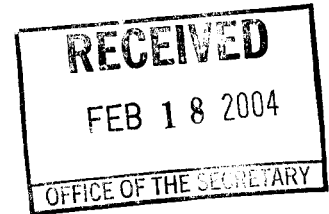


# RAFFERTY CAPITAL MARKETS, LLC

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February 17, 2004

Mr. Jonathan G. Katz  
Secretary  
US Securities & Exchange Commission  
450 Fifth Avenue  
Washington, DC 20549

Re: File No. SR-NASD-2003-201; Proposed Expansion of the NASD's Trading Activity Fee to Certain Fixed Income Securities

Dear Mr. Katz:

We would like to take this opportunity to offer our comments to the Securities & Exchange Commission ("SEC") in connection with the proposal by the National Association of Securities Dealers, Inc. ("NASD") to adopt, for the first time, a trading activity fee applicable to certain debt securities.

As members of the Bond Market Association, ("TBMA") we understand that the TBMA has submitted comments on behalf of its membership, and we support their efforts in this matter. However, we feel that the imposition of the Trading Activity Fee ("TAF") is such a compelling matter that we need to have our voice as an individual member of the broker-dealer community heard as well.

Rafferty Capital Markets, LLC ("RCM") has been a registered broker/dealer with the NASD since 1987. RCM's main office is located at 59 Hilton Avenue, Garden City, New York, 11530. The nature of RCM's business is executing buy and sell transactions as an intermediary between brokers, dealers and, dealer banks in Corporate and US Government Securities. Additionally the firm brokers transactions in mortgage-backed securities and certain derivative products on a give-up basis, whereby the executing buyer and seller actually clear the transactions directly. RCM does not deal with the public, and we do not carry any inventory.

During our years developing as a broker-dealer, the firm has experienced a pattern of steady growth of gross income, as well as related expenses. Generally, the impact of the increase in expenses is proportionate to the growth in gross revenues. These are understandable increases in the costs of doing business. What is not understandable, however, is the imposition of a new fee by a regulatory agency that is already collecting a fee (and a substantial one at that) for a purpose that did not even exist 20 months ago.

Specifically we are referring to the NASD's imposition and collection of fees pursuant to the Trace Fee Structure and their proposal to impose the additional TAF on those same transactions. Not only do we believe that the imposition of the TAF is egregious, but the industry has not received any evidence from the NASD that this fee is warranted. What is the justification for this additional TAF? What services have the original fees gone to support? What are the costs associated with these programs? How much overall revenue is expected to be collected from the TAF fee? What are the additional costs to be supported by the TAF?

RCM acts as an intermediary, brokering transactions on an undisclosed basis for corporate and government products. As an intermediary, Dealer "A" sells an item to us (a reportable event) and we simultaneously sell the same item to Dealer "B", (another reportable event).

At a minimum, each of our trades results in two reportable events. Every reportable event results in a fee. If we paid over \$200,000 for TRACE fees to the NASD, then the actual fees recognized by NASD for the trades we brokered were in excess of \$400,000.

This same logic can be applied to the proposed TAF. Each transaction that RCM brokers results in a minimum of two reportable events. As a result, the TAF would be collected twice on the same transaction. Not only is the transaction being "taxed" twice, once as a TRACE security and again by the TAF, but two different parties are paying the same fees on the same transactions.

We do not believe that the intent of the proposed fee structure is to overburden the broker-dealer community with double taxation and double fees. Under the current TAF program effecting equity markets, it is quite clear that the NASD has made provisions to exempt this kind of situation from happening. Currently, the NASD has stated that if a member acts as an agent on behalf of another NASD member in the sale of a transaction, the fee should be assessed to the ultimate seller of the security, not the member acting as agent. Though our role in executing transactions is as a risk-less principal, the concept and result is undeniably the same – that as an intermediary we act in the same capacity as an


agent. Under those guidelines, we, and those acting in like capacities should be exempted from these duplication of fees and double "taxation". This exemption is not clarified in the TAF proposal as applying to our business and we ask that it be included to recognize our status as intermediary.

In making its decision with respect to applying the TAF to the fixed income market, we implore the SEC to consider the financial burdens we already endure with the imposition of the TRACE Reporting Fee as well as the additional assessments we already pay the NASD.

As members of the broker/dealer community we support the regularity efforts of the NASD, recognizing that enforcement and oversight are necessary to ensure the integrity of the marketplace. However, we draw the line at being "taxed" unfairly, and supporting services of which we do not know, and in which we do not partake.

We thank the SEC for giving us this opportunity to be heard and would like you to know that we are available for additional discussions if necessary.

Very truly yours,

A handwritten signature in cursive script that reads "Michael Rafferty". The signature is written in black ink and is positioned above the printed name.

Michael Rafferty  
Rafferty Capital Markets, LLC