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SUBCOMMITTEE ON COMMERCE,
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ES 11208
2005 FEB 16

January 25, 2005

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

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OFFICE OF THE SECRETARY

Re: File No. S7-10-04 Proposed Rule on Regulation NMS

Dear Chairman Donaldson:

I am writing to express my concerns about the SEC's proposed Regulation NMS, which is designed to update and strengthen our nation's securities markets.

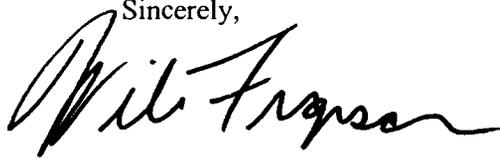
While Regulation NMS will have many ramifications, its success or failure will ultimately rest on how it deals with inter-market competition, quote competition, and the balance between the two. Of particular concern to me is an alternative laid out in the proposed rule that creates a virtual Consolidated Limit Order Book, or CLOB, a concept debated and rejected previously by Congress and the SEC. The CLOB would effectively nationalize and homogenize the U.S. Equity markets and stifle innovation.

U.S. Equity markets are the strongest in the world. The CLOB that the SEC has proposed would create a splintered, electronic-only marketplace where markets must chase displayed orders from market to market. In that environment, large orders of stock would be difficult to manage. Instead, those orders would move to private markets or overseas. This would hurt retail investors. One great competitive advantage of our markets is that institutional and individual investors' orders are intermingled, so everyone gets equal and fair treatment. The CLOB would change that, and retail investors would pay the price.

The SEC has put forth this proposal at the precise time that competition is transforming the largest equities market in the world. Regulation should promote innovation, not stifle it; yet the CLOB proposal would undermine the innovation currently underway at The New York Stock Exchange, which is on the verge of implementing its hybrid market. That market will offer customers what they have been demanding--the ability to trade electronically or through the auction market. The proposed CLOB would eliminate the opportunity for a negotiated trade within the system, and preclude any possibility that the hybrid market will ever become operational.

I applaud the Commission for its diligence in considering these important market structure issues. It is clear to me the CLOB would damage our market system and harm American investors. The global financial marketplace is one in which the U.S. has, thus far, remained the leader. It is unclear to me why the SEC would want to fix what is not broken, and put the competitiveness of our capital markets at risk by again proposing to create a CLOB. The CLOB was rejected as recently as 2000 and I urge you to reject it again.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Ferguson". The signature is fluid and cursive, with a large initial "M" and "F".

Mike Ferguson
Member of Congress