technological disparities exist between the markets today and the current rule benefits those who have not adjusted to the modern marketplace at the expense of those who have used technology to meet the needs of today’s consumers.

I join with the growing, nonpartisan coalition of Californians in calling for true modernization in the rules. Do not expand outdated rules to the NASDAQ marketplace. Expand freedom to investors in the NYSE.

Both individuals and institutions will benefit from greater control over their own trades. One size does not fit all, and each investor – big or small – should be able to set their own standards for how they want their trades to be handled. Certainty of execution, low market impact and how quickly a trade can be executed are all factors for today’s investors. Yet the current trade-through rule does not allow these aspects of “best price” to be considered. It is for this reason that I support the SEC’s proposal that protects the principle of price priority while enhancing investor freedom.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Cardoza". The signature is fluid and cursive, with a large initial "D" and "C".

Dennis Cardoza
Member of Congress

DAC/gp