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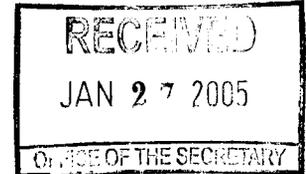
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January 26, 2005

57-10-04



The Honorable William H. Donaldson
Chairman
Securities and Exchange Commission
450 5th St., NW
Washington, DC 20549

Dear Chairman Donaldson:

Thank you for the opportunity to comment on the Securities and Exchange Commission's proposed Regulation NMS, which is designed to update and strengthen our national securities markets. I strongly favor the Market BBO Alternative, which maintains essential price protections while allowing market centers to control costs and preserving the market competition that benefits all securities industry participants. Additionally, I believe that the Voluntary Depth Alternative could stifle competition and increase costs, while providing no real benefit to investors.

The proposed Voluntary Depth Alternative would impose significant costs on all participants in the national market system, including exchanges, ECNs, broker-dealers and investors. Moreover, in today's highly automated trading environment, the Voluntary Depth Alternative could result in a de facto Consolidated Limit Order Book (CLOB), which has been debated and rejected by Congress and the SEC in 2000. This proposed alternative would effectively nationalize the U.S. equity markets, removing incentives for markets to compete with one another. Competition between market centers ensures that the U.S. markets remain the envy of the world, with a particular focus on the needs of investors. These competitive forces combine to create low transaction costs, tight spreads, low volatility, innovative price discovery and equal protection and choice for all investors – large and small. I urge you to consider carefully the adverse consequences of the Voluntary Depth Alternative for the investing public.

I also strongly encourage the Commission to consider the impact on competition of the proposed changes to allocation of market data revenue. As the Commission has consistently recognized, intermarket competition benefits investors by, among other things, prompting market centers to invest in innovative technology enhancements and competitive products, as well as competitive pricing structures. Most regional market centers depend on market data revenue to fund a substantial portion of their regulatory and operating budgets. As a result, any material decrease in market data revenue could have a significantly adverse effect on the finances of regional exchanges. Indeed, the Commission's market data proposal could render it infeasible for regional markets to continue to compete with listing markets, which can survive on significant listing revenues.

Finally, I urge the Commission to provide at least twelve months for the implementation of Regulation NMS, with intermarket meetings to establish consistent regulatory parameters. I thank you for your consideration of my views on proposed Regulation NMS.

Sincerely,

Luis V. Gutierrez
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Member of Congress