



April 19, 2004

Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth St., NE
Washington, DC 20459-000609

Dear Mr. Katz:

Introduction

This letter is in response to your invitation for comments on your release entitled "Regulation NMS".

The release title makes its intention clear: to achieve a National Market System as envisioned in the Exchanged Act Amendments of 1975. The challenge of realizing this intention is both regulatory and technical.

On our reading of the release, however, the SEC seems to place a heavy regulatory burden on the NMS, one that is unnecessary using today's technical capabilities. Today's technology can provide America with a more efficient, globally competitive marketplace, at a small fraction of the cost that is being spent today.

Assumptions Arising from Yesterday's Technology

In particular, market planners seem to accept that:

1. The Intermarket Trading System, while technically obsolete in today's climate, is not subject to upgrade.
2. Limit Order Protection *resides in regulations* applied to the participating individual market centers.
3. The responsibility for connecting efficiently with other markets resides with the individual market centers.

These are all assumptions that constrain the way in which you might conceive a more efficient, fairer, and more globally competitive equities marketplace, assumptions that are entirely unfounded using new technologies.

The Capabilities of Today's Technology

Using new technologies, entirely opposite assertions apply to market features:

1. The speed at which transactions can be executed is entirely independent of their proximity in *any dimension*, including their physical proximity. That is to say, regulators and market managers can decide speed rules.
2. Trading rules such as the protection of limit orders can be *built into* the trade execution mechanism, so that it would be *impossible* for anyone using the mechanism to violate the rule.
3. Access to an order can most quickly and cheaply be controlled by software that manages a single, global order book.

In short, *none* of the business rules according to which markets operate should be shaped by the technologies currently used by the equities markets.

Instead, the SEC, in consultation with interested parties (including the public investor), should design a very general framework for a national market, specifying new rules only as a *first configuration* of that market, but insisting on an underlying technology that will be independent of the rules chosen, and that will easily accommodate, through highly configurable software alone, any changes that might later be thought desirable.

Introducing a true NMS in this manner would be so inexpensive, compared to the current *maintenance and planned enhancement costs* of all the systems operated by all the separate U.S. equities marketplaces, that the new system would pay for itself almost immediately.

Our Interest In this Matter

X-Change Technologies Group, as a technology company, makes no recommendations concerning the rules by which the NMS should operate. We only observe that whatever rules are chosen need not be, and in the public interest should not be, constrained by the present system.

X-Change Technologies Group has created the X-Change Marketplace Framework to support the needs of any central order book marketplace. An earlier version of this system, focused on the OTC Bulletin Board, and embodying business rules conceived by Nick Niehoff, Don Weeden and Walter Raquet, men with long experience with market structure issues, was demonstrated to both the SEC and the NASD-R on several occasions. It met with highly favorable comments: regulators observed that it provided a fairer, more easily controlled, and more efficient market than what exists today.

Having built and operated such a system in production, we know firsthand that, using of modern design techniques and underlying technology, a better system for the entire US equities market could be produced at a cost less than one year's excess profits from the sale of market data by the participating market centers.

The plan that we envision is very low risk, indeed much lower risk than higher-cost plans being proposed because it could be carried out incrementally, and result in a much simpler technical infrastructure.

Proposal

We propose that the SEC hold hearings which focus on upgrading of the ITS as an alternate solution to your proposal for eliminating the present slow market/fast market obstacle to a true NMS.

Three panels might be appropriate: One on regulatory issues, one on business impact, and one on technical issues, including costs and process design techniques.

We would be pleased to participate in the technical panel.

Sometimes, a fresh outlook, a “zero-based” approach, can cut through the complexity that threatens to cripple a process. Many economic communities find themselves in such circumstances today, due to improved information technologies. The resulting changes are moving these communities very rapidly toward buy-side control. We believe that a similar change in the capital markets is inevitable. The question may be only whether the U.S. will play the leadership role, or some other financial center.

Respectfully,

William F. Frank

CEO, X-Change Technologies Group