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March 26, 2004

**VIA ELECTRONIC AND
AND OVERNIGHT DELIVERY**

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0901

Re: Proposed Regulation NMS (S7-10-04) – Request to Testify

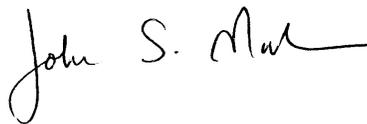
Dear Mr. Katz:

By letter dated March 22, 2004, Ameritrade Holding Corporation (“Ameritrade Holding”) requested the opportunity to present testimony at a hearing to be held before the Securities and Exchange Commission (“Commission”) concerning proposed Regulation NMS.

Ameritrade Holding would appreciate the opportunity to participate in these important hearings. If given this opportunity, please find attached a summary of the proposed testimony that would be presented by Kurt D. Halvorson, Chief Administrative Officer of Ameritrade.

Please contact me at the above noted number if you have any questions.

Sincerely,



John S. Markle
Associate General Counsel

Attachment

SUMMARY OF TESTIMONY

**KURT D. HALVORSON
CHIEF ADMINISTRATIVE OFFICER
AMERITRADE HOLDING CORPORATION**

CONCERNING PROPOSED REGULATION NMS

BEFORE THE U.S. SECURITIES AND EXCHANGE COMMISSION

I. AMERITRADE AND THE SELF-DIRECTED INVESTOR

- Ameritrade Holding Corporation (“Ameritrade Holding”) has a 28-year history of providing financial services to self-directed investors. Ameritrade Holding’s wholly owned subsidiary, Ameritrade, Inc. (“Ameritrade” or “the Firm”), acts as a self-directed broker serving an investor base comprised of over 3 million client accounts. Ameritrade does not solicit orders, make discretionary investments on behalf of our clients, or provide proprietary research or advice regarding securities.
- Ameritrade brings a unique perspective to the current debate concerning market structure. We are one of the largest broker-dealers that does not internalize order flow. As a result, Ameritrade’s position as a pure agency broker allows us to comment on the Commission’s proposals without concern for how today’s proposals may impact an affiliated market maker or ECN. We believe this business model positions Ameritrade as uniquely qualified to speak with unwavering dedication to the clients that we serve.
- Ameritrade is an advocate for the retail investor. In speaking with our clients, we know from experience that clients generally want the following: they want the order they submit to be filled in its entirety, as fast as possible, at the price they are quoted upon order entry, or better. Ameritrade, as their agent, demands the same on behalf of our clients.

II. TRADE THROUGH PROPOSAL

- Ameritrade supports the Commission’s Automated Execution Alternative proposal. Ameritrade believes that requiring market centers to provide automated trading access to their quotes will resolve many difficult issues such as the opt-out and *de minimis* exceptions, and will eliminate the necessity of defining what

qualifies as a fast market. The Commission's goal should be to create a national market system in which "quoting" is synonymous with "trading." In addition, access and protection should be expanded to the entire book, not just the best bid or offer.

- Ameritrade believes that the Commission's trade through proposal must preempt existing anti-competitive rules such as the ITS trade through rule, and clarify that SROs should not adopt varying standards in this area.
- If the Commission decides not to adopt the Automated Execution Alternative, it should consider amending the opt-out exception and eliminating the *de minimis* exception of the trade through proposal.
- Finally, Ameritrade believes that to promote a greater level of order interaction and transparency to the investor, the Commission should require the display of internalized orders before execution.

II. NON-DISCRIMINATORY ACCESS AND FEES

- Ameritrade supports the Commission's efforts to require market centers to provide non-discriminatory access to market participants.
- Ameritrade also applauds the Commission's steps to standardize access fees that will act to remove barriers to competing markets. Ameritrade believes that the standardization of access fees should lead to fewer locked and crossed markets by removing the temptation of rebate arbitrage.

III. SUB-PENNY TRADING

- Ameritrade previously commented to the Commission that the Firm ceased allowing clients to submit orders in sub-pennies in April 2003 because it had determined that clients were using sub-pennies to step ahead of resting limit orders and undermining the Manning provision. As a result, we applaud the Commission's proposal to prohibit market participants from accepting, ranking or displaying orders, quotes or indications of interest in increments less than a penny.

IV. MARKET DATA

- Ameritrade is disappointed that the Commission has not yet addressed market data and revenues in a comprehensive fashion. We are further disappointed that the Commission has yet to require SROs to publicly disclose the cost of providing market data to the public.

- Ameritrade submits that the only way to determine whether there has been an equitable and reasonable allocation of market data fee costs is to require each SRO to provide audited financials regarding the costs of providing market data to the investing public. Given that investors pay for these fees, either directly or indirectly, we believe it is clear that requiring such information is in the public's best interest.