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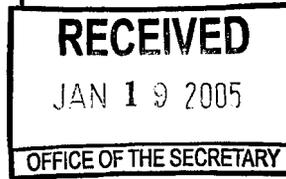
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The Honorable William H. Donaldson
Chairman
Securities and Exchange Commission
450 Fifth Street, N.W., Rm. 6100
Washington, D.C. 20549-0609

January 09, 2005

Re: File No. s7-10-04 Proposed Rule on Regulation NMS

Mr. Chairman:

I'm writing to express my views on the extremely important deliberations currently taking place regarding proposals to radically change the structure of United States capital markets. ***At the heart of these debates are the SEC's National Market System (NMS) proposals and particularly recent variations.*** Of serious concern are new provisions that would create a Consolidated Limit Order Book, or **CLOB**. Simply stated, this would mandate a homogenized national market model, reducing, if not eliminating choice, competition and other features that continue to serve America and distinguish US markets.

Congress and the SEC first considered the **CLOB** in the late 1970s and revisited the issues through 2000. Then leaders correctly concluded the risks of irreversible perils clearly overshadowed any possible benefits. The danger of severe damage to the economic foundations which support our nation's growth and allow the US to remain the envy of the world, clearly weighs in the balance, then and now. This is not to dispute measured change remains the lifeblood of innovation, however, caution must be used and that we remember, *as the 18th century statesman, Sir Edmund Burke frequently admonished: "refrain from change for changes sake"*.

The SEC's inexplicable NMS proposed modifications bring undue risk to America's market frame work by severely reducing domestic competition, which in turn removes a compelling attraction to global investors. This would come precisely when markets abroad, emboldened by their newfound political and economic unity, have begun mounting creditable efforts of challenge, even within our own borders. Also, and particularly disturbing, some have embraced an all electronic model similar to markets abroad as their template for the future and ignoring this would clearly become **a proxy for a quasi government utility**.

Serving as the historic emblem of America's economic vitality, while responding to investor calls for change, the **New York Stock Exchange** has introduced an innovative Hybrid Market model. To satisfy all investors, large and small, and remembering an investor driven capital markets insures price discovery, equal representation, market liquidity and price continuity, the NYSE, by integrating the auction process with electronic enhancements will remain the "gold standard" of all equity markets. To derail this ground-breaking model would defy all logic.

I urge you reexamine the commission's most recent submission and closely consider the implications, now and in the future. At many of the hearings held during the initial discovery period, there were calls by legislators and regulators to put the **"greater good of investors ahead of any competitive considerations"**. To adopt a CLOB type model invites a market that overtly disadvantages the individual investor, firmly placing them behind the professionals while compromising our global competitiveness.

The fate of America's capital markets are firmly in the commissions and the legislators hands. I'm confident your superb leadership will guide them to conclude the National Market System must not include a CLOB.

Thank you for your consideration.

James K. Rutledge

CC- V. Sullivan